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United States Department of State

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U.S. Dept. of State

PAPERS RELATING TO
THE
FOREIGN RELATIONS
OF THE
UNITED STATES

WITH

THE ANNUAL MESSAGE OF THE
PRESIDENT TRANSMITTED TO
CONGRESS DECEMBER 8, 1908



WASHINGTON
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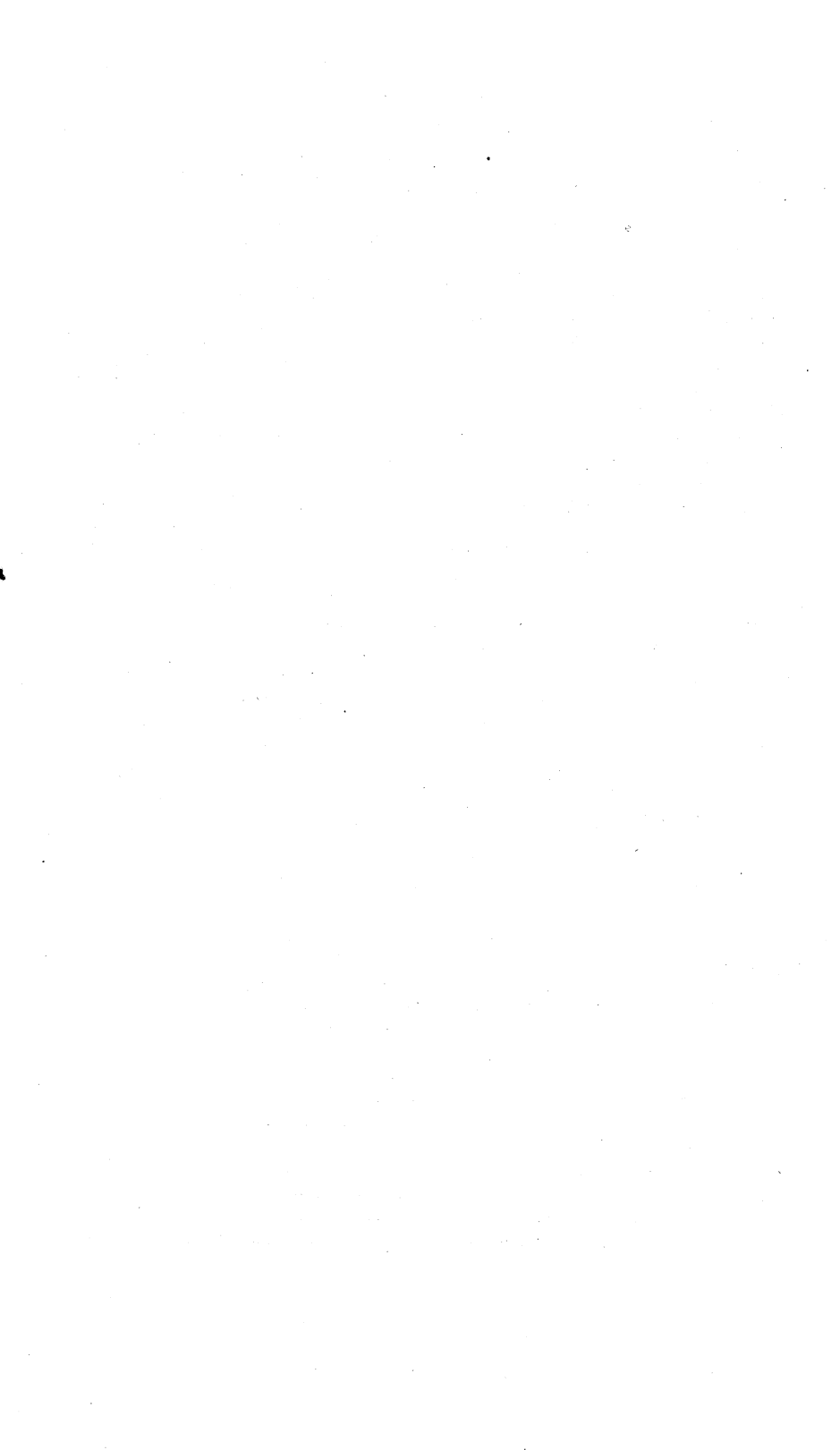
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MESSAGE.

To the Senate and House of Representatives:

The financial standing of the Nation at the present time is excellent, and the financial management of the Nation's interests by the Government during the last seven years has shown the most satisfactory results. But our currency system is imperfect, and it is earnestly to be hoped that the Currency Commission will be able to propose a thoroughly good system which will do away with the existing defects.

Finances.

During the period from July 1, 1901, to September 30, 1908, there was an increase in the amount of money in circulation of \$902,991,399. The increase in the per capita during this period was \$7.06. Within this time there were several occasions when it was necessary for the Treasury Department to come to the relief of the money market by purchases or redemptions of United States bonds; by increasing deposits in national banks; by stimulating additional issues of national bank notes, and by facilitating importations from abroad of gold. Our imperfect currency system has made these proceedings necessary, and they were effective until the monetary disturbance in the fall of 1907 immensely increased the difficulty of ordinary methods of relief. By the middle of November the available working balance in the Treasury had been reduced to approximately \$5,000,000. Clearing house associations throughout the country had been obliged to resort to the expedient of issuing clearing house certificates, to be used as money. In this emergency it was determined to invite subscriptions for \$50,000,000 Panama Canal bonds, and \$100,000,000 three per cent certificates of indebtedness authorized by the act of June 13, 1898. It was proposed to re-deposit in the national banks the proceeds of these issues, and to permit their use as a basis for additional circulating notes of national banks. The moral effect of this procedure was so great that it was necessary to issue only \$24,631,980 of the Panama Canal bonds and \$15,436,500 of the certificates of indebtedness.

During the period from July 1, 1901, to September 30, 1908, the balance between the net ordinary receipts and the net ordinary expenses of the Government showed a surplus in the four years 1902, 1903, 1906 and 1907, and a deficit in the years 1904, 1905, 1908 and a fractional part of the fiscal year 1909. The net result was a surplus of \$99,283,413.54. The financial operations of the Government during this period, based upon these differences between receipts and expenditures, resulted in a net reduction of the interest-bearing debt of the United States from \$987,141,040 to \$897,253,990, notwithstanding that there had been two sales of Panama Canal bonds amounting in the aggregate to \$54,631,980, and an issue of three per cent certificates of indebtedness under the act of June 13, 1898, amounting to \$15,436,500. Refunding operations of the Treasury Department under the act of March 14, 1900, resulted in the conversion into two per cent consols of 1930 of \$200,309,400 bonds bearing higher rates of interest. A decrease of \$8,687,956 in the annual interest charge resulted from these operations.

In short, during the seven years and three months there has been a net surplus of nearly one hundred millions of receipts over expenditures, a reduction of the interest-bearing debt by ninety millions, in spite of the extraordinary expense of the Panama Canal, and a saving of nearly nine millions on the annual interest charge. This is an exceedingly satisfactory showing, especially in view of the fact that during this period the Nation has never hesitated to undertake any expenditure that it regarded as necessary. There have been no new taxes and no increases of taxes; on the contrary some taxes have been taken off; there has been a reduction of taxation.

As regards the great corporations engaged in interstate business, and especially the railroads, I can only repeat what I have already again and again said in my messages to the Congress. I believe that under the interstate clause

Corporations. of the Constitution the United States has complete and paramount right to control all agencies of interstate commerce, and I believe that the National Government alone can exercise this right with wisdom and effectiveness so as both to secure justice from, and to do justice to, the great corporations which are the most important factors in modern business. I believe that it is worse than folly to attempt to prohibit all combinations as is done by the Sherman anti-trust law, because such a law can be enforced only imperfectly and unequally, and its enforcement works almost as much hardship as good. I strongly advocate that instead of an unwise effort to prohibit all combinations, there

shall be substituted a law which shall expressly permit combinations which are in the interest of the public, but shall at the same time give to some agency of the National Government full power of control and supervision over them. One of the chief features of this control should be securing entire publicity in all matters which the public has a right to know, and furthermore, the power, not by judicial but by executive action, to prevent or put a stop to every form of improper favoritism or other wrongdoing.

The railways of the country should be put completely under the Interstate Commerce Commission and removed from the domain of the anti-trust law. The power of the Commission should be made thoroughgoing, so that it could exercise complete supervision and control over the issue of securities as well as over the raising and lowering of rates. As regards rates, at least, this power should be summary. The power to investigate the financial operations and accounts of the railways has been one of the most valuable features in recent legislation. Power to make combinations and traffic agreements should be explicitly conferred upon the railroads, the permission of the Commission being first gained and the combination or agreement being published in all its details. In the interest of the public the representatives of the public should have complete power to see that the railroads do their duty by the public, and as a matter of course this power should also be exercised so as to see that no injustice is done to the railroads. The shareholders, the employees and the shippers all have interests that must be guarded. It is to the interest of all of them that no swindling stock speculation should be allowed, and that there should be no improper issuance of securities. The guiding intelligences necessary for the successful building and successful management of railroads should receive ample remuneration; but no man should be allowed to make money in connection with railroads out of fraudulent over-capitalization and kindred stock-gambling performances; there must be no defrauding of investors, oppression of the farmers and business men who ship freight, or callous disregard of the rights and needs of the employees. In addition to this the interests of the shareholders, of the employees, and of the shippers should all be guarded as against one another. To give any one of them undue and improper consideration is to do injustice to the others. Rates must be made as low as is compatible with giving proper returns to all the employees of the railroad, from the highest to the lowest, and proper returns to the shareholders; but they must not, for instance, be reduced in such fashion as to necessitate a cut in the wages of

the employees or the abolition of the proper and legitimate profits of honest shareholders.

Telegraph and telephone companies engaged in interstate business should be put under the jurisdiction of the Interstate Commerce Commission.

It is very earnestly to be wished that our people, through their representatives, should act in this matter. It is hard to say whether most damage to the country at large would come from entire failure on the part of the public to supervise and control the actions of the great corporations, or from the exercise of the necessary governmental power in a way which would do injustice and wrong to the corporations. Both the preachers of an unrestricted individualism, and the preachers of an oppression which would deny to able men of business the just reward of their initiative and business sagacity, are advocating policies that would be fraught with the gravest harm to the whole country. To permit every lawless capitalist, every law-defying corporation, to take any action, no matter how iniquitous, in the effort to secure an improper profit and to build up privilege, would be ruinous to the Republic and would mark the abandonment of the effort to secure in the industrial world the spirit of democratic fair-dealing. On the other hand, to attack these wrongs in that spirit of demagoguery which can see wrong only when committed by the man of wealth, and is dumb and blind in the presence of wrong committed against men of property or by men of no property, is exactly as evil as corruptly to defend the wrongdoing of men of wealth. The war we wage must be waged against misconduct, against wrongdoing wherever it is found; and we must stand heartily for the rights of every decent man, whether he be a man of great wealth or a man who earns his livelihood as a wage-worker or a tiller of the soil.

It is to the interest of all of us that there should be a premium put upon individual initiative and individual capacity, and an ample reward for the great directing intelligences alone competent to manage the great business operations of to-day. It is well to keep in mind that exactly as the anarchist is the worst enemy of liberty and the reactionary the worst enemy of order, so the men who defend the rights of property have most to fear from the wrongdoers of great wealth, and the men who are championing popular rights have most to fear from the demagogues who in the name of popular rights would do wrong to and oppress honest business men, honest men of wealth; for the success of either type of wrongdoer necessarily invites a violent reaction against the cause the wrongdoer

nominally upholds. In point of danger to the Nation there is nothing to choose between on the one hand the corruptionist, the bribe-giver, the bribe-taker, the man who employs his great talent to swindle his fellow-citizens on a large scale, and, on the other hand, the preacher of class hatred, the man who, whether from ignorance or from willingness to sacrifice his country to his ambition, persuades well-meaning but wrong-headed men to try to destroy the instruments upon which our prosperity mainly rests. Let each group of men beware of and guard against the shortcomings to which that group is itself most liable. Too often we see the business community in a spirit of unhealthy class consciousness deplore the effort to hold to account under the law the wealthy men who in their management of great corporations, whether railroads, street railways, or other industrial enterprises, have behaved in a way that revolts the conscience of the plain, decent people. Such an attitude can not be condemned too severely, for men of property should recognize that they jeopardize the rights of property when they fail heartily to join in the effort to do away with the abuses of wealth. On the other hand, those who advocate proper control on behalf of the public, through the State, of these great corporations, and of the wealth engaged on a giant scale in business operations, must ever keep in mind that unless they do scrupulous justice to the corporation, unless they permit ample profit, and cordially encourage capable men of business so long as they act with honesty, they are striking at the root of our national wellbeing; for in the long run, under the mere pressure of material distress, the people as a whole would probably go back to the reign of an unrestricted individualism rather than submit to a control by the State so drastic and so foolish, conceived in a spirit of such unreasonable and narrow hostility to wealth, as to prevent business operations from being profitable, and therefore to bring ruin upon the entire business community, and ultimately upon the entire body of citizens.

The opposition to Government control of these great corporations makes its most effective effort in the shape of an appeal to the old doctrine of States' rights. Of course there are many sincere men who now believe in unrestricted individualism in business, just as there were formerly many sincere men who believed in slavery—that is, in the unrestricted right of an individual to own another individual. These men do not by themselves have great weight, however. The effective fight against adequate Government control and supervision of individual, and especially of corporate, wealth engaged

in interstate business is chiefly done under cover; and especially under cover of an appeal to States' rights. It is not at all infrequent to read in the same speech a denunciation of predatory wealth fostered by special privilege and defiant of both the public welfare and law of the land, and a denunciation of centralization in the Central Government of the power to deal with this centralized and organized wealth. Of course the policy set forth in such twin denunciations amounts to absolutely nothing, for the first half is nullified by the second half. The chief reason, among the many sound and compelling reasons, that led to the formation of the National Government, was the absolute need that the Union, and not the several States, should deal with interstate and foreign commerce; and the power to deal with interstate commerce was granted absolutely and plenarily to the Central Government and was exercised completely as regards the only instruments of interstate commerce known in those days—the waterways, the highroads, as well as the partnerships of individuals who then conducted all of what business there was. Interstate commerce is now chiefly conducted by railroads; and the great corporation has supplanted the mass of small partnerships or individuals. The proposal to make the National Government supreme over, and therefore to give it complete control over, the railroads and other instruments of interstate commerce is merely a proposal to carry out to the letter one of the prime purposes, if not the prime purpose, for which the Constitution was founded. It does not represent centralization. It represents merely the acknowledgment of the patent fact that centralization has already come in business. If this irresponsible outside business power is to be controlled in the interest of the general public it can only be controlled in one way; by giving adequate power of control to the one sovereignty capable of exercising such power—the National Government. Forty or fifty separate state governments can not exercise that power over corporations doing business in most or all of them; first, because they absolutely lack the authority to deal with interstate business in any form; and second, because of the inevitable conflict of authority sure to arise in the effort to enforce different kinds of state regulation, often inconsistent with one another and sometimes oppressive in themselves. Such divided authority can not regulate commerce with wisdom and effect. The Central Government is the only power which, without oppression, can nevertheless thoroughly and adequately control and supervise the large corporations. To abandon the effort for National control means to abandon the effort for all adequate control and yet

to render likely continual bursts of action by State legislatures, which can not achieve the purpose sought for, but which can do a great deal of damage to the corporation without conferring any real benefit on the public.

I believe that the more farsighted corporations are themselves coming to recognize the unwisdom of the violent hostility they have displayed during the last few years to regulation and control by the National Government of combinations engaged in interstate business. The truth is that we who believe in this movement of asserting and exercising a genuine control, in the public interest, over these great corporations have to contend against two sets of enemies, who, though nominally opposed to one another, are really allies in preventing a proper solution of the problem. There are, first, the big corporation men, and the extreme individualists among business men, who genuinely believe in utterly unregulated business—that is, in the reign of plutocracy; and, second, the men who, being blind to the economic movements of the day, believe in a movement of repression rather than of regulation of corporations, and who denounce both the power of the railroads and the exercise of the Federal power which alone can really control the railroads. Those who believe in efficient national control, on the other hand, do not in the least object to combinations; do not in the least object to concentration in business administration. On the contrary, they favor both, with the all important proviso that there shall be such publicity about their workings, and such thoroughgoing control over them, as to insure their being in the interest, and not against the interest, of the general public. We do not object to the concentration of wealth and administration; but we do believe in the distribution of the wealth in profits to the real owners, and in securing to the public the full benefit of the concentrated administration. We believe that with concentration in administration there can come both the advantage of a larger ownership and of a more equitable distribution of profits, and at the same time a better service to the commonwealth. We believe that the administration should be for the benefit of the many; and that greed and rascality, practiced on a large scale, should be punished as relentlessly as if practiced on a small scale.

We do not for a moment believe that the problem will be solved by any short and easy method. The solution will come only by pressing various concurrent remedies. Some of these remedies must lie outside the domain of all government. Some must lie outside the domain of the Federal Government. But there is legislation

which the Federal Government alone can enact and which is absolutely vital in order to secure the attainment of our purpose. Many laws are needed. There should be regulation by the National Government of the great interstate corporations, including a simple method of account keeping, publicity, supervision of the issue of securities, abolition of rebates and of special privileges. There should be short time franchises for all corporations engaged in public business; including the corporations which get power from water rights. There should be National as well as State guardianship of mines and forests. The labor legislation hereinafter referred to should concurrently be enacted into law.

To accomplish this, means of course a certain increase in the use of—not the creation of—power, by the Central Government. The power already exists; it does not have to be created; the only question is whether it shall be used or left idle—and meanwhile the corporations over which the power ought to be exercised will not remain idle. Let those who object to this increase in the use of the only power available, the national power, be frank, and admit openly that they propose to abandon any effort to control the great business corporations and to exercise supervision over the accumulation and distribution of wealth; for such supervision and control can only come through this particular kind of increase of power. We no more believe in that empiricism which demands absolutely unrestrained individualism than we do in that empiricism which clamors for a deadening socialism which would destroy all individual initiative and would ruin the country with a completeness that not even an unrestrained individualism itself could achieve. The danger to American democracy lies not in the least in the concentration of administrative power in responsible and accountable hands. It lies in having the power insufficiently concentrated, so that no one can be held responsible to the people for its use. Concentrated power is palpable, visible, responsible, easily reached, quickly held to account. Power scattered through many administrators, many legislators, many men who work behind and through legislators and administrators, is impalpable, is unseen, is irresponsible, can not be reached, can not be held to account. Democracy is in peril wherever the administration of political power is scattered among a variety of men who work in secret, whose very names are unknown to the common people. It is not in peril from any man who derives authority from the people, who exercises it in sight of the people, and who is from time to time compelled to give an account of its exercise to the people.

There are many matters affecting labor and the status of the wage-worker to which I should like to draw your attention, but an exhaustive discussion of the problem in all its aspects is not now necessary. This administration is nearing its end; and, moreover, under our form of government the solution of the problem depends upon the action of the States as much as upon the action of the Nation. Nevertheless, there are certain considerations which I wish to set before you, because I hope that our people will more and more keep them in mind. A blind and ignorant resistance to every effort for the reform of abuses and for the readjustment of society to modern industrial conditions represents not true conservatism but an incitement to the wildest radicalism; for wise radicalism and wise conservatism go hand in hand, one bent on progress, the other bent on seeing that no change is made unless in the right direction. I believe in a steady effort, or perhaps it would be more accurate to say in steady efforts in many different directions, to bring about a condition of affairs under which the men who work with hand or with brain, the laborers, the superintendents, the men who produce for the market and the men who find a market for the articles produced, shall own a far greater share than at present of the wealth they produce, and be enabled to invest it in the tools and instruments by which all work is carried on. As far as possible I hope to see a frank recognition of the advantages conferred by machinery, organization, and division of labor, accompanied by an effort to bring about a larger share in the ownership by wage-worker of railway, mill, and factory. In farming, this simply means that we wish to see the farmer own his own land; we do not wish to see the farms so large that they become the property of absentee landlords who farm them by tenants, nor yet so small that the farmer becomes like a European peasant. Again, the depositors in our savings banks now number over one-tenth of our entire population. These are all capitalists, who through the savings banks loan their money to the workers—that is, in many cases to themselves—to carry on their various industries. The more we increase their number, the more we introduce the principles of cooperation into our industry. Every increase in the number of small stockholders in corporations is a good thing, for the same reasons; and where the employees are the stockholders the result is particularly good. Very much of this movement must be outside of anything that can be accomplished by legislation; but legislation can do a good deal. Postal savings banks will make it

easy for the poorest to keep their savings in absolute safety. The regulation of the national highways must be such that they shall serve all people with equal justice. Corporate finances must be supervised so as to make it far safer than at present for the man of small means to invest his money in stocks. There must be prohibition of child labor, diminution of woman labor, shortening of hours of all mechanical labor; stock watering should be prohibited, and stock gambling so far as is possible discouraged. There should be a progressive inheritance tax on large fortunes. Industrial education should be encouraged. As far as possible we should lighten the burden of taxation on the small man. We should put a premium upon thrift, hard work, and business energy; but these qualities cease to be the main factors in accumulating a fortune long before that fortune reaches a point where it would be seriously affected by any inheritance tax such as I propose. It is eminently right that the Nation should fix the terms upon which the great fortunes are inherited. They rarely do good and they often do harm to those who inherit them in their entirety.

The above is the merest sketch, hardly even a sketch in outline, of the reforms for which we should work. But there is one matter with which the Congress should deal at this session. There should no longer be any paltering with the question of taking care of the wage-workers who, under our present industrial system, become killed, crippled, or worn out as part of the regular incidents of a given business. The majority of wage-workers must have their rights secured for them by State action; but the National Government should legislate in thoroughgoing and far-reaching fashion not only for all employees of the National Government, but for all persons engaged in interstate commerce. The object sought for could be achieved to a measurable degree, as far as those killed or crippled are concerned, by proper employers' liability laws. As far as concerns those who have been worn out, I call your attention to the fact that definite steps toward providing old-age pensions have been taken in many of our private industries. These may be indefinitely extended through voluntary association and contributory schemes, or through the agency of savings banks, as under the recent Massachusetts plan. To strengthen these practical measures should be our immediate duty; it is not at present necessary to consider the larger and more general governmental schemes that most European governments have found themselves obliged to adopt.

Our present system, or rather no system, works dreadful wrong, and is of benefit to only one class of people—the lawyers. When a workman is injured what he needs is not an expensive and doubtful lawsuit, but the certainty of relief through immediate administrative action. The number of accidents which result in the death or crippling of wageworkers, in the Union at large, is simply appalling; in a very few years it runs up a total far in excess of the aggregate of the dead and wounded in any modern war. No academic theory about “freedom of contract” or “constitutional liberty to contract” should be permitted to interfere with this and similar movements. Progress in civilization has everywhere meant a limitation and regulation of contract. I call your especial attention to the bulletin of the Bureau of Labor which gives a statement of the methods of treating the unemployed in European countries, as this is a subject which in Germany, for instance, is treated in connection with making provision for worn out and crippled workmen.

Pending a thoroughgoing investigation and action there is certain legislation which should be enacted at once. The law, passed at the last session of the Congress, granting compensation to certain classes of employees of the Government, should be extended to include all employees of the Government and should be made more liberal in its terms. There is no good ground for the distinction made in the law between those engaged in hazardous occupations and those not so engaged. If a man is injured or killed in any line of work, it was hazardous in his case. Whether 1 per cent or 10 per cent of those following a given occupation actually suffer injury or death ought not to have any bearing on the question of their receiving compensation. It is a grim logic which says to an injured employee or to the dependents of one killed that he or they are entitled to no compensation because very few people other than he have been injured or killed in that occupation. Perhaps one of the most striking omissions in the law is that it does not embrace peace officers and others whose lives may be sacrificed in enforcing the laws of the United States. The terms of the act providing compensation should be made more liberal than in the present act. A year's compensation is not adequate for a wage-earner's family in the event of his death by accident in the course of his employment. And in the event of death occurring, say, ten or eleven months after the accident, the family would only receive as compensation the equivalent of one or two months' earnings. In this respect the generosity of the United States towards its employees compares most unfavorably with that of every country in Europe—even the poorest.

The terms of the act are also a hardship in prohibiting payment in cases where the accident is in any way due to the negligence of the employee. It is inevitable that daily familiarity with danger will lead men to take chances that can be construed into negligence. So well is this recognized that in practically all countries in the civilized world, except the United States, only a great degree of negligence acts as a bar to securing compensation. Probably in no other respect is our legislation, both State and National, so far behind practically the entire civilized world as in the matter of liability and compensation for accidents in industry. It is humiliating that at European international congresses on accidents the United States should be singled out as the most belated among the nations in respect to employers' liability legislation. This Government is itself a large employer of labor, and in its dealings with its employees it should set a standard in this country which would place it on a par with the most progressive countries in Europe. The laws of the United States in this respect and the laws of European countries have been summarized in a recent Bulletin of the Bureau of Labor, and no American who reads this summary can fail to be struck by the great contrast between our practices and theirs—a contrast not in any sense to our credit.

The Congress should without further delay pass a model employers' liability law for the District of Columbia. The employers' liability act recently declared unconstitutional, on account of apparently including in its provisions employees engaged in intrastate commerce as well as those engaged in interstate commerce, has been held by the local courts to be still in effect so far as its provisions apply to the District of Columbia. There should be no ambiguity on this point. If there is any doubt on the subject, the law should be reenacted with special reference to the District of Columbia. This act, however, applies only to employees of common carriers. In all other occupations the liability law of the District is the old common law. The severity and injustice of the common law in this matter has been in some degree or another modified in the majority of our States, and the only jurisdiction under the exclusive control of the Congress should be ahead and not behind the States of the Union in this respect. A comprehensive employers' liability law should be passed for the District of Columbia.

I renew my recommendation made in a previous message that half-holidays be granted during summer to all wage-workers in Government employ.

I also renew my recommendation that the principle of the eight-hour day should as rapidly and as far as practicable be extended to the entire work being carried on by the Government; the present law should be amended to embrace contracts on those public works which the present wording of the act seems to exclude.

I most earnestly urge upon the Congress the duty of increasing the totally inadequate salaries now given to our Judges. On the

The Courts. whole there is no body of public servants who do as valuable work, nor whose moneyed reward is so inadequate compared to their work. Beginning with the Supreme Court the Judges should have their salaries doubled. It is not befitting the dignity of the Nation that its most honored public servants should be paid sums so small compared to what they would earn in private life that the performance of public service by them implies an exceedingly heavy pecuniary sacrifice.

It is earnestly to be desired that some method should be devised for doing away with the long delays which now obtain in the administration of justice, and which operate with peculiar severity against persons of small means, and favor only the very criminals whom it is most desirable to punish. These long delays in the final decisions of cases make in the aggregate a crying evil; and a remedy should be devised. Much of this intolerable delay is due to improper regard paid to technicalities which are a mere hindrance to justice. In some noted recent cases this over-regard for technicalities has resulted in a striking denial of justice, and flagrant wrong to the body politic.

At the last election certain leaders of organized labor made a violent and sweeping attack upon the entire judiciary of the country, an attack couched in such terms as to include the most upright, honest and broad-minded judges, no less than those of narrower mind and more restricted outlook. It was the kind of attack admirably fitted to prevent any successful attempt to reform abuses of the judiciary, because it gave the champions of the unjust judge their eagerly desired opportunity to shift their ground into a championship of just judges who were unjustly assailed. Last year, before the House Committee on the Judiciary, these same labor leaders formulated their demands, specifying the bill that contained them, refusing all compromise, stating they wished the principle of that bill or nothing. They insisted on a provision that in a labor dispute no injunction should issue except to protect a property right, and specifically provided that the right to carry on business should not be construed as a property right; and in a second provision

their bill made legal in a labor dispute any act or agreement by or between two or more persons that would not have been unlawful if done by a single person. In other words, this bill legalized blacklisting and boycotting in every form, legalizing, for instance, those forms of the secondary boycott which the anthracite coal strike commission so unreservedly condemned; while the right to carry on a business was explicitly taken out from under that protection which the law throws over property. The demand was made that there should be trial by jury in contempt cases, thereby most seriously impairing the authority of the courts. All this represented a course of policy which, if carried out, would mean the enthronement of class privilege in its crudest and most brutal form, and the destruction of one of the most essential functions of the judiciary in all civilized lands.

The violence of the crusade for this legislation, and its complete failure, illustrate two truths which it is essential our people should learn. In the first place, they ought to teach the workingman, the laborer, the wageworker, that by demanding what is improper and impossible he plays into the hands of his foes. Such a crude and vicious attack upon the courts, even if it were temporarily successful, would inevitably in the end cause a violent reaction and would band the great mass of citizens together, forcing them to stand by all the judges, competent and incompetent alike, rather than to see the wheels of justice stopped. A movement of this kind can ultimately result in nothing but damage to those in whose behalf it is nominally undertaken. This is a most healthy truth, which it is wise for all our people to learn. Any movement based on that class hatred which at times assumes the name of "class consciousness" is certain ultimately to fail, and if it temporarily succeeds, to do far-reaching damage. "Class consciousness," where it is merely another name for the odious vice of class selfishness, is equally noxious whether in an employer's association or in a workingman's association. The movement in question was one in which the appeal was made to all workingmen to vote primarily, not as American citizens, but as individuals of a certain class in society. Such an appeal in the first place revolts the more high-minded and far-sighted among the persons to whom it is addressed, and in the second place tends to arouse a strong antagonism among all other classes of citizens, whom it therefore tends to unite against the very organization on whose behalf it is issued. The result is therefore unfortunate from every standpoint. This healthy truth, by the way, will be learned by the socialists if they ever succeed in estab-

lishing in this country an important national party based on such class consciousness and selfish class interest.

The wageworkers, the workingmen, the laboring men of the country by the way in which they repudiated the effort to get them to cast their votes in response to an appeal to class hatred, have emphasized their sound patriotism and Americanism. The whole country has cause to feel pride in this attitude of sturdy independence, in this uncompromising insistence upon acting simply as good citizens, as good Americans, without regard to fancied—and improper—class interests. Such an attitude is an object-lesson in good citizenship to the entire nation.

But the extreme reactionaries, the persons who blind themselves to the wrongs now and then committed by the courts on laboring men, should also think seriously as to what such a movement as this portends. The judges who have shown themselves able and willing effectively to check the dishonest activity of the very rich man who works iniquity by the mismanagement of corporations, who have shown themselves alert to do justice to the wageworker, and sympathetic with the needs of the mass of our people, so that the dweller in the tenement houses, the man who practices a dangerous trade, the man who is crushed by excessive hours of labor, feel that their needs are understood by the courts—these judges are the real bulwark of the courts; these judges, the judges of the stamp of the President-elect, who have been fearless in opposing labor when it has gone wrong, but fearless also in holding to strict account corporations that work iniquity, and far-sighted in seeing that the workingman gets his rights, are the men of all others to whom we owe it that the appeal for such violent and mistaken legislation has fallen on deaf ears, that the agitation for its passage proved to be without substantial basis. The courts are jeopardized primarily by the action of these Federal and State judges who show inability or unwillingness to put a stop to the wrongdoing of very rich men under modern industrial conditions, and inability or unwillingness to give relief to men of small means or wageworkers who are crushed down by these modern industrial conditions; who, in other words, fail to understand and apply the needed remedies for the new wrongs produced by the new and highly complex social and industrial civilization which has grown up in the last half century.

The rapid changes in our social and industrial life which have attended this rapid growth have made it necessary that, in applying to concrete cases the great rule of right laid down in our Constitution, there should be a full understanding and appreciation of the

new conditions to which the rules are to be applied. What would have been an infringement upon liberty half a century ago may be the necessary safeguard of liberty to-day. What would have been an injury to property then may be necessary to the enjoyment of property now. Every judicial decision involves two terms—one, an interpretation of the law; the other, the understanding of the facts to which it is to be applied. The great mass of our judicial officers are I believe alive to these changes of conditions which so materially affect the performance of their judicial duties. Our judicial system is sound and effective at core, and it remains, and must ever be maintained, as the safeguard of those principles of liberty and justice which stand at the foundation of American institutions; for, as Burke finely said, when liberty and justice are separated, neither is safe. There are, however, some members of the judicial body who have lagged behind in their understanding of these great and vital changes in the body politic, whose minds have never been opened to the new applications of the old principles made necessary by the new conditions. Judges of this stamp do lasting harm by their decisions, because they convince poor men in need of protection that the courts of the land are profoundly ignorant of and out of sympathy with their needs, and profoundly indifferent or hostile to any proposed remedy. To such men it seems a cruel mockery to have any court decide against them on the ground that it desires to preserve "liberty" in a purely technical form, by withholding liberty in any real and constructive sense. It is desirable that the legislative body should possess, and wherever necessary exercise, the power to determine whether in a given case employers and employees are not on an equal footing, so that the necessities of the latter compel them to submit to such exactions as to hours and conditions of labor as unduly to tax their strength; and only mischief can result when such determination is upset on the ground that there must be no "interference with the liberty to contract"—often a merely academic "liberty," the exercise of which is the negation of real liberty.

There are certain decisions by various courts which have been exceedingly detrimental to the rights of wage-workers. This is true of all the decisions that decide that men and women are, by the Constitution, "guaranteed their liberty" to contract to enter a dangerous occupation, or to work an undesirable or improper number of hours, or to work in unhealthy surroundings; and therefore can not recover damages when maimed in that occupation and can not be forbidden to work what the legislature decides is an excessive

number of hours, or to carry on the work under conditions which the legislature decides to be unhealthy. The most dangerous occupations are often the poorest paid and those where the hours of work are longest; and in many cases those who go into them are driven by necessity so great that they have practically no alternative. Decisions such as those alluded to above nullify the legislative effort to protect the wage-workers who most need protection from those employers who take advantage of their grinding need. They halt or hamper the movement for securing better and more equitable conditions of labor. The talk about preserving to the misery-hunted beings who make contracts for such service their "liberty" to make them, is either to speak in a spirit of heartless irony or else to show an utter lack of knowledge of the conditions of life among the great masses of our fellow-countrymen, a lack which unfits a judge to do good service just as it would unfit any executive or legislative officer.

There is also, I think, ground for the belief that substantial injustice is often suffered by employees in consequence of the custom of courts issuing temporary injunctions without notice to them, and punishing them for contempt of court in instances where, as a matter of fact, they have no knowledge of any proceedings. Outside of organized labor there is a widespread feeling that this system often works great injustice to wage-workers when their efforts to better their working condition result in industrial disputes. A temporary injunction procured *ex parte* may as a matter of fact have all the effect of a permanent injunction in causing disaster to the wage-workers' side in such a dispute. Organized labor is chafing under the unjust restraint which comes from repeated resort to this plan of procedure. Its discontent has been unwisely expressed, and often improperly expressed, but there is a sound basis for it, and the orderly and law-abiding people of a community would be in a far stronger position for upholding the courts if the undoubtedly existing abuses could be provided against.

Such proposals as those mentioned above as advocated by the extreme labor leaders, contain the vital error of being class legislation of the most offensive kind, and even if enacted into law I believe that the law would rightly be held unconstitutional. Moreover, the labor people are themselves now beginning to invoke the use of the power of injunction. During the last ten years, and within my own knowledge, at least fifty injunctions have been obtained by labor unions in New York City alone, most of them being to protect the union label (a "property right"), but some being obtained

for other reasons against employers. The power of injunction is a great equitable remedy, which should on no account be destroyed. But safeguards should be erected against its abuse. I believe that some such provisions as those I advocated a year ago for checking the abuse of the issuance of temporary injunctions should be adopted. In substance, provision should be made that no injunction or temporary restraining order issue otherwise than on notice, except where irreparable injury would otherwise result; and in such case a hearing on the merits of the order should be had within a short fixed period, and, if not then continued after hearing, it should forthwith lapse. Decisions should be rendered immediately, and the chance of delay minimized in every way. Moreover, I believe that the procedure should be sharply defined, and the judge required minutely to state the particulars both of his action and of his reasons therefor, so that the Congress can if it desires examine and investigate the same.

The chief lawmakers in our country may be, and often are, the judges, because they are the final seat of authority. Every time they interpret contract, property, vested rights, due process of law, liberty, they necessarily enact into law parts of a system of social philosophy; and as such interpretation is fundamental, they give direction to all law-making. The decisions of the courts on economic and social questions depend upon their economic and social philosophy; and for the peaceful progress of our people during the twentieth century we shall owe most to those judges who hold to a twentieth century economic and social philosophy and not to a long outgrown philosophy, which was itself the product of primitive economic conditions. Of course a judge's views on progressive social philosophy are entirely second in importance to his possession of a high and fine character; which means the possession of such elementary virtues as honesty, courage, and fairmindedness. The judge who owes his election to pandering to demagogic sentiments or class hatreds and prejudices, and the judge who owes either his election or his appointment to the money or the favor of a great corporation, are alike unworthy to sit on the bench, are alike traitors to the people; and no profundity of legal learning, or correctness of abstract conviction on questions of public policy, can serve as an offset to such shortcomings. But it is also true that judges, like executives and legislators, should hold sound views on the questions of public policy which are of vital interest to the people.

The legislators and executives are chosen to represent the people in enacting and administering the laws. The judges are not chosen

to represent the people in this sense. Their function is to interpret the laws. The legislators are responsible for the laws; the judges for the spirit in which they interpret and enforce the laws. We stand aloof from the reckless agitators who would make the judges mere pliant tools of popular prejudice and passion; and we stand aloof from those equally unwise partisans of reaction and privilege who deny the proposition that, inasmuch as judges are chosen to serve the interests of the whole people, they should strive to find out what those interests are, and, so far as they conscientiously can, should strive to give effect to popular conviction when deliberately and duly expressed by the lawmaking body. The courts are to be highly commended and staunchly upheld when they set their faces against wrongdoing or tyranny by a majority; but they are to be blamed when they fail to recognize under a government like ours the deliberate judgment of the majority as to a matter of legitimate policy, when duly expressed by the legislature. Such lawfully expressed and deliberate judgment should be given effect by the courts, save in the extreme and exceptional cases where there has been a clear violation of a constitutional provision. Anything like frivolity or wantonness in upsetting such clearly taken governmental action is a grave offense against the Republic. To protest against tyranny, to protect minorities from oppression, to nullify an act committed in a spasm of popular fury, is to render a service to the Republic. But for the courts to arrogate to themselves functions which properly belong to the legislative bodies is all wrong, and in the end works mischief. The people should not be permitted to pardon evil and slipshod legislation on the theory that the court will set it right; they should be taught that the right way to get rid of a bad law is to have the legislature repeal it, and not to have the courts by ingenious hair-splitting nullify it. A law may be unwise and improper; but it should not for these reasons be declared unconstitutional by a strained interpretation, for the result of such action is to take away from the people at large their sense of responsibility and ultimately to destroy their capacity for orderly self restraint and self government. Under such a popular government as ours, founded on the theory that in the long run the will of the people is supreme, the ultimate safety of the Nation can only rest in training and guiding the people so that what they will shall be right, and not in devising means to defeat their will by the technicalities of strained construction.

For many of the shortcomings of justice in our country our people as a whole are themselves to blame, and the judges and juries

merely bear their share together with the public as a whole. It is discreditable to us as a people that there should be difficulty in convicting murderers, or in bringing to justice men who as public servants have been guilty of corruption, or who have profited by the corruption of public servants. The result is equally unfortunate, whether due to hairsplitting technicalities in the interpretation of law by judges, to sentimentality and class consciousness on the part of juries, or to hysteria and sensationalism in the daily press. For much of this failure of justice no responsibility whatever lies on rich men as such. We who make up the mass of the people can not shift the responsibility from our own shoulders. But there is an important part of the failure which has specially to do with inability to hold to proper account men of wealth who behave badly.

The chief breakdown is in dealing with the new relations that arise from the mutualism, the interdependence of our time. Every new social relation begets a new type of wrongdoing—of sin, to use an old-fashioned word—and many years always elapse before society is able to turn this sin into crime which can be effectively punished at law. During the lifetime of the older men now alive the social relations have changed far more rapidly than in the preceding two centuries. The immense growth of corporations, of business done by associations, and the extreme strain and pressure of modern life, have produced conditions which render the public confused as to who its really dangerous foes are; and among the public servants who have not only shared this confusion, but by some of their acts have increased it, are certain judges. Marked inefficiency has been shown in dealing with corporations and in re-settling the proper attitude to be taken by the public not only towards corporations, but towards labor, and towards the social questions arising out of the factory system, and the enormous growth of our great cities.

The huge wealth that has been accumulated by a few individuals of recent years, in what has amounted to a social and industrial revolution, has been as regards some of these individuals made possible only by the improper use of the modern corporation. A certain type of modern corporation, with its officers and agents, its many issues of securities, and its constant consolidation with allied undertakings, finally becomes an instrument so complex as to contain a greater number of elements that, under various judicial decisions, lend themselves to fraud and oppression than any device yet evolved in the human brain. Corporations are necessary instruments of modern business. They have been permitted to

become a menace largely because the governmental representatives of the people have worked slowly in providing for adequate control over them.

The chief offender in any given case may be an executive, a legislature, or a judge. Every executive head who advises violent, instead of gradual, action, or who advocates ill-considered and sweeping measures of reform (especially if they are tainted with vindictiveness, and disregard for the rights of the minority) is particularly blameworthy. The several legislatures are responsible for the fact that our laws are often prepared with slovenly haste and lack of consideration. Moreover, they are often prepared, and still more frequently amended during passage, at the suggestion of the very parties against whom they are afterwards enforced. Our great clusters of corporations, huge trusts and fabulously wealthy multimillionaires, employ the very best lawyers they can obtain to pick flaws in these statutes after their passage; but they also employ a class of secret agents who seek, under the advice of experts, to render hostile legislation innocuous by making it unconstitutional, often through the insertion of what appear on their face to be drastic and sweeping provisions against the interests of the parties inspiring them; while the demagogues, the corrupt creatures who introduce blackmailing schemes to "strike" corporations, and all who demand extreme, and undesirably radical, measures, show themselves to be the worst enemies of the very public whose loud-mouthed champions they profess to be. A very striking illustration of the consequences of carelessness in the preparation of a statute was the employers' liability law of 1906. In the cases arising under that law, four out of six courts of first instance held it unconstitutional; six out of nine justices of the Supreme Court held that its subject-matter was within the province of congressional action; and four of the nine justices held it valid. It was, however, adjudged unconstitutional by a bare majority of the court—five to four. It was surely a very slovenly piece of work to frame the legislation in such shape as to leave the question open at all.

Real damage has been done by the manifold and conflicting interpretations of the interstate commerce law. Control over the great corporations doing interstate business can be effective only if it is vested with full power in an administrative department, a branch of the Federal executive, carrying out a Federal law; it can never be effective if a divided responsibility is left in both the States and the Nation; it can never be effective if left in the hands of the courts to be decided by lawsuits.

The courts hold a place of peculiar and deserved sanctity under our form of government. Respect for the law is essential to the permanence of our institutions; and respect for the law is largely conditioned upon respect for the courts. It is an offense against the Republic to say anything which can weaken this respect, save for the gravest reason and in the most carefully guarded manner. Our judges should be held in peculiar honor; and the duty of respectful and truthful comment and criticism, which should be binding when we speak of anybody, should be especially binding when we speak of them. On an average they stand above any other servants of the community, and the greatest judges have reached the high level held by those few greatest patriots whom the whole country delights to honor. But we must face the fact that there are wise and unwise judges, just as there are wise and unwise executives and legislators. When a president or a governor behaves improperly or unwisely, the remedy is easy, for his term is short; the same is true with the legislator, although not to the same degree, for he is one of many who belong to some given legislative body, and it is therefore less easy to fix his personal responsibility and hold him accountable therefor. With a judge, who, being human, is also likely to err, but whose tenure is for life, there is no similar way of holding him to responsibility. Under ordinary conditions the only forms of pressure to which he is in any way amenable are, public opinion, and the action of his fellow judges. It is the last which is most immediately effective, and to which we should look for the reform of abuses. Any remedy applied from without is fraught with risk. It is far better, from every standpoint, that the remedy should come from within. In no other nation in the world do the courts wield such vast and far-reaching power as in the United States. All that is necessary is that the courts as a whole should exercise this power with the farsighted wisdom already shown by those judges who scan the future while they act in the present. Let them exercise this great power not only honestly and bravely, but with wise insight into the needs and fixed purposes of the people, so that they may do justice, and work equity, so that they may protect all persons in their rights, and yet break down the barriers of privilege, which is the foe of right.

If there is any one duty which more than another we owe it to our children and our children's children to perform at once, it is to save the forests of this country, for they constitute the first and most important element in the conservation of the natural resources of the country. There are of course two kinds of natural

resources. One is the kind which can only be used as part of a process of exhaustion; this is true of mines, natural oil and gas wells, and the like. The other, and of course

Forests. ultimately by far the most important, includes the resources which can be improved in the process of wise use; the soil, the rivers, and the forests come under this head. Any really civilized nation will so use all of these three great national assets that the nation will have their benefit in the future. Just as a farmer, after all his life making his living from his farm, will, if he is an expert farmer, leave it as an asset of increased value to his son, so we should leave our national domain to our children, increased in value and not worn out. There are small sections of our own country, in the East and in the West, in the Adirondacks, the White Mountains, and the Appalachians, and in the Rocky Mountains, where we can already see for ourselves the damage in the shape of permanent injury to the soil and the river systems which comes from reckless deforestation. It matters not whether this deforestation is due to the actual reckless cutting of timber, to the fires that inevitably follow such reckless cutting of timber, or to reckless and uncontrolled grazing, especially by the great migratory bands of sheep, the unchecked wandering of which over the country means destruction to forests and disaster to the small home makers, the settlers of limited means.

Shortsighted persons, or persons blinded to the future by desire to make money in every way out of the present, sometimes speak as if no great damage would be done by the reckless destruction of our forests. It is difficult to have patience with the arguments of these persons. Thanks to our own recklessness in the use of our splendid forests, we have already crossed the verge of a timber famine in this country, and no measures that we now take can, at least for many years, undo the mischief that has already been done. But we can prevent further mischief being done; and it would be in the highest degree reprehensible to let any consideration of temporary convenience or temporary cost interfere with such action, especially as regards the National Forests which the nation can *now*, at this very moment, control.

All serious students of the question are aware of the great damage that has been done in the Mediterranean countries of Europe, Asia, and Africa by deforestation. The similar damage that has been done in Eastern Asia is less well known. A recent investigation into conditions in North China by Mr. Frank N. Meyer, of the Bureau of Plant Industry of the United States Department of Agriculture,

has incidentally furnished in very striking fashion proof of the ruin that comes from reckless deforestation of mountains, and of the further fact that the damage once done may prove practically irreparable. So important are these investigations that I herewith attach as an appendix to my message certain photographs showing present conditions in China. They show in vivid fashion the appalling desolation, taking the shape of barren mountains and gravel- and sand-covered plains, which immediately follows and depends upon the deforestation of the mountains. Not many centuries ago the country of northern China was one of the most fertile and beautiful spots in the entire world, and was heavily forested. We know this not only from the old Chinese records, but from the accounts given by the traveler, Marco Polo. He, for instance, mentions that in visiting the provinces of Shansi and Shensi he observed many plantations of mulberry trees. Now there is hardly a single mulberry tree in either of these provinces, and the culture of the silkworm has moved farther south, to regions of atmospheric moisture. As an illustration of the complete change in the rivers, we may take Polo's statement that a certain river, the Hun Ho, was so large and deep that merchants ascended it from the sea with heavily laden boats; today this river is simply a broad sandy bed, with shallow, rapid currents wandering hither and thither across it, absolutely unnavigable. But we do not have to depend upon written records. The dry wells, and the wells with water far below the former watermark, bear testimony to the good days of the past and the evil days of the present. Wherever the native vegetation has been allowed to remain, as, for instance, here and there around a sacred temple or imperial burying ground, there are still huge trees and tangled jungle, fragments of the glorious ancient forests. The thick, matted forest growth formerly covered the mountains to their summits. All natural factors favored this dense forest growth, and as long as it was permitted to exist, the plains at the foot of the mountains were among the most fertile on the globe, and the whole country was a garden. Not the slightest effort was made, however, to prevent the unchecked cutting of the trees, or to secure reforestation. Doubtless for many centuries the tree-cutting by the inhabitants of the mountains worked but slowly in bringing about the changes that have now come to pass; doubtless for generations the inroads were scarcely noticeable. But there came a time when the forest had shrunk sufficiently to make each year's cutting a serious matter, and from that time on the destruction proceeded with

appalling rapidity; for of course each year of destruction rendered the forest less able to recuperate, less able to resist next year's inroad. Mr. Meyer describes the ceaseless progress of the destruction even now, when there is so little left to destroy. Every morning men and boys go out armed with mattox or axe, scale the steepest mountain sides, and cut down and grub out, root and branch, the small trees and shrubs still to be found. The big trees disappeared centuries ago, so that now one of these is never seen save in the neighborhood of temples, where they are artificially protected; and even here it takes all the watch and care of the tree-loving priests to prevent their destruction. Each family, each community, where there is no common care exercised in the interest of all of them to prevent deforestation, finds its profit in the immediate use of the fuel which would otherwise be used by some other family or some other community. In the total absence of regulation of the matter in the interest of the whole people, each small group is inevitably pushed into a policy of destruction which can not afford to take thought for the morrow. This is just one of those matters which it is fatal to leave to unsupervised individual control. The forests can only be protected by the State, by the Nation; and the liberty of action of individuals must be conditioned upon what the State or Nation determines to be necessary for the common safety.

The lesson of deforestation in China is a lesson which mankind should have learned many times already from what has occurred in other places. Denudation leaves naked soil; then gulying cuts down to the bare rock; and meanwhile the rock-waste buries the bottomlands. When the soil is gone, men must go; and the process does not take long.

This ruthless destruction of the forests in northern China has brought about, or has aided in bringing about, desolation, just as the destruction of the forests in central Asia aid in bringing ruin to the once rich central Asian cities; just as the destruction of the forests in northern Africa helped towards the ruin of a region that was a fertile granary in Roman days. Shortsighted man, whether barbaric, semi-civilized, or what he mistakenly regards as fully civilized, when he has destroyed the forests, has rendered certain the ultimate destruction of the land itself. In northern China the mountains are now such as are shown by the accompanying photographs,¹ absolutely barren peaks. Not only have the forests been destroyed, but because of their destruction the soil has been washed off the naked rock. The terrible consequence is that it is impos-

¹ Not printed.

sible now to undo the damage that has been done. Many centuries would have to pass before soil would again collect, or could be made to collect, in sufficient quantity once more to support the old-time forest growth. In consequence the Mongol Desert is practically extending eastward over northern China. The climate has changed and is still changing. It has changed even within the last half century, as the work of tree destruction has been consummated. The great masses of arboreal vegetation on the mountains formerly absorbed the heat of the sun and sent up currents of cool air which brought the moisture-laden clouds lower and forced them to precipitate in rain a part of their burden of water. Now that there is no vegetation, the barren mountains, scorched by the sun, send up currents of heated air which drive away instead of attracting the rain clouds, and cause their moisture to be disseminated. In consequence, instead of the regular and plentiful rains which existed in these regions of China when the forests were still in evidence, the unfortunate inhabitants of the deforested lands now see their crops wither for lack of rainfall, while the seasons grow more and more irregular; and as the air becomes dryer certain crops refuse longer to grow at all. That everything dries out faster than formerly is shown by the fact that the level of the wells all over the land has sunk perceptibly, many of them having become totally dry. In addition to the resulting agricultural distress, the watercourses have changed. Formerly they were narrow and deep, with an abundance of clear water the year around; for the roots and humus of the forests caught the rainwater and let it escape by slow, regular seepage. They have now become broad, shallow stream beds, in which muddy water trickles in slender currents during the dry seasons, while when it rains there are freshets, and roaring muddy torrents come tearing down, bringing disaster and destruction everywhere. Moreover, these floods and freshets, which diversify the general dryness, wash away from the mountain sides, and either wash away or cover in the valleys, the rich fertile soil which it took tens of thousands of years for Nature to form; and it is lost forever, and until the forests grow again it can not be replaced. The sand and stones from the mountain sides are washed loose and come rolling down to cover the arable lands, and in consequence, throughout this part of China, many formerly rich districts are now sandy wastes, useless for human cultivation and even for pasture. The cities have been of course seriously affected, for the streams have gradually ceased to be navigable. There is testimony that even within the memory of men now living there has been a serious diminution

of the rainfall of northeastern China. The level of the Sungari River in northern Manchuria has been sensibly lowered during the last fifty years, at least partly as the result of the indiscriminate cutting of the forests forming its watershed. Almost all the rivers of northern China have become uncontrollable, and very dangerous to the dwellers along their banks, as a direct result of the destruction of the forests. The journey from Peking to Jehol shows in melancholy fashion how the soil has been washed away from whole valleys, so that they have been converted into deserts.

In northern China this disastrous process has gone on so long and has proceeded so far that no complete remedy could be applied. There are certain mountains in China from which the soil is gone so utterly that only the slow action of the ages could again restore it; although of course much could be done to prevent the still further eastward extension of the Mongolian Desert if the Chinese Government would act at once. The accompanying cuts from photographs show the inconceivable desolation of the barren mountains in which certain of these rivers rise—mountains, be it remembered, which formerly supported dense forests of larches and firs, now unable to produce any wood, and because of their condition a source of danger to the whole country. The photographs also show the same rivers after they have passed through the mountains, the beds having become broad and sandy because of the deforestation of the mountains. One of the photographs shows a caravan passing through a valley. Formerly, when the mountains were forested, it was thickly peopled by prosperous peasants. Now the floods have carried destruction all over the land and the valley is a stony desert. Another photograph shows a mountain road covered with the stones and rocks that are brought down in the rainy season from the mountains which have already been deforested by human hands. Another shows a pebbly river-bed in southern Manchuria where what was once a great stream has dried up owing to the deforestation in the mountains. Only some scrub wood is left, which will disappear within a half century. Yet another shows the effect of one of the washouts, destroying an arable mountain side, these washouts being due to the removal of all vegetation; yet in this photograph the foreground shows that reforestation is still a possibility in places.

What has thus happened in northern China, what has happened in Central Asia, in Palestine, in North Africa, in parts of the Mediterranean countries of Europe, will surely happen in our country if we do not exercise that wise forethought which should be one of the chief marks of any people calling itself civilized. Nothing should

be permitted to stand in the way of the preservation of the forests, and it is criminal to permit individuals to purchase a little gain for themselves through the destruction of forests when this destruction is fatal to the wellbeing of the whole country in the future.

Action should be begun forthwith, during the present session of the Congress, for the improvement of our inland waterways—action which will result in giving us not only navigable but navigated rivers. We have spent hundreds of millions of dollars upon these waterways, yet the traffic on nearly all of them is steadily declining. This condition is the direct result of the absence of any comprehensive and far-seeing plan of waterway improvement. Obviously we can not continue thus to expend the revenues of the Government without return. It is poor business to spend money for inland navigation unless we get it.

Inquiry into the condition of the Mississippi and its principal tributaries reveals very many instances of the utter waste caused by the methods which have hitherto obtained for the so-called "improvement" of navigation. A striking instance is supplied by the "improvement" of the Ohio, which, begun in 1824, was continued under a single plan for half a century. In 1875 a new plan was adopted and followed for a quarter of a century. In 1902 still a different plan was adopted and has since been pursued at a rate which only promises a navigable river in from twenty to one hundred years longer.

Such shortsighted, vacillating, and futile methods are accompanied by decreasing water-borne commerce and increasing traffic congestion on land, by increasing floods, and by the waste of public money. The remedy lies in abandoning the methods which have so signally failed and adopting new ones in keeping with the needs and demands of our people.

In a report on a measure introduced at the first session of the present Congress, the Secretary of War said: "The chief defect in the methods hitherto pursued lies in the absence of executive authority for originating comprehensive plans covering the country or natural divisions thereof." In this opinion I heartily concur. The present methods not only fail to give us inland navigation, but they are injurious to the army as well. What is virtually a permanent detail of the corps of engineers to civilian duty necessarily impairs the efficiency of our military establishment. The military engineers have undoubtedly done efficient work in actual construction, but they are necessarily unsuited by their training and

traditions to take the broad view, and to gather and transmit to the Congress the commercial and industrial information and forecasts, upon which waterway improvement must always so largely rest. Furthermore, they have failed to grasp the great underlying fact that every stream is a unit from its source to its mouth, and that all its uses are interdependent. Prominent officers of the Engineer Corps have recently even gone so far as to assert in print that waterways are not dependent upon the conservation of the forests about their headwaters. This position is opposed to all the recent work of the scientific bureaus of the Government and to the general experience of mankind. A physician who disbelieved in vaccination would not be the right man to handle an epidemic of smallpox, nor should we leave a doctor skeptical about the transmission of yellow fever by the *Stegomyia* mosquito in charge of sanitation at Havana or Panama. So with the improvement of our rivers; it is no longer wise or safe to leave this great work in the hands of men who fail to grasp the essential relations between navigation and general development and to assimilate and use the central facts about our streams.

Until the work of river improvement is undertaken in a modern way it can not have results that will meet the needs of this modern nation. These needs should be met without further dilly-dallying or delay. The plan which promises the best and quickest results is that of a permanent commission authorized to coordinate the work of all the Government departments relating to waterways, and to frame and supervise the execution of a comprehensive plan. Under such a commission the actual work of construction might be entrusted to the reclamation service; or to the military engineers acting with a sufficient number of civilians to continue the work in time of war; or it might be divided between the reclamation service and the corps of engineers. Funds should be provided from current revenues if it is deemed wise—otherwise from the sale of bonds. The essential thing is that the work should go forward under the best possible plan, and with the least possible delay. We should have a new type of work and a new organization for planning and directing it. The time for playing with our waterways is past. The country demands results.

I urge that all our National parks adjacent to National forests be placed completely under the control of the forest service of the Agricultural Department, instead of leaving them as they now are, under the Interior Department and policed by the army. The Congress should provide for superintendents with adequate corps of

first-class civilian scouts, or rangers, and further, place the road construction under the superintendent instead of leaving it with the War Department. Such a change in park management would result in economy and avoid the difficulties of administration which now arise from having the responsibility of care and protection divided between different departments. The need for this course is peculiarly great in the Yellowstone Park. This, like the Yosemite, is a great wonderland, and should be kept as a national playground. In both all wild things should be protected, and the scenery kept wholly unmarred.

I am happy to say that I have been able to set aside in various parts of the country small, well-chosen tracts of ground to serve as sanctuaries and nurseries for wild creatures.

I had occasion in my message of May 4, 1906, to urge the passage of some law putting alcohol, used in the arts, industries, and manufactures, upon the free list; that is, to provide for the withdrawal free of tax of alcohol which is to be denatured for those purposes. The law of June 7, 1906, and its amendment of March 2, 1907, accomplished what was desired in that respect, and the use of denatured alcohol, as intended, is making a fair degree of progress and is entitled to further encouragement and support from the Congress.

The pure food legislation has already worked a benefit difficult to overestimate.

It has been my purpose from the beginning of my administration to take the Indian Service completely out of the atmosphere of political activity, and there has been steady progress toward that end. The last remaining stronghold of politics in that service was the agency system, which had seen its best days and was gradually falling to pieces from natural or purely evolutionary causes, but, like all such survivals, was decaying slowly in its later stages. It seems clear that its extinction had better be made final now, so that the ground can be cleared for larger constructive work on behalf of the Indians, preparatory to their induction into the full measure of responsible citizenship. On November 1 only eighteen agencies were left on the roster; with two exceptions, where some legal questions seemed to stand temporarily in the way, these have been changed to superintendencies, and their heads brought into the classified civil service.

Last year an amendment was incorporated in the measure providing for the Secret Service, which provided that there should be no

detail from the Secret Service and no transfer therefrom. It is not too much to say that this amendment has been of benefit only, and could be of benefit only, to the criminal classes.

Secret Service. If deliberately introduced for the purpose of diminishing the effectiveness of war against crime it could not have been better devised to this end. It forbade the practices that had been followed to a greater or less extent by the executive heads of various departments for twenty years. To these practices we owe the securing of the evidence which enabled us to drive great lotteries out of business and secure a quarter of a million of dollars in fines from their promoters. These practices have enabled us to discover some of the most outrageous frauds in connection with the theft of government land and government timber by great corporations and by individuals. These practices have enabled us to get some of the evidence indispensable in order to secure the conviction of the wealthiest and most formidable criminals with whom the Government has to deal, both those operating in violation of the anti-trust law and others. The amendment in question was of benefit to no one excepting to these criminals, and it seriously hampers the Government in the detection of crime and the securing of justice. Moreover, it not only affects departments outside of the Treasury but it tends to hamper the Secretary of the Treasury himself in the effort to utilize the employees of his department so as to best meet the requirements of the public service. It forbids him from preventing frauds upon the customs service, from investigating irregularities in branch mints and assay offices, and has seriously crippled him. It prevents the promotion of employees in the Secret Service, and this further discourages good effort. In its present form the restriction operates only to the advantage of the criminal, of the wrongdoer. The chief argument in favor of the provision was that the Congressmen did not themselves wish to be investigated by Secret Service men. Very little of such investigation has been done in the past; but it is true that the work of the Secret Service agents was partly responsible for the indictment and conviction of a Senator and a Congressman for land frauds in Oregon. I do not believe that it is in the public interest to protect criminals in any branch of the public service, and exactly as we have again and again during the past seven years prosecuted and convicted such criminals who were in the executive branch of the Government, so in my belief we should be given ample means to prosecute them if found in the legislative branch. But if this is not considered desirable a special exception could be made

in the law prohibiting the use of the Secret Service force in investigating members of the Congress. It would be far better to do this than to do what actually was done, and strive to prevent or at least to hamper effective action against criminals by the executive branch of the Government.

I again renew my recommendation for postal savings banks, for depositing savings with the security of the Government behind them. The object is to encourage thrift and economy in the wage-earner and person of moderate means. In fourteen States the deposits in Postal Savings Banks. savings banks as reported to the Comptroller of the Currency amount to \$3,590,245,402, or 98.4 per cent of the entire deposits, while in the remaining 32 States there are only \$70,308,543, or 1.6 per cent, showing conclusively that there are many localities in the United States where sufficient opportunity is not given to the people to deposit their savings. The result is that money is kept in hiding and unemployed. It is believed that in the aggregate vast sums of money would be brought into circulation through the instrumentality of the postal savings banks. While there are only 1,453 savings banks reporting to the Comptroller there are more than 61,000 post-offices, 40,000 of which are money order offices. Postal savings banks are now in operation in practically all the great civilized countries with the exception of the United States.

In my last annual message I commended the Postmaster-General's recommendation for an extension of the parcel post on the rural routes. The establishment of a local parcel post on rural routes would be to the mutual benefit of Parcel Post. the farmer and the country storekeeper, and it is desirable that the routes, serving more than 15,000,000 people, should be utilized to the fullest practicable extent. An amendment was proposed in the Senate at the last session, at the suggestion of the Postmaster-General, providing that, for the purpose of ascertaining the practicability of establishing a special local parcel post system on the rural routes throughout the United States, the Postmaster-General be authorized and directed to experiment and report to the Congress the result of such experiment by establishing a special local parcel post system on rural delivery routes in not to exceed four counties in the United States for packages of fourth-class matter originating on a rural route or at the distributing post office for delivery by rural carriers. It would seem only proper that such an experiment should be tried in order to demonstrate the practicability of the proposition, especially as the Postmaster-General estimates that the

revenue derived from the operation of such a system on all the rural routes would amount to many million dollars.

The share that the National Government should take in the broad work of education has not received the attention and the care it rightly deserves. The immediate responsibility for the support and improvement of our educational systems and institutions rests and should always rest with the people of the several States acting through their state and local governments, but the Nation has an opportunity in educational work which must not be lost and a duty which should no longer be neglected.

The National Bureau of Education was established more than forty years ago. Its purpose is to collect and diffuse such information "as shall aid the people of the United States in the establishment and maintenance of efficient school systems and otherwise promote the cause of education throughout the country." This purpose in no way conflicts with the educational work of the States, but may be made of great advantage to the States by giving them the fullest, most accurate, and hence the most helpful information and suggestion regarding the best educational systems. The Nation, through its broader field of activities, its wider opportunity for obtaining information from all the States and from foreign countries, is able to do that which not even the richest States can do, and with the distinct additional advantage that the information thus obtained is used for the immediate benefit of all our people.

With the limited means hitherto provided, the Bureau of Education has rendered efficient service, but the Congress has neglected to adequately supply the bureau with means to meet the educational growth of the country. The appropriations for the general work of the bureau, outside education in Alaska, for the year 1909 are but \$87,500—an amount less than they were ten years ago, and some of the important items in these appropriations are less than they were thirty years ago. It is an inexcusable waste of public money to appropriate an amount which is so inadequate as to make it impossible properly to do the work authorized, and it is unfair to the great educational interests of the country to deprive them of the value of the results which can be obtained by proper appropriations.

I earnestly recommend that this unfortunate state of affairs as regards the national educational office be remedied by adequate appropriations. This recommendation is urged by the representatives of our common schools and great state universities and the

leading educators, who all unite in requesting favorable consideration and action by the Congress upon this subject.

I strongly urge that the request of the Director of the Census in connection with the decennial work so soon to be begun, be complied with and that the appointments to the
Census. census force be placed under the civil service law, waiving the geographical requirements as requested by the Director of the Census. The supervisors and enumerators should not be appointed under the civil service law, for the reasons given by the Director. I commend to the Congress the careful consideration of the admirable report of the Director of the Census, and I trust that his recommendations will be adopted and immediate action thereon taken.

It is highly advisable that there should be intelligent action on the part of the Nation on the question of preserving the health of the country. Through the practical extermination in San Francisco of disease-bearing rodents
Redistribution of our country has thus far escaped the bubonic
Bureaus. plague. This is but one of the many achievements of American health officers; and it shows what can be accomplished with a better organization than at present exists. The dangers to public health from food adulteration
Public Health. and from many other sources, such as the menace to the physical, mental and moral development of children from child labor, should be met and overcome. There are numerous diseases, which are now known to be preventable, which are, nevertheless, not prevented. The recent International Congress on Tuberculosis has made us painfully aware of the inadequacy of American public health legislation. This Nation can not afford to lag behind in the world-wide battle now being waged by all civilized people with the microscopic foes of mankind, nor ought we longer to ignore the reproach that this Government takes more pains to protect the lives of hogs and of cattle than of human beings. The first legislative step to be taken is that for the concentration of the proper bureaus into one of the existing departments. I therefore urgently recommend the passage of a bill which shall authorize a redistribution of the bureaus which shall best accomplish this end.

I recommend that legislation be enacted placing under the jurisdiction of the Department of Commerce and Labor the Government Printing Office. At present this office is under the combined control, supervision, and administrative direction of the President and of the Joint Committee on Printing of the two Houses of the

Congress. The advantage of having the 4,069 employees in this office and the expenditure of the \$5,761,377.57 appropriated therefor supervised by an executive department is obvious, instead of the present combined supervision.

Government Printing Office. All Soldiers' Homes should be placed under the complete jurisdiction and control of the War Department.

Economy and sound business policy require that all existing independent bureaus and commissions should be placed under the jurisdiction of appropriate executive departments.

Independent Bureaus and Commissions. It is unwise from every standpoint, and results only in mischief, to have any executive work done save by the purely executive bodies, under the control of the President; and each such executive body should be under the immediate supervision of a Cabinet Minister.

I advocate the immediate admission of New Mexico and Arizona as States. This should be done at the present session of the Congress.

Statehood. The people of the two Territories have made it evident by their votes that they will not come in as one State. The only alternative is to admit them as two, and I trust that this will be done without delay.

I call the attention of the Congress to the importance of the problem of the fisheries in the interstate waters. On the Great

Interstate Fisheries. April 11th of this year, endeavoring to come to an international agreement for the preservation and satisfactory use of the fisheries of these waters which can not otherwise be achieved. Lake Erie, for example, has the richest fresh water fisheries in the world; but it is now controlled by the statutes of two Nations, four States, and one Province, and in this Province by different ordinances in different counties. All these political divisions work at cross purposes, and in no case can they achieve protection to the fisheries, on the one hand, and justice to the localities and individuals on the other. The case is similar in Puget Sound.

But the problem is quite as pressing in the interstate waters of the United States. The salmon fisheries of the Columbia River are now but a fraction of what they were twenty-five years ago, and what they would be now if the United States Government had taken complete charge of them by intervening between Oregon and Washington. During these twenty-five years the fishermen of each State have

naturally tried to take all they could get, and the two legislatures have never been able to agree on joint action of any kind adequate in degree for the protection of the fisheries. At the moment the fishing on the Oregon side is practically closed, while there is no limit on the Washington side of any kind, and no one can tell what the courts will decide as to the very statutes under which this action and nonaction result. Meanwhile very few salmon reach the spawning grounds, and probably four years hence the fisheries will amount to nothing; and this comes from a struggle between the associated, or gill-net, fishermen on the one hand, and the owners of the fishing wheels up the river. The fisheries of the Mississippi, the Ohio, and the Potomac are also in a bad way. For this there is no remedy except for the United States to control and legislate for the interstate fisheries as part of the business of interstate commerce. In this case the machinery for scientific investigation and for control already exists in the United States Bureau of Fisheries. In this as in similar problems the obvious and simple rule should be followed of having those matters which no particular State can manage taken in hand by the United States; problems, which in the seesaw of conflicting State legislatures are absolutely unsolvable, are easy enough for the Congress to control.

The federal statute regulating interstate traffic in game should be extended to include fish. New federal fish hatcheries should be established. The administration of the Alaskan fur-seal service should be vested in the Bureau of Fisheries.

Fisheries and
Fur Seals.

This Nation's foreign policy is based on the theory that right must be done between nations precisely as between individuals, and in our actions for the last ten years we have in this matter proven our faith by our deeds. We have behaved, and are behaving, towards other nations, as in private life an honorable man would behave towards his fellows.

Foreign Affairs.

The commercial and material progress of the twenty Latin-American Republics is worthy of the careful attention of the Congress. No other section of the world has shown a greater proportionate development of its foreign trade during the last ten years and none other has more special claims on the interest of the United States. It offers to-day probably larger opportunities for the legitimate expansion of our commerce than any other group of countries. These countries will want our products in greatly increased

Latin-American
Republics.

quantities, and we shall correspondingly need theirs. The International Bureau of the American Republics is doing a useful work in making these nations and their resources better known to us, and in acquainting them not only with us as a people and with our purposes towards them, but with what we have to exchange for their goods. It is an international institution supported by all the governments of the two Americas.

The work on the Panama Canal is being done with a speed, efficiency and entire devotion to duty, which make it a model for all work of the kind. No task of such magnitude has ever before been undertaken by any nation; and no task of the kind has ever been better performed. The men on the Isthmus, from Colonel Goethals and his fellow commissioners through the entire list of employees who are faithfully doing their duty, have won their right to the ungrudging respect and gratitude of the American people.

I again recommend the extension of the ocean mail act of 1891 so that satisfactory American ocean mail lines to South America, Asia, the Philippines, and Australasia may be established. The creation of such steamship lines should be the natural corollary of the voyage of the battle fleet. It should precede the opening of the Panama Canal. Even under favorable conditions several years must elapse before such lines can be put into operation. Accordingly I urge that the Congress act promptly where foresight already shows that action sooner or later will be inevitable.

I call particular attention to the Territory of Hawaii. The importance of those islands is apparent, and the need of improving their condition and developing their resources is urgent. In recent years industrial conditions upon the islands have radically changed. The importation of coolie labor has practically ceased, and there is now developing such a diversity in agricultural products as to make possible a change in the land conditions of the Territory, so that an opportunity may be given to the small land owner similar to that on the mainland. To aid these changes, the National Government must provide the necessary harbor improvements on each island, so that the agricultural products can be carried to the markets of the world. The coastwise shipping laws should be amended to meet the special needs of the islands, and the alien contract labor law should be so modified in its application to Hawaii as to enable American and European labor to be brought thither.

We have begun to improve Pearl Harbor for a naval base and to provide the necessary military fortifications for the protection of the islands, but I can not too strongly emphasize the need of appropriations for these purposes of such an amount as will within the shortest possible time make those islands practically impregnable. It is useless to develop the industrial conditions of the islands and establish there bases of supply for our naval and merchant fleets unless we insure, as far as human ingenuity can, their safety from foreign seizure.

One thing to be remembered with all our fortifications is that it is almost useless to make them impregnable from the sea if they are left open to land attack. This is true even of our own coast, but it is doubly true of our insular possessions. In Hawaii, for instance, it is worse than useless to establish a naval station unless we establish it behind fortifications so strong that no landing force can take them save by regular and long-continued siege operations.

Real progress toward self-government is being made in the Philippine Islands. The gathering of a Philippine legislative body and Philippine assembly marks a process absolutely new in Asia, not only as regards Asiatic colonies of European powers but as regards Asiatic possessions of other Asiatic powers; and, indeed, always excepting the striking and wonderful example afforded by the great Empire of Japan, it opens an entirely new departure when compared with anything which has happened among Asiatic powers which are their own masters. Hitherto this Philippine legislature has acted with moderation and self-restraint, and has seemed in practical fashion to realize the eternal truth that there must always be government, and that the only way in which any body of individuals can escape the necessity of being governed by outsiders is to show that they are able to restrain themselves, to keep down wrongdoing and disorder. The Filipino people, through their officials, are therefore making real steps in the direction of self-government. I hope and believe that these steps mark the beginning of a course which will continue till the Filipinos become fit to decide for themselves whether they desire to be an independent nation. But it is well for them (and well also for those Americans who during the past decade have done so much damage to the Filipinos by agitation for an immediate independence for which they were totally unfit) to remember that self-government depends, and must depend, upon the Filipinos themselves. All we can do is to give them the opportunity to develop the capacity for self-

government. If we had followed the advice of the foolish doctrinaires who wished us at any time during the last ten years to turn the Filipino people adrift, we should have shirked the plainest possible duty and have inflicted a lasting wrong upon the Filipino people. We have acted in exactly the opposite spirit. We have given the Filipinos constitutional government; a government based upon justice; and we have shown that we have governed them for their good and not for our aggrandizement. At the present time, as during the past ten years, the inexorable logic of facts shows that this government must be supplied by us and not by them. We must be wise and generous; we must help the Filipinos to master the difficult art of self-control, which is simply another name for self-government. But we can not give them self-government save in the sense of governing them so that gradually they may, if they are able, learn to govern themselves. Under the present system of just laws and sympathetic administration, we have every reason to believe that they are gradually acquiring the character which lies at the basis of self-government, and for which, if it be lacking, no system of laws, no paper constitution, will in any wise serve as a substitute. Our people in the Philippines have achieved what may legitimately be called a marvelous success in giving to them a government which marks on the part of those in authority both the necessary understanding of the people and the necessary purpose to serve them disinterestedly and in good faith. I trust that within a generation the time will arrive when the Philippines can decide for themselves whether it is well for them to become independent, or to continue under the protection of a strong and disinterested power, able to guarantee to the islands order at home and protection from foreign invasion. But no one can prophesy the exact date when it will be wise to consider independence as a fixed and definite policy. It would be worse than folly to try to set down such a date in advance, for it must depend upon the way in which the Philippine people themselves develop the power of self-mastery.

Porto Rico. I again recommend that American citizenship be conferred upon the people of Porto Rico.

In Cuba our occupancy will cease in about two months' time; the Cubans have in orderly manner elected their own governmental authorities, and the island will be turned over to them. Our occupation on this occasion has lasted a little over two years, and Cuba has thriven and prospered under it. Our earnest hope and one desire is that the people of the

island shall now govern themselves with justice, so that peace and order may be secure. We will gladly help them to this end; but I would solemnly warn them to remember the great truth that the only way a people can permanently avoid being governed from without is to show that they both can and will govern themselves from within.

The Japanese Government has postponed until 1917 the date of the great international exposition, the action being taken so as to insure ample time in which to prepare to make the Japanese Exposition. The American commissioners have visited Japan and the postponement will merely give ampler opportunity for America to be represented at the exposition. Not since the first international exposition has there been one of greater importance than this will be, marking as it does the fiftieth anniversary of the ascension to the throne of the Emperor of Japan. The extraordinary leap to a foremost place among the nations of the world made by Japan during this half century is something unparalleled in all previous history. This exposition will fitly commemorate and signalize the giant progress that has been achieved. It is the first exposition of its kind that has ever been held in Asia. The United States, because of the ancient friendship between the two peoples, because each of us fronts on the Pacific, and because of the growing commercial relations between this country and Asia, takes a peculiar interest in seeing the exposition made a success in every way.

I take this opportunity publicly to state my appreciation of the way in which in Japan, in Australia, in New Zealand, and in all the States of South America, the battle fleet has been received on its practice voyage around the world. The American Government can not too strongly express its appreciation of the abounding and generous hospitality shown our ships in every port they visited.

As regards the Army I call attention to the fact that while our junior officers and enlisted men stand very high, the present system of promotion by seniority results in bringing into the higher grades many men of mediocre capacity who have but a short time to serve. No man should regard it as his vested right to rise to the highest rank in the Army any more than in any other profession. It is a curious and by no means creditable fact that there should be so often a failure on the part of the public and its representatives to under-

stand the great need, from the standpoint of the service and the Nation, of refusing to promote respectable, elderly incompetents. The higher places should be given to the most deserving men without regard to seniority; at least seniority should be treated as only one consideration. In the stress of modern industrial competition no business firm could succeed if those responsible for its management were chosen simply on the ground that they were the oldest people in its employment; yet this is the course advocated as regards the Army, and required by law for all grades except those of general officer. As a matter of fact, all of the best officers in the highest ranks of the Army are those who have attained their present position wholly or in part by a process of selection.

The scope of retiring boards should be extended so that they could consider general unfitness to command for any cause, in order to secure a far more rigid enforcement than at present in the elimination of officers for mental, physical or temperamental disabilities. But this plan is recommended only if the Congress does not see fit to provide what in my judgment is far better; that is, for selection in promotion, and for elimination for age. Officers who fail to attain a certain rank by a certain age should be retired—for instance, if a man should not attain field rank by the time he is 45 he should of course be placed on the retired list. General officers should be selected as at present, and one-third of the other promotions should be made by selection, the selection to be made by the President or the Secretary of War from a list of at least two candidates proposed for each vacancy by a board of officers from the arm of the service from which the promotion is to be made. A bill is now before the Congress having for its object to secure the promotion of officers to various grades at reasonable ages through a process of selection, by boards of officers, of the least efficient for retirement with a percentage of their pay depending upon length of service. The bill, although not accomplishing all that should be done, is a long step in the right direction; and I earnestly recommend its passage, or that of a more completely effective measure.

The cavalry arm should be reorganized upon modern lines. This is an arm in which it is peculiarly necessary that the field officers should not be old. The cavalry is much more difficult to form than infantry, and it should be kept up to the maximum both in efficiency and in strength, for it can not be made in a hurry. At present both infantry and artillery are too few in number for our needs. Especial attention should be paid to development of the machine gun. A

general service corps should be established. As things are now the average soldier has far too much labor of a nonmilitary character to perform.

Now that the organized militia, the National Guard, has been incorporated with the Army as a part of the national forces, it behooves the Government to do every reasonable thing in its power to perfect its efficiency. It should be assisted in its instruction and otherwise

National Guard. aided more liberally than heretofore. The continuous services of many well-trained regular officers will be essential in this connection. Such officers must be specially trained at service schools best to qualify them as instructors of the National Guard. But the detailing of officers for training at the service schools and for duty with the National Guard entails detaching them from their regiments which are already greatly depleted by detachment of officers for assignment to duties prescribed by acts of the Congress.

A bill is now pending before the Congress creating a number of extra officers in the Army, which if passed, as it ought to be, will enable more officers to be trained as instructors of National Guard and assigned to that duty. In case of war it will be of the utmost importance to have a large number of trained officers to use for turning raw levies into good troops.

There should be legislation to provide a complete plan for organizing the great body of volunteers behind the Regular Army and National Guard when war has come. Congressional assistance should be given those who are endeavoring to promote rifle practice so that our men, in the services or out of them, may know how to use the rifle. While teams representing the United States won the rifle and revolver championships of the world against all comers in England this year, it is unfortunately true that the great body of our citizens shoot less and less as time goes on. To meet this we should encourage rifle practice among schoolboys, and indeed among all classes, as well as in the military services, by every means in our power. Thus, and not otherwise, may we be able to assist in preserving the peace of the world. Fit to hold our own against the strong nations of the earth, our voice for peace will carry to the ends of the earth. Unprepared, and therefore unfit, we must sit dumb and helpless to defend ourselves, protect others, or preserve peace. The first step—in the direction of preparation to avert war if possible, and to be fit for war if it should come—is to teach our men to shoot.

I approve the recommendations of the General Board for the increase of the Navy, calling especial attention to the need of addi-

tional destroyers and colliers, and above all, of the four battleships. It is desirable to complete as soon as possible a squadron of eight battleships of the best existing type.

The Navy. The *North Dakota*, *Delaware*, *Florida*, and *Utah* will form the first division of this squadron.

The four vessels proposed will form the second division. It will be an improvement on the first, the ships being of the heavy, single caliber, all big gun type. All the vessels should have the same tactical qualities, that is, speed and turning circle, and as near as possible these tactical qualities should be the same as is in the four vessels before named now being built.

I most earnestly recommend that the General Board be by law turned into a General Staff. There is literally no excuse whatever for continuing the present bureau organization of the Navy. The Navy should be treated as a purely military organization, and everything should be subordinated to the one object of securing military efficiency. Such military efficiency can only be guaranteed in time of war if there is the most thorough previous preparation in time of peace—a preparation, I may add, which will in all probability prevent any need of war. The Secretary must be supreme, and he should have as his official advisers a body of line officers who should themselves have the power to pass upon and coordinate all the work and all the proposals of the several bureaus. A system of promotion by merit, either by selection or by exclusion, or by both processes, should be introduced. It is out of the question, if the present principle of promotion by mere seniority is kept, to expect to get the best results from the higher officers. Our men come too old, and stay for too short a time, in the high command positions.

Two hospital ships should be provided. The actual experience of the hospital ship with the fleet in the Pacific has shown the invaluable work which such a ship does, and has also proved that it is well to have it kept under the command of a medical officer. As was to be expected, all of the anticipations of trouble from such a command have proved completely baseless. It is as absurd to put a hospital ship under a line officer as it would be to put a hospital on shore under such a command. This ought to have been realized before, and there is no excuse for failure to realize it now.

Nothing better for the Navy from every standpoint has ever occurred than the cruise of the battle fleet around the world. The improvement of the ships in every way has been extraordinary, and they have gained far more experience in battle tactics than they would have gained if they had stayed in the Atlantic

waters. The American people have cause for profound gratification, both in view of the excellent condition of the fleet as shown by this cruise, and in view of the improvement the cruise has worked in this already high condition. I do not believe that there is any other service in the world in which the average of character and efficiency in the enlisted men is as high as is now the case in our own. I believe that the same statement can be made as to our officers, taken as a whole; but there must be a reservation made in regard to those in the highest ranks—as to which I have already spoken—and in regard to those who have just entered the service; because we do not now get full benefit from our excellent naval school at Annapolis. It is absurd not to graduate the midshipmen as ensigns; to keep them for two years in such an anomalous position as at present the law requires is detrimental to them and to the service. In the academy itself, every first classman should be required in turn to serve as petty officer and officer; his ability to discharge his duties as such should be a prerequisite to his going into the line, and his success in commanding should largely determine his standing at graduation. The Board of Visitors should be appointed in January, and each member should be required to give at least six days' service, only from one to three days' to be performed during June week, which is the least desirable time for the board to be at Annapolis so far as benefiting the Navy by their observations is concerned.

THEODORE ROOSEVELT

THE WHITE HOUSE,

Tuesday December 8, 1908.

LIST OF PAPERS, WITH SUBJECTS OF CORRESPONDENCE.

CIRCULARS.

No.	From and to whom.	Date.	Subject.	Page.
	Circular.....	1908. May 13	Expatriation and protection of Americans in China. Instructions regarding application to Americans resident in China of sec. 2 of act of Mar. 2, 1907, and par. 144 of Diplomatic Instructions and Consular Regulations, as amended by Executive order of Apr. 6, 1907.	1
	.....do.....	May 14	Amendment to rule (A) to overcome the presumption of expatriation. Quotes amendment to Rule A prescribed in circular instructions of Apr. 19, 1907, and Dec. 11, 1907.	2
	.....do.....	May 15	Third Pan-American Conference conventions. States that the conventions signed by delegates to the conference at Rio de Janeiro have been ratified by the United States, and directs that inquiry be made as to whether the respective Governments have ratified any or all of these conventions.	2
	.....do.....	June 24	Death of Hon. Grover Cleveland. Incloses copy of President's proclamation announcing death of ex-President Grover Cleveland, and gives instructions regarding period of mourning.	3
	.....do.....	Sept. 16	Alaska-Yukon-Pacific Exposition. Incloses invitation to be extended to the respective Governments and makes known department's interest therein.	4

ARGENTINE REPUBLIC.

	Mr. Portela to Mr. Bacon....	1907. Sept. 28	Employment of private detectives in locating fugitives from justice in extradition proceedings. Requests location of Oreste Rosen, charged with fraudulent bankruptcy in Buenos Aires.	10
44	Mr. Bacon to Mr. Portela....	Oct. 15	Same subject. Acknowledges his note of Sept. 28, and informs him that location of Oreste Rosen should be ascertained through private channels.	10
666	Mr. Wilson to Mr. Root.....	1908. Jan. 10	Same subject. Reports receipt of note from foreign office stating that it should not be obliged to employ private means in locating criminals in the United States when extradition has been requested.	11
154	Mr. Root to Mr. Beaupré....	Jan. 21	Jurisdiction over estates of American citizens dying in the Argentine Republic. Incloses correspondence relating to estate of Frank Bates, an American citizen, and instructs him to take the matter up with the Argentine Government with a view to obtaining possession of the property.	6
164	Mr. Bacon to Mr. Wilson....	Feb. 29	Employment of private detectives in locating fugitives from justice in extradition proceedings. Acknowledges his No. 666 of Jan. 10, explains procedure, and says that difficulties suggested by Argentine Government are more apparent than real.	11
	Mr. Portela to Mr. Root.....	Mar. 28	Same subject. Refers to previous correspondence, and expresses surprise at attitude of United States, inasmuch as Argentina has acted on like requests on assumption that they would stand on reciprocity in accord with international usage.	12
723	Mr. Beaupré to Mr. Root....	Apr. 7	Jurisdiction over estates of American citizens dying in the Argentine Republic. Refers to previous correspondence and incloses notes exchanged with the foreign office.	7
57	Mr. Bacon to Mr. Portela....	Apr. 21	Employment of private detectives in locating fugitives from justice in extradition proceedings. Acknowledges his note of Mar. 28, and expresses regret that United States can not afford reciprocal assistance in matters of apprehension of fugitives from justice. States that method outlined in department's No. 164 of Feb. 29 will prove effective and satisfactory.	13
743	Mr. Wilson to Mr. Root.....	May 12	Message of the President of the Argentine Republic to the Argentine Congress. Incloses text and discusses.	13

AUSTRIA-HUNGARY.

No.	From and to whom.	Date.	Subject.	Page.
78	Mr. Root to Mr. Francis.....	1907 Jan. 31	Expulsion of Selig Fink from Austria. Incloses copy of correspondence and instructs him to exercise further good offices to secure extension of decree of expulsion.	18
181	Mr. Francis to Mr. Root.....	Feb. 23	Same subject. Acknowledges No. 78 of Jan. 31, and quotes note from foreign office showing stand taken by Austria in a similar case. Requests further instructions.	18
98	Mr. Bacon to Mr. Francis...	Apr. 13	Same subject. Acknowledges No. 181 of Feb. 23; sets forth department's attitude, and instructs him to recall case to attention of foreign office.	20
225	Mr. Francis to Mr. Root.....	May 8	Same subject. Acknowledges No. 98 of Apr. 13, and incloses copy of note to foreign office re attitude of United States toward general question of return of former Austrian subjects to State of origin after having become naturalized American citizens.	22
	Mr. Bacon to Mr. Francis...	July 16	Same subject. Acknowledges his No. 225 of May 8, and says department awaits reply of foreign office to his note of May 7.	27
448	Mr. Francis to Mr. Root....	1908 Feb. 5	Same subject. Supplementing his No. 225 of May 8, 1907, incloses copy of note from the foreign office in reply to his note of May 7.	27
453	Same to same.....	Feb. 11	Restrictions on American meats imported into Austria. Incloses copy of note and memorandum from the foreign office defining position of the two Governments on the admission of American meats.	32
469	Same to same.....	Feb. 29	Same subject. Supplementing his No. 453 of Feb. 11, incloses copy of note from foreign office in further relation to admission of American meats.	33
827	Baron Hengelmüller to Mr. Root.	Apr. 11	Renunciation of American citizenship by persons desirous to secure Hungarian citizenship. Refers to note No. 49 of Dec. 23, 1903; incloses letter relative to the renunciation of American citizenship, and asks in what form and before what authority a Hungarian should declare his renunciation of American citizenship.	29
338	Mr. Bacon to Baron Hengelmüller.	Apr. 24	Same subject. Explains action of the consul general at Budapest with reference to the declaration of the renunciation of American citizenship by Samuel Stark Meisels.	30
217	Mr. Root to Mr. Francis....	Apr. 29	Restrictions on American meats imported into Austria. Refers to previous correspondence and incloses copy of letter from Department of Agriculture calling attention to regulations of United States regarding meat and meat food products. Directs that matter again be brought to attention of Austrian Government.	34
520	Mr. Francis to Mr. Root....	May 12	Same subject. Incloses copy of note to the foreign office, again bringing the matter to its attention.	35
	President Roosevelt to Emperor Francis Joseph (telegram).	May 22	Sixtieth anniversary of the reign of the Emperor of Austria-Hungary. Extends, through Ambassador Francis, congratulations and best wishes.	31
	Emperor Francis Joseph to President Roosevelt.	May 23	Same subject. Expresses appreciation of congratulatory telegram.	31
650	Mr. Rives to Mr. Root.....	Oct. 7	Annexation of Bosnia and Herzegovina. Incloses copy of letters addressed by Emperor Francis Joseph to his ministers and copy of proclamation addressed to the people.	36
259	Mr. Root to Mr. Rives.....	Oct. 22	Recognition of Mouley Hafid as Sultan of Morocco. See instruction No. 162 of Oct. 20 to Morocco.	651
	President Roosevelt to Emperor Francis Joseph.	Dec. 1	Sixtieth anniversary of the reign of the Emperor of Austria-Hungary. Offers cordial felicitations and expresses intention of attending the celebration of the event to be held in Washington.	32

BELGIUM.

Mr. Root to Mr. Wilson (telegram).	1908. Jan. 9	Affairs in the Kongo. Asks what has recently occurred regarding Kongo cession, and says that in view of recent reports of continued oppression of natives United States is much indisposed to delay urgent representations in sense of letter to Ambassador Reid of Nov. 4 and transmitted to him Nov. 6. Requests prompt cable report.	537
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BELGIUM—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Wilson to Mr. Root.....	1908, Jan. 10	Same subject. Acknowledges telegram of Jan. 9; states that death of Prime Minister de Trooz alters situation relative to annexation of the Kongo, and says Minister Schollaert insisted on such changes in the treaty of annexation as would lead to the absolute suppression of the so-called domain of the Crown. Inquires whether department desires him to make immediate representation based on instructions and telegram of Dec. 16 to Ambassador Reid.	537
279	Same to same	Jan. 15	Same subject. Gives declaration made by the new premier, Mr. Schollaert, in Chamber of Representatives, of the policy of Belgian Government in regard to Kongo matters.	538
283	Same to same	Jan. 20	Commercial treaty between Belgium and Servia. Transmits text.	39
	Same to same (telegram)....	Jan. 23	Affairs in the Kongo. Gives substance of interview with British minister, Sir Arthur Hardinge, in which were made representations in accordance with instructions.	540
	Same to same (telegram)....	Jan. 30	Same subject. Reports contents of memorandum handed to him for copy and return from Belgian minister for foreign affairs in regard to interview of Jan. 23.	540
290	Same to same	Jan. 31	Same subject. Confirms telegram of Jan. 30 and incloses copy of memorandum referred to therein.	541
	Same to same (telegram)....	Feb. 5	Same subject. Reports withdrawal of Kongo annexation treaty from consideration of Parliament with statement that it was proposed to submit a new project in lieu of it. Expresses opinion that new treaty will afford solution of Kongo question satisfactory to Belgian and international opinion.	542
295	Same to same (telegram)....	Feb. 6	Same subject. Confirms telegram of Feb. 5 and reports re certain events in explanation of information contained therein.	543
	Same to same	Mar. 6	Same subject. Reports that by treaty of annexation just laid before Parliament, domain of Crown is suppressed and all holdings in Europe and Africa transferred to Belgium. Says special fund of \$9,000,000 is to be applied to completing projects already inaugurated, and a special fund of \$10,000,000 at disposal of King to carry out future projects.	544
306	Same to same	Mar. 9	Same subject. Transmits copies of Document No. 129 of the Belgian House of Representatives containing bill approving additional act for annexation of Kongo, and also translations of statement of ministry, project of law, additional act of annexation, and royal decree suppressing foundation of the Crown.	544
308	Same to same	Mar. 10	Same subject. Refers to his No. 306, with its inclosures, and discusses results consequent upon the conclusion of the convention.	549
	Mr. Root to Mr. Wilson (telegram).	Mar. 19	Same subject. Informs him of purport of telegram of Mar. 18 from Ambassador Reid and instructs him to telegraph fully whatever overtures or proposals his British colleague may make. Says instructions already received by him amply defines position of United States.	550
312	Mr. Wilson to Mr. Root.....	Mar. 25	Same subject. Quotes statement made by Belgian premier concerning the agreement between France and Belgium of Feb. 5, 1895, as to right of pre-emption over Kongo possessions. Says that negotiations between France and Kongo as to delimitation on frontier on the Shiloango, and fixed tariff of Kongo railway, will be continued by Belgium.	553
	Same to same (telegram)....	Mar. 26	Same subject. Reports adoption by committee of 17 of colonial law carrying with it Kongo annexation bill. Says bill will be adopted.	554
316	Same to same	do.....	Same subject. Refers to department's telegram of Mar. 19, and says British Legation has received no instructions of kind referred to therein.	554
	Same to same (telegram)....	Mar. 30	Same subject. Reports receipt of copy of instructions to British minister referred to in department's telegram of Mar. 19. Enumerates important points in said instructions.	554
318	Same to same	Mar. 31	Same subject. Transmits copy of instructions of British Government to its minister at Brussels referred to in his telegram of Mar. 30.	555
	Mr. Root to Mr. Wilson (telegram).	Apr. 1	Same subject. Refers to his telegram of Mar. 30, and instructs him independently and coincidentally to express the views of the United States in the same sense as Great Britain does.	556

No.	From and to whom.	Date.	Subject.	Page.
319	Mr. Wilson to Mr. Root.....	1908. Apr. 1	Same subject. Incloses copy of correspondence between the legation and Kongo foreign office as to right of American Christian missionaries to purchase or lease lands for missionary or school sites.	556
321	Same to same.....	Apr. 3	Same subject. Incloses copies of French text of colonial law as reported by committee of 17 to Parliament.	559
322	Same to same.....	Apr. 7	Same subject. Refers to department's telegram of Apr. 1 and incloses copy of memorandum left at foreign office this date somewhat upon lines of British instructions.	559
323	Same to same.....	Apr. 8	Same subject. Transmits copies of proposed Kongo annexation bill, and of proposed bill for government of Belgian possessions reported by committee of 17 to Parliament.	562
	Same to same (telegram).....	do.....	Same subject. Reports that memorandum in sense of department's telegram of Apr. 1 given to minister for foreign affairs Apr. 7.	562
	Mr. Root to Mr. Wilson (telegram).	do.....	Same subject. Refers to and confirms department's telegram of Apr. 1 and instructs him in conference with British minister and in representations to Belgian Government support line proposed to be adopted by British minister for foreign affairs.	563
329	Mr. Wilson to Mr. Root.....	Apr. 17	Same subject. Refers to department's telegram of Apr. 8; gives substance of conference with British minister, Sir Arthur Hardinge, and incloses copy of memorandum to Belgian minister for foreign affairs re forced labor and arbitration of commercial and economic questions.	568
330	Same to same.....	do.....	Same subject. Reports opening of discussion of Kongo annexation bill in Belgian Parliament Apr. 15, and comments on speeches made in relation thereto.	570
334	Same to same.....	Apr. 24	Same subject. Refers to his No. 330 of Apr. 17 and says that owing to adjournment of Parliament for the Easter holidays there has been only single discussion of the Kongo question.	571
159	Mr. Root to Mr. Wilson.....	Apr. 29	Same subject. Acknowledges his No. 319 of Apr. 1 and says his course in the Kongo matter is approved.	572
	Memorandum from Belgian legation.	May 7	Same subject. Refers to memorandum of Apr. 7 handed by Minister Wilson to Belgian minister for foreign affairs, and discusses points indicated by both United States and British Governments.	572
	Mr. Root to Mr. Wilson (telegram).	May 9	Same subject. Expresses approval of action reported in No. 329.	574
	Memorandum from Belgian legation.	July 12	Same subject. Refers to memorandum of Apr. 16 from United States Government, and explains the attitude of the Belgian Government toward the expression of the views of the former.	574
578	Mr. Bliss to Mr. Root.....	July 16	Same subject. Transmits copy of British memorandum of June 23, and of Belgian reply thereto, and says Belgian Government desires to publish in a second "Grey Book," to be submitted to Belgian legislative bodies, American and British memoranda and Belgian replies thereto. Asks early consent to this effect.	578
393	Mr. Wilson to Mr. Root.....	Aug. 21	Same subject. Transmits copy of colonial law adopted by Belgian Chamber of Representatives.	578
401	Same to same.....	Sept. 18	Same subject. Reports adoption by Belgian Senate of treaty for annexation of Belgian Kongo.	585
652	Baron Moncheur to Mr. Root	Oct. 1	Same subject. Transmits copy of pamphlet entitled "Belgique et Kongo," which is accompanied by a resumé setting forth most interesting points in speeches delivered by the Belgian ministers of Interior and Justice in the Belgian Chamber.	585
176	Mr. Root to Mr. Wilson.....	Oct. 22	Recognition of Mouley Hafid as Sultan of Morocco. See instruction No. 162 of Oct. 20 to Morocco.	651
	Mr. Wilson to Mr. Root (telegram).	Oct. 29	Affairs in the Kongo. Reports that on Oct. 31 the King will create a department of colonies and appoint Mr. Renkin minister, and also on same day will appear the royal decree fixing date of Belgian assumption of sovereignty over Kongo.	587
737	Baron Moncheur to Mr. Root	Nov. 4	Same subject. Incloses copy of law approving treaty for resumption of Kongo by Belgium, and says new exequaturs will be issued to consular officers of Governments which request it.	587
422	Mr. Wilson to Mr. Root.....	Nov. 10	Same subject. Transmits copy of note from minister for foreign affairs concerning royal decree, and copy of reply thereto.	588

BELGIUM—Continued.

No.	From and to whom.	Date.	Subject.	Page.
429	Same to same.....	1908. Nov. 27	Same subject. Transmits copies of Official Bulletin of Belgian Kongo containing decree organizing colonial council of Belgium. Enumerates principal points of decree.	592
434	Same to same.....	Dec. 3	Same subject. Transmits copies of report of session of Belgian Chamber of Representatives of Nov. 24 which contain proposed budget for administration of Belgian Kongo.	592

BOLIVIA.

	Mr. Calderon to Mr. Root....	1908. May 6	Election of Sr. Fernando E. Guachalla as President of Bolivia. Announces the election of Hon. Fernando E. Guachalla as President of Bolivia.	40
16	Mr. Bacon to Mr. Calderon..	May 11	Same subject. Expresses pleasure at election of Hon. Fernando E. Guachalla as President.	40
389	Mr. Monroe to Mr. Root.....	Aug. 5	Death of Sr. Fernando E. Guachalla, President elect of Bolivia. Reports death of Dr. Fernando E. Guachalla, President elect of Bolivia, on July 24.	41

BRAZIL.

180	Mr. Dudley to Mr. Root.....	1907. May 14	Message of the President of Brazil to the Brazilian Congress. Transmits text.	42
	Mr. Dudley to Mr. Root (telegram).	1908 Jan. 3	Preferential tariff concessions in favor of American products. "Brazilian Congress continues during 1908 existing 20 per cent tariff reduction favor United States."	48
	Mr. Bacon to Mr. Dudley (telegram).	Jan. 15	Same subject. Asks if it is true that decree signed by Brazilian President Jan. 11 puts reduction of 20 per cent in force retroactively as from Jan. 1.	48
117	Mr. Dudley to Mr. Root.....	Jan. 23	Boundary and navigation agreement between Brazil and Colombia. In continuation of No. 105 of Dec. 21, 1907, reports ratification of agreements.	51
126	Same to same.....	Jan. 28	Preferential tariff concessions in favor of American products. Incloses copy of note to foreign office suggesting that decree conceding reduction of 20 per cent on certain articles of American origin under law in force should be promulgated with the least possible delay.	48
141	Same to same.....	Feb. 19	Same subject. Refers to his No. 123 of Jan. 28, and reports further relative to refund.	50
	Same to same (telegram)....	do.....	Same subject. "Brazilian minister of finance agrees refund 20 per cent."	50
	Mr. Root to Mr. Nabuco....	June 13	Severing of diplomatic relations between the United States and Venezuela. Expresses appreciation of Brazil's willingness to take charge of American interests upon withdrawal of diplomatic representatives from Venezuela, and incloses copy of telegram to be sent to Chargé Sleeper concerning archives, property, and interests of United States.	821
	Mr. Adee to Mr. Dudley (telegram).	June 25	Same subject. Informs him that by courtesy of Brazil American interests and property in Venezuela have been placed in hands of Brazilian diplomatic representative there. Instructs him to confirm to Brazilian Government sense of gratitude already expressed to Ambassador Nabuco.	825
210	Mr. Dudley to Mr. Root.....	June 29	Same subject. Acknowledges telegram of June 25, and incloses copy of note of thanks to foreign office and also newspaper clipping bearing upon the good offices extended American Government by Brazil.	825
61	Mr. Adee to Mr. Nabuco....	July 10	Same subject. Incloses, for transmission to Mr. John Brewer, acting as custodian of archives of American legation at Caracas, copy of note of June 20 by which Brazilian minister at Caracas informed Venezuelan Government he would have charge of American interests during suspension of diplomatic relations, and copy of Venezuelan Government's reply under date of July 22.	826
	Mr. Nabuco to Mr. Adee....	July 14	Same subject. Announces forwarding to Brazilian chargé d'affaires his communication to Mr. Brewer and discusses the question of diplomatic immunities.	827

BRAZIL—Continued.

No.	From and to whom.	Date.	Subject.	Page.
63	Mr. Adee to Mr. Nabuco....	1908. July 23	Same subject. Acknowledges note of July 14 and discusses the attitude of Venezuela in regard to the diplomatic immunities to be enjoyed by Mr. Sleeper until his embarkation at Puerto Cabello.	828
94	Mr. Bacon to Mr. Dudley...	July 30	Same subject. Acknowledges his No. 210 of June 29, and expresses approval thereof.	829
67	Mr. Adee to Mr. Nabuco....	Aug. 27	Same subject. Refers to Mr. Brewer's communication of Aug. 5, and says that Mr. Brewer should be held to be department's agent to receive moneys on account of awards of Mixed Commission of 1903 and custodian of legation to receive copies of correspondence between the Brazilian chargé at Caracas and foreign office at that place.	829
260	Mr. Janes to Mr. Root.....	Sept. 25	Treaty between Brazil and the Netherlands regarding the boundary between Surinam and Brazil. Transmits text.	54
288	Same to same.....	Nov. 11	Arbitration treaty between Brazil and Argentine Republic. Transmits text.	51

BULGARIA.

	Mr. Knowles to Mr. Root (telegram).	1908. Oct. 5	Proclamation of independence of Bulgaria. "Bulgaria proclaimed her independence to-day."	57
33	Same to same.....	Oct. 6	Same subject. Incloses copy of note from foreign office announcing independence of Bulgaria.	57

CHILE.

223	Mr. Hicks to Mr. Root.....	1908. June 3	Message of the President of Chile to the Chilean Congress. Summary of the message.	58
126	Mr. Adee to Mr. Hicks.....	Aug. 22	Protection of Chinese in Chile and Ecuador. Incloses copy of note from the Chinese minister, and instructs him <i>re</i> protection of Chinese interests.	61

CHINA.

284	Mr. Rockhill to Mr. Root...	1906. Apr. 14	Chinese indemnity for losses on account of riots in Shanghai, Dec. 18, 1905. Refers to No. 208 of Jan. 23, 1906, and reports being informed by British minister that he has demanded \$80,000 Mexican indemnity for losses sustained by British subjects in the riots.	146
	Mr. Root to Mr. Rockhill (telegram).	June 8	Same subject. Acknowledges his No. 284 of Apr. 14 and directs him to inform Chinese Government that if indemnity is paid for losses of others the United States will demand indemnities for losses of American citizens.	146
153	Same to same.....	June 14	Same subject. Says department sees no good reason why American citizens who suffered losses under identic circumstances should receive different compensatory treatment from that which may be accorded to British subjects.	146
	Mr. Adee to Mr. Rockhill (telegram).	1907. Mar. 8	Extradition of Horace G. McKinley granted by Chinese Government as an act of comity. Instructs him to inquire of foreign office whether request for extradition of McKinley, convicted of conspiracy to defraud United States Government, would be granted as act of comity, this Government being prevented by its laws from being able to reciprocate the favor should occasion arise.	129
	Mr. Rockhill to M. Root (telegram).	Mar. 20	Same subject. Reports being informed by Chinese Government that all American criminals can be extradited except those guilty of political offenses, and that the Chinese Government will take action in the case upon a statement of the exact nature of the crime and presentation of written evidence.	129
563	Same to same.....	do	Same subject. Incloses correspondence with the Wai-wu-Pu <i>re</i> extradition of McKinley.	129
344	Mr. Adee to Mr. Rockhill...	Aug. 13	Same subject. Incloses evidence in the case of McKinley and record of indictment and conviction. Instructs him to take proper steps to obtain provisional arrest and detention.	130

CHINA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1907.		
	Mr. Fletcher to Mr. Root (telegram).	Oct. 5	Same subject. Reports that McKinley has been arrested at Mukden by the Chinese authorities.	130
	Same to same (telegram)....	Oct. 9	Same subject. Reports that Chinese authorities at Mukden have been instructed to surrender McKinley, and requests instructions by telegraph as to custody.	131
	Mr. Bacon to Mr. Rockhill (telegram).	Oct. 10	Same subject. Directs him to request the Chinese Government to hold McKinley at the expense of the United States until arrival of agent to receive the fugitive.	131
761	Mr. Fletcher to Mr. Root....	Oct. 17	Same subject. Incloses copies of correspondence with the foreign office stating that the request for the arrest and detention of McKinley will be complied with.	131
767	Same to same.....	Oct. 22	Mining regulations in China. Incloses copy of note from foreign office, transmitting new set of mining regulations.	151
790	Same to same.....	Nov. 29	Same subject. In continuation of No. 767 of Oct. 22, incloses copies of the revised mining regulations of China, together with a synopsis for department, and a note from the British minister to the Prince of Ch'ing setting forth his objections to them and asking that they be revised in consultation with other powers before being put into effect.	152
373	Mr. Bacon to Mr. Fletcher...	Dec. 10	Same subject. Acknowledges his No. 767 of Oct 22, and says department awaits with interest receipt of translations of new mining regulations and legation's comments thereon.	173
	Mr. Denby to Mr. Root (telegram).	Dec. 11	Chinese indemnity for losses on account of riots in Shanghai, Dec. 18, 1905. Reports payment to British and German subjects of losses on account of the Shanghai riots in 1905, and says the American losses have not been paid. Recommends that legation be directed to act.	147
	Mr. Bacon to Mr. Rockhill (telegram).	Dec. 13	Same subject. Instructs him to report whether claims of American citizens have been carefully substantiated, and to forward them for approval.	147
801	Mr. Fletcher to Mr. Root....	Dec. 26	Imposition of taxes or duties on American goods by inland Chinese authorities in addition to those prescribed by treaty. Incloses copies of correspondence with the Wai-wu-Pu in relation to the imposition at Nanking and Shun Te Fu of certain taxes on American kerosene oil. Requests instructions in the premises.	134
804	Same to same.....	1908. Jan. 7	Political reforms in China. Incloses translation of imperial edict on the subject of the preparation of the people for instruction of constitutional government.	176
809	Same to same.....	do.....	Customs in Manchuria. Incloses copy of "Experimental regulations for the collection of duty on native and foreign goods shipped to the new ports in Manchuria."	126
810	Same to same.....	Jan. 10	Same subject. Incloses translation of memorial recommending the establishment of a new judicial system in Peking.	178
	Same to same.....	Jan. 15	Railways in China. Reports signing of agreement between China and an English-German syndicate for a loan of £5,000,000 sterling at 5 per cent for 30 years for construction of the Tientsin-Chinking Railroad. Gives terms of agreement and says the line is to be finished in four years.	209
817	Same to same.....	Jan. 17	Same subject. Incloses text of Tientsin-Pukow Railway agreement. Calls attention to certain provisions.	200
818	Same to same.....	Jan. 22	Chinese indemnity for losses on account of riots in Shanghai Dec. 18, 1905. Forwards original statements of claims filed with the American consul general at Shanghai, together with findings with regard to each. Concurs in the findings of the consul general and recommends that they be adopted by department.	148
830	Same to same.....	Jan. 24	Extradition of Horace G. McKinley granted by Chinese Government as an act of comity. Reports the delivering of McKinley into custody of J. F. Kerrigan, agent of the Department of Justice.	133
	Mr. Bacon to Mr. Fletcher (telegram).	Feb. 3	Mining regulations in China. Acknowledges his No. 790 of Nov. 29, 1907, and directs him to inform Chinese Government, on lines followed by British minister, that United States views with dissatisfaction the proposed regulations. Names articles inconsistent with rights guaranteed by treaty, and those showing restrictive tendency.	173

CHINA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
839	Mr. Fletcher to Mr. Root....	1908. Feb. 6	Same subject. In continuation of No. 790 of Nov. 29, 1907, incloses copy of note to foreign office in compliance with telegraphic instructions of Feb. 3.	174
841	Same to same.....	Feb. 7	Customs in Manchuria. Reports regarding delay in opening the customs stations at Manchuria and Pogranichnia.	128
410	Mr. Root to Mr. Fletcher....	Feb. 12	Imposition of taxes or duties on American goods by inland Chinese authorities in addition to those prescribed by treaty. Approves attitude and instructs him in the premises.	138
413	Same to same.....	do.....	Mining regulations in China. Informs him that department has reached the conclusion that the regulations are of such character as to justify a vigorous diplomatic protest by United States.	175
845	Mr. Fletcher to Mr. Root....	Feb. 14	Joint International Commission for investigation of the opium question in the Far East. Reports that agreement has been reached by British and Chinese Governments for obliteration of opium trade between India and China in 10 years, and incloses copies of memoranda exchanged between British Legation and Chinese foreign office on the subject.	76
	Mr. Root to Mr. Rockhill (telegram).	Mar. 12	Chinese indemnity for losses on account of riots in Shanghai, Dec. 18, 1905. Directs that formal demand be presented to the Chinese Government for the losses suffered by American citizens amounting to \$889,73.	149
873	Mr. Fletcher to Mr. Root....	Mar. 13	Railways in China. Incloses copy of the Shanghai-Hangchow-Ningpo loan agreement signed on Mar. 6.	201
435	Mr. Root to Mr. Rockhill...	Mar. 18	Mining regulations in China. Acknowledges No. 839 of Feb. 6, and expresses approval of Chargé Fletcher's note to the foreign office.	176
878	Mr. Fletcher to Mr. Root....	Mar. 25	Joint International Commission for investigation of opium question in the Far East. Incloses translation of memorial and edict in which the proper boards are ordered to draw up regulations and to take effective measures to reduce production and consumption of opium.	80
888	Same to same.....	Mar. 31	Political reforms in China. Incloses translation of an imperial edict appointing Pao-hsi and Shen Yün-p'ei to assist in the organization of the Deliberative Assembly.	181
894	Same to same.....	Apr. 3	Chinese indemnity for losses on account of riots in Shanghai Dec. 18, 1905. Incloses copy of note to foreign office making formal demand for losses sustained by American citizens in the riots. Reports that his note had been referred to the Taotai with instructions to settle the matter with the American consul general at Shanghai.	149
898	Same to same.....	Apr. 7	Imposition of taxes or duties on American goods by inland Chinese authorities in addition to those prescribed by treaty. Incloses copies of two notes addressed to the Wai-wu-pu concerning collection of taxes on American goods and replies thereto. Incloses also copy of note of the dean of the diplomatic corps to the foreign office.	139
900	Same to same.....	Apr. 8	Joint International Commission for investigation of opium question in the Far East. Incloses translation of imperial edict appointing a commission for suppression of opium.	85
	Mr. Root to Mr. Rockhill...	Apr. 14	Same subject. Expresses gratification concerning agreement between Great Britain and China for suppression of opium trade between China and India.	86
	Same to same.....	May 7	Same subject. See telegram of May 7 to Great Britain.	86
	Mr. Bacon to Mr. Rockhill...	May 21	Imposition of taxes or duties on American goods by inland Chinese authorities in addition to those prescribed by treaty. Acknowledges No. 898 of Apr. 7 and expresses approval of Mr. Fletcher's two notes addressed to the Wai-wu-pu.	142
	Mr. Root to Mr. Rockhill (telegram).	May 25	Payment of the Chinese indemnity. Return by the United States of a portion of its allotment. Informs him of the passage of the bill authorizing modification of the indemnity bond, and asks for an expression of views of China as to times and manner of remission. Instructs him regarding conferences on this subject.	64

CHINA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
468	Same to same.....	1908. May 27	Protection of foreign trade-marks and copyrights in China and Korea. Refers to agreement between the United States and Great Britain for protection of trade-marks in China effected by exchange of notes on June 28, 1905, and incloses copy of note of May 19, 1908, from the British ambassador transmitting text of an amendment to order in council, 1907.	523
469	Same to same.....	do.....	Payment of the Chinese indemnity. Return by the United States of a portion of its allotment. Incloses copy of act of Congress and asks for suggestions from China as to times and manner of making remissions.	64
112	Mr. Bacon to Mr. Wu.....	May 29	Joint International Commission for investigation of opium question in the Far East. An appropriation for the participation of the United States in proposed investigation of opium question has been recommended.	87
113	Same to same.....	do.....	Payment of the Chinese indemnity. Return by the United States of a portion of its allotment. Incloses copy of act of Congress approved May 25, 1908, and requests an expression of opinion as to times and manner of remission.	65
	Mr. Wu to Mr. Bacon.....	June 4	Same subject. Says contents of No. 113 of May 29 have been communicated to his Government.	66
937	Mr. Rockhill to Mr. Root...	June 8	Joint International Commission for investigation of opium question in the Far East. Refers to No. 900 of Apr. 8 and incloses additional regulations for suppression of cultivation and consumption of opium in China.	89
477	Mr. Root to Mr. Rockhill...	June 9	Chinese indemnity for losses on account of riots in Shanghai, Dec. 18, 1905. Quotes telegram sent to consul general at Shanghai instructing him to forward to department, when received from the Chinese Government, indemnity for losses sustained by American citizens.	150
943	Mr. Rockhill to Mr. Root...	June 17	Same subject. Reports that payment of the American claims has been made in full.	150
209	Mr. Denby to Mr. Root.....	June 19	Same subject. Incloses draft for \$889.73 amount paid by Chinese Government on account of damages to American citizens.	151
	Mr. Adee to Mr. Rockhill... (telegram).	June 20	Joint International Commission for investigation of opium question in the Far East. See telegram of June 20 to Japan.	92
957	Mr. Rockhill to Mr. Root....	July 10	Imposition of taxes or duties on American goods by inland Chinese authorities in addition to those prescribed by treaty. Refers to No. 898 of Apr. 7 and incloses copy of reply of Prince of Ch'ing to the dean of the diplomatic corps. States that the ministers of the Netherlands and Great Britain, and himself have been asked to undertake the discussion and settlement of the matter with the Wai-Wu-Pu.	142
	Mr. Adee to Mr. Rockhill.	July 11	Joint International Commission for investigation of the opium question in the Far East. See telegram of July 11 to Great Britain.	92
	Mr. Rockhill to Mr. Root (telegram).	July 15	Payment of the Chinese indemnity. Return by United States of a portion of its allotment. China expresses thanks and states that she has no wishes to express as to manner of remission. Announces the intention of sending yearly to United States numbers of students.	66
966	Same to same.....	July 16	Same subject. Incloses correspondence with foreign office in regard to establishment in United States of a Chinese educational mission. China asks that American minister at Peking be authorized to assist.	67
	Mr. Bacon to Mr. Rockhill (telegram).	July 17	Same subject. Directs him to express to foreign office appreciation of sentiments expressed by China, and gratification that students are to be sent to United States for educational purposes. Congratulates him on satisfactory outcome of the matter.	69
	Mr. Rockhill to Mr. Root (telegram).	July 20	Same subject. Reports that T'ang Shao-yi, who is given rank of president of a board and appointed special envoy to United States to express thanks for action in regard to the indemnity, will probably leave early in November.	69
	Mr. Bacon to Mr. Rockhill..	July 21	Joint International Commission for investigation of the opium question in the Far East. See telegram of July 21 to Great Britain.	93

CHINA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Same to same (telegram)...	1908. July 22	Payment of the Chinese indemnity. Return by the United States of a portion of its allotment. Directs him to express to the foreign office this Government's satisfaction on learning of the deputation of T'ang Shao-yi.	69
490	Mr. Adee to Mr. Rockhill...	July 24	Marriage of American citizens in Germany or on German territory. See instruction No. 15 of July 24, 1908, to Germany.	362
969	Mr. Rockhill to Mr. Root....	July 27	Railways in China. Incloses translation of imperial edict, directing that Chang Chih-tung shall assume absolute control of the Canton-Hankow Railway.	208
	Mr. Adee to Mr. Rockhill...	Aug. 1	Joint International Commission for investigation of the opium question in the Far East. See telegram of Aug. 1 to Japan.	94
	Mr. Root to Mr. Rockhill (telegram).	Aug. 3	Payment of the Chinese indemnity. Return by United States of a portion of its allotment. Says department is gratified at expression of China concerning remission of indemnity and intention of sending students. Adds that Treasury has been called on for recalculation of indemnity on basis which will accord with intent of act, and which will form a basis for elaboration of general scheme.	69
	Mr. Rockhill to Mr. Root (telegram).	Aug. 6	Joint International Commission for investigation of the opium question in the Far East. "In reply to your telegram of the 21st ultimo, Chinese Government formally accept date and place opium commission. Will reply very shortly as to program."	94
979	Same to same.....	Aug. 12	Same subject. Incloses copy of note from Prince of Ch'ing informing him of acceptance by China of program of preliminary inquiries of American delegates to joint opium commission and transmitting copy of memorial and imperial edict of May 23.	95
9	Mr. Wu to Mr. Adee.....	Aug. 13	Protection of Chinese in Chile and Ecuador. Requests that American diplomatic and consular officers in Chile and Ecuador be instructed to protect the interests of Chinese subjects.	59
116	Mr. Adee to Mr. Wu.....	Aug. 22	Same subject. Acknowledges note No. 9 of Aug. 13 and states that American diplomatic officers in Chile and Ecuador have been instructed to look after the interests of Chinese residents.	60
989	Mr. Rockhill to Mr. Root....	Aug. 28	Political reforms in China. Refers to previous correspondence and incloses condensed translation of recent memorial concerning the mode of election to and the composition and duties of the provincial deliberative assemblies, from which the members of the constitutional assembly are ultimately to be drawn.	182
993	Same to same.....	Sept. 2	Joint International Commission for investigation of the opium question in the Far East. Transmits copy of memorial submitting certain regulations penalizing the sale of morphia and of instruments for its injection.	100
1005	Same to same.....	Sept. 12	Political reforms in China. Refers to No. 765 of Oct. 22, 1907, and incloses copy of a memorial containing regulations, 62 in number, defining the duties of the provincial deliberative assemblies, their membership, mode of election, qualifications of voters, etc., together with copy of imperial edict commanding the suppression of the Political Society (Chen-wen-su).	189
118	Mr. Bacon to Mr. Wu.....	Sept. 28	Protection of Chinese in Chile and Ecuador. Communicates information contained in telegram of Sept. 25 from Minister Fox.	62
	Mr. Rockhill to Mr. Root (telegram).	Sept. 29	Joint International Commission for investigation of the opium question in the Far East. Was informed yesterday by foreign office all treaty powers having signified their assent prohibition of importation of morphia and instruments for injection; prohibition will be enforced from 1st next January.	103
1022	Same to same.....	Oct. 8	Regulations for the international settlement at Wuhu. Incloses copy of dispatch from American consul at Nanking transmitting communication from British consul at Wupu proposing certain changes in regulations governing the international settlement with a view to excluding missionaries from holding land in the settlement. Requests instructions in the matter.	121
1024	Same to same.....	Oct. 12	Railways in China. Incloses copy of new loan agreement for redemption of the original loan for construction of the Peking-Hankow Railway, together with translation of imperial decrees sanctioning it.	202

CHINA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1908.		
1027	Same to same.....	Oct. 15	Joint International Commission for investigation of the opium question in the Far East. Incloses copy of note announcing that regulations prohibiting use of morphia and instruments for injection will become operative from Jan. 1, 1909.	103
1028	Same to same.....	Oct. 21	Railways in China. Incloses copy of the Pei-Han redemption loan contract.	203
1034	Same to same.....	Oct. 31	Payment of the Chinese indemnity. Return by United States of a portion of its allotment. Incloses draft of plans concerning sending of students to United States. Recommends that remission of the indemnity begin from Jan. 1 next.	70
1035	Same to same.....	Nov. 5	Railways in China. Incloses copy of an imperial edict giving Grand Councillor Chang Chih-tung absolute control of the construction of the Canton-Hankow Railway.	209
	Mr. Root to Mr. Rockhill....	Nov. 6	Joint International Commission for investigation of the opium question in the Far East. See telegram of Nov. 6 to Japan.	108
	Mr. Bacon to Mr. Rockhill..	Nov. 11	Same subject. See telegram of Nov. 11 to Great Britain.	105
	Mr. Rockhill to Mr. Root (telegram).	Nov. 15	Death of the Emperor and Empress Dowager of China. Reports being informed by foreign office of the death of the Emperor Nov. 14 and issuance of an edict by the Empress Dowager announcing accession of Fu-yi to the throne and assumption of the regency by Prince Ch'un.	116
12	Mr. Wu to Mr. Root.....	do.....	Same subject. Announces death of the Emperor of China Nov. 14.	116
13	Same to same.....	do.....	Same subject. Announces that the eldest son of Prince Ch'un has been appointed to succeed to the throne, and Prince Ch'un as Regent of Chinese Empire.	116
	Mr. Rockhill to Mr. Root (telegram).	Nov. 16	Same subject. "It is officially stated that the Empress Dowager died yesterday afternoon, two forty-five."	117
	Mr. Root to Mr. Rockhill (telegram).	do.....	Same subject. Instructs him to convey to the Emperor and the Regent the regret and sympathy of the President, Secretary of State and American people upon the death of the Empress Dowager.	117
14	Mr. Wu to Mr. Root.....	do.....	Same subject. Announces death of the Empress Dowager of China, Nov. 14.	117
121	Mr. Root to Mr. Wu.....	do.....	Same subject. Expresses regret and sympathy of the Government and people of United States.	117
123	Same to same.....	do.....	Same subject. Acknowledges note of this date and expresses regret and sympathies of the Government and people of the United States.	118
15	Mr. Wu to Mr. Root.....	Nov. 17	Same subject. Incloses copy of telegram forwarded by foreign office from the Emperor of China to the President announcing the death of the late Emperor.	118
16	Same to same.....	do.....	Same subject. Incloses a message from the Emperor of China to the President announcing the death of the Empress Dowager.	118
	Mr. Rockhill to Mr. Root (telegram).	Nov. 19	Joint International Commission for investigation of the opium question in the Far East. Foreign office asks if it is possible to postpone the meeting of the joint opium commission to 1st next February. "My opinion is that under the circumstances this is very desirable. Chinese delegation certainly will not be ready."	110
124	Mr. Bacon to Mr. Wu.....	Nov. 21	Death of the Emperor and Empress Dowager of China. Acknowledges note of Nov. 17 and states that the message from the Emperor inclosed therein has been transmitted to the President as requested.	119
125	Same to same.....	do.....	Same subject. Acknowledges note of Nov. 17 and states that the telegram forwarded by the foreign office announcing the death of the Empress Dowager has been transmitted to the President, and the American minister at Peking instructed to present a telegram of sympathy to the Emperor.	119
17	Mr. Wu to Mr. Root.....	Nov. 25	Same subject. Incloses translation of an imperial message addressed to the President acknowledging his message of condolence.	120
1049	Mr. Rockhill to Mr. Root....	do.....	Railways in China. Transmits translation of supplementary agreement signed on Nov. 12 concerning construction of the Kirin Ch'ang-chun Railway—called the Chich'ang Railway—in Manchuria.	207

CHINA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Bacon to Mr. Wu.....	1908. Nov. 27	Death of the Emperor and Empress Dowager of China. Acknowledges note of Nov. 25, and states that the imperial message addressed to the President has been transmitted to him.	120
19	Mr. Wu to Mr. Root.....	Nov. 30	Same subject. States that title of the reign of the new Emperor of China has been designated as Hsüant'ung and Dec. 2 as day on which His Majesty will formally ascend the throne.	120
520	Mr. Root to Mr. Rockhill....	do....	Regulations for the international settlement at Wuhu. Informs him that no copy of the regulations of the international settlement has been received by department. Discusses proposed amendments which department is unwilling to accept and directs him to inform the Consul at Nanking in this sense.	122
	Same to same (telegram)....	Dec. 3	Joint International Commission for investigation of the opium question in the Far East. See telegram of this date to Great Britain.	114
	Same to same (telegram)....	do....	Death of Emperor and Empress Dowager of China. Directs him, in expressing felicitations of President and Government, to say it was particularly agreeable to receive T'ang Shao-yi, His Majesty's ambassador.	121
129	Mr. Adee to Mr. Wu.....	Dec. 11	Protection of Chinese in Chile and Ecuador. Refers to his note of Aug. 13; to department's note of Aug. 22, and incloses copy of dispatch from consul general at Guayaquil transmitting form of certificate to be given to Chinese subjects in Ecuador.	62
	Mr. Root to Mr. Wu.....	Dec. 31	Payment of the Chinese indemnity. Return by the United States of a portion of its allotment. Transmits copy of executive order, Dec. 28, providing for the remission of the indemnity, and states that remission will begin Jan. 1, 1909.	72
	Mr. Root to Mr. Rockhill (telegram).	do....	Same subject. Informs him the President has directed that remission of the indemnity commence Jan. 1, 1909, and indicates manner in which payments will be made. Directs that the Wai-wu-Pu be informed that proposed draft regulations for education of students in United States is acceptable.	74
	Mr. Rockhill to Mr. Root....	1909. Jan. 14	Regulations for the international settlement at Wuhu, informs him that United States is unwilling to accept the two proposed amendments to regulations for the settlement, and states that the consul at Nanking has been furnished with copy of this instruction.	123
90	Mr. McNally to Mr. Bacon..	Feb. 9	Same subject. Incloses copy of the regulations of the settlement, together with a letter from T'ung Taotai at Wuhu to the British consul at that port.	124

COLOMBIA.

46	Mr. Dawson to Mr. Root....	1908. Jan. 27	Protection afforded Swiss citizens in Colombia by the American legation. Reports in regard to request made by a Swiss citizen for protection of his interests, and asks for instructions as to action to be taken by the legation.	210
22	Mr. Bacon to Mr. Dawson...	Mar. 3	Same subject. Acknowledges his No. 46 of Jan. 27; and refers to circulars of June 16, 1871, Dec. 15, 1871, and June 28, 1877, which still govern the question.	210
156	Mr. Dawson to Mr. Root....	Sept. 4	Convention between Colombia and Spain regarding the reciprocal recognition of judgments. Incloses copy of recently ratified convention between Colombia and Spain in regard to reciprocal recognition of judgments together with copy of law approving the convention.	211
	Mr. Cortes to Mr. Root.....	Oct. 7	Treaties of Colombia with certain other countries. Incloses copy of note from foreign office in which are named the national agreements to which the National Legislative Assembly gave its approval during its last session.	213
211	Mr. Hibben to Mr. Root....	Dec. 20	Arbitration treaty between Colombia and France. Reports that an arbitration treaty between Colombia and France along the lines of the treaty of Feb. 10, 1908, between United States and France was signed on Dec. 6. States that a similar treaty is about to be concluded between Colombia and Great Britain.	212
	Mr. Bacon to Mr. Hibben...	1909. Jan. 21	Same subject. Acknowledges with gratification his No. 211 of Dec. 20, 1908.	213

COSTA RICA.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Anderson to Mr. Root (telegram).	1908. May 7	Inauguration of the court of justice for Central America. Announces the decision to install the court on May 25, and extends an invitation to the United States to be represented at the ceremonies.	215
	Mr. Root to Mr. Anderson (telegram).	...do....	Same subject. Announces the designation of Hon. W. I. Buchanan as special representative of the United States.	215
1332	Mr. Weitzel to Mr. Root....	May 11	Message of the president of the Costa Rican Congress. Reports the convening of the Congress of Costa Rica on May 1 and the election of Juan B. Quiros as president of the Congress. Incloses a résumé of the president's message.	247
	Mr. Buchanan to Mr. Root (telegram).	May 27	Inauguration of the court of justice for Central America. Reports receipt of telegrams expressing appreciative thanks for assistance rendered by the United States, and suggests that department telegraph each country acknowledging the courtesy.	216
	Mr. Root to Mr. Anderson (telegram).	May 28	Same subject. Expresses appreciation of reference to assistance rendered by United States in efforts of the Washington conference culminating in inauguration of the court.	216

CUBA.

429	Mr. Padro to Mr. Root.....	1908. Jan. 24	Extradition procedure. Announces that Rafael Barbato, arrested and held at Tampa on a charge of larceny, has waived extradition proceedings, and asks whether under the circumstances extradition may be granted without waiting for evidence required by treaty.	252
237	Mr. Root to Mr. Padro.....	Jan. 28	Same subject. Informs him that department can not give a definite assurance as to its action in any case of extradition in advance of report from the examining magistrate.	253
773	Mr. Tarler to Mr. Root.....	Sept. 29	Sanitation of Cuban cities. Incloses copy of the provisional governor's decree No. 935 appropriating \$100,000 to carry on the sanitary service, especially the campaign against yellow fever.	254
	Mr. Morgan to Mr. Root (telegram).	Nov. 4	Death of Ex-President Palma of Cuba. "Ex-President Palma died at 11 o'clock to-night at Santiago de Cuba."	250
	Mr. Bacon to Mr. Morgan (telegram).	Nov. 5	Same subject. Instructs him to convey, by direction of the President, sincere condolence and regret at the death of the ex-president and to express to the family his personal sympathy.	250
	Mr. Root to Mr. Morgan (telegram).	Nov. 7	Same subject. Instructs him to convey to the family of the late Don Tomas Estrada Palma an expression of sorrow and sympathy with them in their bereavement.	250
	Mr. Gomez to Mr. Roosevelt (telegram).	Nov. 16	Election of José Miguel Gomez as President of Cuba. Expresses congratulations and thanks for absolute impartiality, tact, and ableness observed by Governor Magoon and subordinates during the elections.	251
	Mr. Roosevelt to Mr. Gomez (telegram).	...do....	Same subject. Extends congratulations on his election as President.	251
	Mr. Root to Mr. Magoon (telegram).	Nov. 17	Same subject. Instructs him to make suitable acknowledgment in the President's name of the message of congratulations and thanks from Gen. Gomez.	252
	Mr. Gomez to Mr. Roosevelt (telegram).	Nov. 18	Same subject. Expresses appreciation of the President's congratulatory message.	252
210	Mr. Bacon to Mr. Morgan....	Nov. 19	Death of Ex-President Palma of Cuba. Conveys to the Government and people of Cuba department's respectful sympathy.	250

DENMARK.

	Mr. Egan to Mr. Root.....	1908. June 18	Issuance of emergency passports. Refers to circular instruction of Apr. 19, 1907, and inquires whether he would be authorized to issue emergency passports to persons desiring to enter Germany, where the lack of a passport is a decided inconvenience.	255
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DENMARK—Continued.

No.	From and to whom.	Date.	Subject.	Page.
23	Mr. Bacon to Mr. Egan.....	1908. July 8	Same subject. Acknowledges his dispatch of June 18, and informs him he may issue an emergency passport if the inconvenience of not having it would be serious.	255
	Mr. Brun to Mr. Root.....	Aug. 20	Commercial agreement between the United States and Germany. Requests recognition by American customs officers of certificates of value issued by the "Committee of the Wholesale Merchants' Association of Copenhagen" on the same footing as like certificates issued by German chambers of commerce.	341
791	Mr. Adee to Mr. Brun.....	Sept. 4	Same subject. Acknowledges his note of Aug. 20, and asks that department be furnished with statement concerning organization and operations of said association.	341
	Count Moltke to Mr. Root...	Nov. 23	Same subject. Refers to previous correspondence, and incloses statement in regard to organization and operations of association.	342
7	Mr. Root to Count Moltke...	Dec. 23	Same subject. Refers to note of Nov. 23, and informs him that provisions of point "F" of the diplomatic note annexed to the agreement with Germany have been extended to the association.	342

DOMINICAN REPUBLIC.

83	Mr. McCreery to Mr. Root...	1908. Mar. 5	Message of the President of the Dominican Republic to the Dominican Congress. Discusses the message and incloses translation of text.	258
99	Same to same.....	June 2	Constitution of the Dominican Republic. Refers to his No. 61 of Nov. 23, 1907, and incloses copy of the constitution of the Republic adopted by the constituent convention, Feb. 22, 1908.	259
	Same to same (telegram)....	July 1	Election of Gen. Ramon Caceres as President of Dominican Republic; "President executive inaugurated this morning for a new term of six years to which he was elected in May under the new constitution."	256
103	Same to same.....	July 8	Same subject. Refers to his No. 94 of May 13 and reports the election of Gen. Caceres, as President, for six years. Incloses copy of inaugural address before Congress on the 1st instant.	256

ECUADOR.

239	Mr. Fox to Mr. Root.....	1908. Apr. 2	Sanitation of Guayaquil. Refers to his No. 222 of Mar. 17, and incloses translation of an executive decree based upon plan submitted by Drs. Perry and Lloyd for the sanitation of Guayaquil.	280
	Same to same (telegram)....	June 18	Completion of the Guayaquil-Quito Railway: "Railway reached Quito yesterday. Golden spike driven by America Alfaro, President's daughter."	276
297	Same to same.....	do	Same subject. Confirms his telegram of June 18, and states that the inauguration of the railway will commence on the 24th instant, and that he will give a reception on the 28th instant.	276
	Mr. Adee to Mr. Fox (telegram).	June 20	Same subject. Directs him to convey to the minister for foreign affairs department's congratulations on completion of the railway to Quito.	276
	Mr. Roosevelt to Mr. Alfaro (telegram).	June 25	Same subject. Extends congratulations on the completion of the railway to Quito.	277
	Mr. Alfaro to Mr. Roosevelt (telegram).	June 28	Same subject. Expresses thanks for the congratulatory telegram.	277
333	Mr. Fox to Mr. Root.....	Aug. 15	Message of the President of Ecuador to the Ecuadorian Congress. Text of message with summary thereof in English.	277
61	Mr. Adee to Mr. Fox.....	Aug. 22	Protection of Chinese in Chile and Ecuador. See instruction No. 126 of this date to Chile.	61
	Mr. Fox to Mr. Root (telegram).	Sept. 25	Same subject. "Government of Ecuador consents our protection resident Chinese."	62
354	Same to same.....	Sept. 29	Arbitration of the difficulty between the Ecuadorian Government and the Guayaquil & Quito Ry. Co., an American corporation. Refers to his No. 346 of Sept. 3, and states that agreement has been reached between Ecuador, the English bondholders, and the American stock interests of the railway whereby all differences have been settled. Gives details concerning organization of arbitration tribunal and action taken by members; also incloses correspondence thereon together with memorandum filed with arbitration tribunal.	273

ECUADOR—Continued.

No.	From and to whom.	Date.	Subject.	Page.
381	Mr. Fox to Mr. Root.....	1908. Nov. 4	Sanitation of Guayaquil. Transmits message of President Alfaro to the Ecuadorian Congress in regard to the necessity for a sufficient supply of potable water for Guayaquil, in connection with the sanitation of that city.	281
390	Same to same.....	Nov. 16	Same subject. Transmits translation of a law creating a public health service, with Dr. B. J. Lloyd, of the United States Public Health and Marine Hospital Service, as director. Submits also report showing difficulties encountered in establishment of this service and successful efforts made for suppression of recent outbreak of plague, and betterment of sanitary conditions generally.	285
407	Same to same.....	Dec. 11	Arbitration of the difficulty between the Ecuadorian Government and the Guayaquil & Quito Ry. Co., an American corporation, transmits joint letter addressed to the president by Dr. Cesar Borja and himself as arbiters in controversy between Ecuador and railway company, together with copy of contract, etc., embodying settlement of the controversies.	274
418	Same to same.....	Dec. 28	Same subject. Refers to his No. 407 of Dec. 11, and incloses clipping from the Financial Times, of London, containing an account of the meeting of the English bondholders of the railway, at which the contract of Sept. 30, 1908, between Ecuador and the bondholders of the railway was ratified.	275

FRANCE.

	Memorandum from the French Embassy.	1907. Mar. 26	Commercial agreement between the United States and France. In reply to observations set forth in department's note of Sept. 8, 1905, says the arguments do not appear to warrant application of the French minimum tariff to Porto Rican coffees. States the French Government would be disposed to utilize the interval until Aug. 1, 1908, in ascertaining whether the Federal Government would be willing in exchange for such minimum tariff to grant to French merchandise the reduction provided by Section III of the American customs law of July 24, 1897, on champagnes and sparkling wines which are not included in agreement of May 28, 1898.	289
	Memorandum to the French Embassy.	May 21	Same subject. Acknowledges memorandum of Mar. 26, and states that the proposals of the French Government are receiving careful consideration and that a response thereto will be made in the near future.	291
	Mr. Root to Mr. Jusserand..	June 19	Same subject. Sends memorandum in reply to embassy's memorandum of Mar. 26, relating to duty on Porto Rican coffee, and also letter suggesting certain changes in the French restrictive regulations applicable to American cattle, meats, fruits, and plants. Says United States is ready to join in appointment of a commission of tariff experts to consider tariff relations with France.	291
	Memorandum to the French Embassy.	...do....	Same subject. Refers to embassy's memorandum of Mar. 26, and submits observations on the proposed application of rates of French general tariff to imports of Porto Rican coffee now subject to minimum rates.	298
406	Mr. Root to Mr. Jusserand..	...do....	Same subject. Refers to department's memorandum of this date, and calls attention to several ameliorative changes which the United States desires to have made by France in its present restrictive regulations affecting admission into France of American cattle, meats, fruits, and plants.	302
	French minister for foreign affairs to Mr. Jusserand.	Oct. 11	International commission for the adjustment of damages growing out of the disorders at Casablanca. Announces the taking by France, jointly with Spain, of military measures demanded of it for repression of crimes and protection of foreign colonies threatened by aggressive attitude of tribes, and defines the general principles which should govern decision of the Shereefian Government in this matter.	628

FRANCE—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1907.		
	Memorandum from the French Embassy.	Oct. 22	Same subject. Announces the proposed appointment of a commission by the Sultan for examination of claims and the question of payment of indemnities, states that as soon as advised by the powers of approval of certain principles France and Spain will jointly submit propositions to the Sultan.	630
	Memorandum to the French Embassy.	Oct. 23	Same subject. Acknowledges memorandum of Oct. 21, and expresses approval of proposal for an indemnity commission.	631
	..... do.....	Nov. 2	Same subject. Acknowledges communication of Oct. 11 addressed by French minister for foreign affairs to the French ambassador and refers to department's memorandum of Oct. 23.	632
	Mr. Jusserand to Mr. Root..	Nov. 12	Commercial agreement between the United States and France. Communicates result of examination of the propositions formulated by United States Government in reply to those of France, and incloses tables of statistics.	304
	Memorandum from the French Embassy.	Nov. 28	Same subject. Submits statement based upon importations for 1906 according to French statistics, and upon exportations according to American statistics. Says fact can not be ignored that increase of American exports in 1906 is due to enjoying benefit of French minimum tariff, which fact shows value that attaches to concession of minimum tariff.	315
	Memorandum to the French Embassy.	Dec. 3	International commission for adjustment of damages growing out of disorders at Casablanca. Referring to embassy's memorandum of Oct. 21 and to department's memorandum of Oct. 23, states that American representative at Tangier will be instructed to sit on mixed commission when American claims are up for discussion.	633
	Memorandum from the French Embassy.	Dec. 21	Commercial agreement between the United States and France. Discusses provisions of the tariff law of United States of July 24, 1897.	317
	Mr. Root to Mr. Jusserand..	Dec. 28	Same subject. Transmits memorandum in reply to his note of Nov. 12 containing counter proposals of France for new commercial agreement, and also in reply to memorandum of Nov. 28 on same subject.	321
	Memorandum to the French Embassy.	...do...	Same subject. Replies to French note of Nov. 12..	322
		1908.		
	Mr. Root to Mr. Jusserand...	Jan. 11	Same subject. Confirms in writing his answer to questions concerning publication of reports of the two commissions provided for in agreement.	327
	Mr. Jusserand to Mr. Root..	Jan. 25	Same subject. Acknowledges his note of Jan. 11 and says French Government put forth no objection to statements therein.	328
	.....	Jan. 28	Same subject. Text of additional agreement to agreements signed on May 28, 1898, and Aug. 20, 1902.	329
	..... do.....	.....	Same subject. Text.....	330
	Mr. Root to Mr. Jusserand...	Jan. 29	Same subject. Acknowledges note of Jan. 25 and says view of French Government agrees with view of United States Government regarding power to be invested in the commissioners.	328
	.....	Mar. 14	Arbitration convention between the United States and France. Text.	331
	Mr. Root to Mr. White (telegram).	May 7	Joint international commission for investigation of opium question in the Far East. See telegram of May 7 to Great Britain.	86
344	Mr. White to Mr. Root.....	May 29	Maintenance of the status quo in territories bordering upon the North Sea. Refers to his No. 305 of Apr. 25 and transmits copy of a Yellow Book, just issued by French Government, containing text of declaration and memorandum explaining its object.	337
	.....	June 15	Agreement between the United States and other powers for the repression of the trade in white women. Text.	333
	Mr. Adee to Mr. White (telegram).	June 20	Joint international opium commission for investigation of opium question in the Far East. See telegram of June 20 to Japan.	92
	Same to same.....	July 11	Same subject. See telegram of July 11 to Great Britain.	92
	Mr. Bacon to Mr. White.....	July 21	Same subject. See telegram of July 21 to Great Britain.	93
	Mr. Adee to Mr. White.....	Aug. 1	Same subject. See telegram of Aug. 1 to Japan.....	94

FRANCE—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Memorandum from the French Embassy.	1908. Sept. 14	Recognition of Mulai Hafid as Sultan of Morocco. Discusses the situation and submits points upon which the French and Spanish Governments believe the guarantees to be obtained from the new maghzen should bear.	644
	Mr. Root to Mr. Jusserand.	Oct. 9	Same subject. Incloses copy of memorandum in reply to embassy's memorandum left at department Sept. 14.	647
	Mr. Root to Mr. White (telegram).	Oct. 20	Same subject. See telegram of Oct. 20 to Morocco.	649
	Mr. Root to Mr. Jusserand.	...do....	Same subject. See note of Oct. 20 to Spanish legation.	650
278	Mr. Root to Mr. White.	Oct. 22	Same subject. See instruction No. 162 of Oct. 20 to Morocco.	651
528	Mr. Vignaud to Mr. Root.	Nov. 4	Same subject. Reports the names of the three French delegates to the opium conference.	108
	Mr. Root to Mr. White.	Nov. 6	Same subject. See telegram of Nov. 6 to Japan.	108
	Mr. Bacon to Mr. White.	Nov. 11	Same subject. See telegram of Nov. 11 to Great Britain.	109
	Same to same.	Nov. 19	Same subject. See telegram of Nov. 19 to Great Britain.	110
	Mr. White to Mr. Root (telegram).	Nov. 30	Same subject. "French Government have no objection to the substitution of the date of Feb. 1 to Jan. 1 for the meeting of the opium conference at Shanghai."	113
	Mr. Root to Mr. White (telegram).	Dec. 3	Same subject. See telegram of this date to Great Britain.	114

GERMANY.

663	Mr. Root to Mr. Tower.	1907. June 14	Military service case of Carlos Stoetzel. Incloses copy of letter from George Stoetzel setting forth facts in regard to his son Carlos, who has been summoned to appear for military duty in Germany. Incloses also proof of the naturalization of Carlos Stoetzel's father and instructs him to request the German Government to recognize Stoetzel as a citizen of the United States and relieve him from military obligations in Germany.	373
3121	Baron Sternberg to Mr. Root.	July 25	Shooting of Frank Xavier Dick, a German subject, by a policeman at Salem, Oreg. Incloses papers giving facts in connection with the shooting of Dick, and asks that indemnity be allowed.	355
622	Mr. Bacon to Baron Sternberg.	Sept. 26	Same subject. Acknowledges No. 3121 of July 25, and incloses copy of communication from the governor of Oregon transmitting report from the prosecuting attorney who conducted the case. Says department does not consider circumstances of case would justify payment of an indemnity as act of grace.	356
725	Mr. Adee to Mr. Tower.	Oct. 14	Military service case of Joseph Mayer. Incloses for appropriate action copies of correspondence concerning the case of Mayer, who desires to obtain remission of fine imposed on him by German military authorities.	371
5232	Baron Sternberg to Mr. Root.	Nov. 23	Shooting of Frank Xavier Dick, a German subject, by a policeman at Salem, Oreg. Referring to department's No. 622 of Sept. 26, again takes up the case and suggests that the granting of an indemnity by the State of Oregon or Salem would be equitable.	358
663	Mr. Bacon to Baron Sternberg.	Dec. 6	Same subject. Acknowledges No. 5232 of Sept. 23, and states that representations regarding the granting of indemnity have again, as requested, been referred to the governor of Oregon.	359
1288	Mr. Tower to Mr. Root.	1908. Jan. 24	Marriage of American citizens in Germany or on German territory. Refers to department's No. 731 of Oct. 23, 1907, and incloses copy of note of Jan. 18 from minister for foreign affairs stating that difficulties could be avoided by appointment in United States, as has been done in most other countries, of officials authorized to issue certificates setting forth absence of any hindrance to marriages of American citizens wishing to be married in Germany.	360

GERMANY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1908.		
1289	Same to same.....	Jan. 30	Military service case of Joseph Mayer. Acknowledges No. 763 of Jan. 11, and reports that no reply has been received to his note to the foreign office submitting case of Mayer, the time required by German Government for investigation and decision of military cases being on an average four months.	371
1296	Same to same.....	Feb. 6	Military service case of Carlos Stoetzel. Refers to previous correspondence and incloses copy of note from the foreign office stating that Carlos Stoetzel can not be stricken from the German military lists. Returns naturalization certificate of George Stoetzel.	374
734	Mr. Bacon to Baron Sternberg.	Feb. 28	Shooting of Frank Xavier Dick, a German subject, by a policeman at Salem, Oreg. Refers to his note No. 5232 of Nov. 23, and states that the city of Salem has decided to tender to Dick \$100, as a matter of equity, notwithstanding that the city is in no way liable for any damages.	359
1034	Count Hatzfeldt to Mr. Root.	Mar. 7	Extradition of P. O. Stensland from Morocco. Brings to department's attention protest of Germany on account of alleged irregularity on the part of the American consul general at Tangier in connection with the manner of the extradition of Stensland.	353
71	Mr. Root to Count Hatzfeldt.	Mar. 16	Same subject. Acknowledges his note No. 1034 of Mar. 7 and states that representations made therein will have consideration.	354
148	Mr. Bacon to Mr. Hill.....	Mar. 24	Commercial agreement between the United States and Germany. Incloses copy of letter from Treasury Department stating that provisions of point "F" have been extended to Netherlands chambers of commerce, and recommending that Oscar Gottschalk, confidential agent at Cologne, be accredited to Netherlands also, in accordance with point "E."	346
1331	Mr. Tower to Mr. Root.....	Apr. 3	Military service case of Joseph Mayer. Supplementary to No. 1289 of Jan. 30, incloses copy of note from the foreign office stating that Mayer's American citizenship has been recognized, his name stricken from the German military lists, judgment against him canceled, and permission allowed him to make a visit to Wurtemberg not to exceed six months.	372
	Memorandum from the German Embassy.	Apr. 10	Shooting of Frank Xavier Dick, a German subject, by a policeman at Salem, Oreg. Refers to departments' No. 704 of Feb. 26, concerning payment of \$100 as a full discharge of all claims, and protests against the insufficiency of the amount. Suggests that \$200 additional be paid to Dick.	359
814	Mr. Bacon to Mr. Tower....	Apr. 14	Military service case of Carlos Stoetzel. Acknowledges his No. 1296 of Feb. 6, and instructs him to inform the German Government that department adheres to the position it has always taken and dissents from the view expressed by Germany with reference to Stoetzel.	375
815	Same to same.....	do.....	Same subject. Supplementary to instruction No. 814 of even date, refers to No. 615 of Feb. 27, 1907, and instructs him again to bring to attention of German Government case of Stoetzel urging that questions involved be given consideration.	376
	Memorandum to the German Embassy.	Apr. 28	Shooting of Frank Xavier Dick, a German subject, by a policeman at Salem, Oreg. States that a copy of embassy's memorandum of Apr. 10 has been sent to the governor of Oregon for appropriate action.	360
1350	Mr. Tower to Mr. Root.....	Apr. 30	Military service case of Carlos Stoetzel. Acknowledges No. 815 of Apr. 14, and reports addressing a note to the foreign office requesting an answer regarding the case.	377
1351	Same to same.....	do.....	Same subject. Acknowledges No. 814 of Apr. 14, and states that he addressed a note this date to foreign office requesting that case again be brought to attention of German authorities and Stoetzel's American citizenship recognized.	376
	Mr. Bacon to Mr. Tower.....	do.....	Military service case of Joseph Mayer. Acknowledges his No. 1331 of Apr. 3, and expresses gratification at favorable decision of German Government in case.	373
	Mr. Root to Mr. Hill.....	May 7	Joint international commission for investigation of opium question in the Far East. See telegram of May 7 to Great Britain.	86

GERMANY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
750	Mr. Bacon to Baron Sternberg.	1908. May 16	Shooting of Frank Xavier Dick, a German subject, by a policeman at Salem, Oreg. States that Dick has been paid \$100 and his receipt taken in full for all demands.	360
764	Mr. Bacon to Count Hatzfeldt.	June 3	Extradition of P. O. Stensland from Morocco. Refers to previous correspondence and advises him of result of department's investigation of circumstances surrounding the extradition of Stensland.	354
	Mr. Adee to Mr. Hill (telegram).	June 20	Joint international commission for investigation of opium question in the Far East. See telegram of June 20 to Japan.	92
	Same to same.....	July 11	Same subject. See telegram of July 11 to Great Britain.	92
	Mr. Bacon to Mr. Hill.....	July 21	Same subject. See telegram of July 21 to Great Britain.	93
15	Mr. Adee to Mr. Hill.....	July 24	Marriage of American citizens in Germany or on German territory. Incloses copies of correspondence between department and consul at Tsingtau in regard to the authority of consular officers to issue certain certificates required by regulations of the colony of Kiaochow to persons who desire to be married.	362
	Same to same.....	Aug. 1	Joint international commission for investigation of the opium question in the Far East. See telegram of Aug. 1 to Japan.	94
	Mr. Hill to Mr. Root (telegram).	Aug. 16	Same subject. Reports that Germany agrees with proposals relative to organization and meeting of opium conference. Names delegates.	95
	Same to same (telegram)....	Aug. 24	Death of Baron von Sternberg, German Ambassador to United States. "German ambassador to the United States died last night at Heidelberg."	339
	Mr. Adee to Mr. Hill (telegram).	...do.....	Same subject. Expresses grief at the death of Baron von Sternberg and directs him to convey fitting expression of sorrow and condolence on behalf of President and Secretary of State.	339
	Mr. Adee to Baroness von Sternberg (telegram).	...do.....	Same subject. "In name of department and in the absence of the Secretary I tender heartfelt condolence upon the great bereavement you have suffered."	339
	Count Hatzfeldt to Mr. Root (telegram).	...do.....	Same subject. Announces the death of Ambassador Baron Sternberg at Heidelberg Aug. 23.	339
	Mr. Adee to Count Hatzfeldt (telegram).	...do.....	Same subject. States that the intelligence of the Ambassador's death was received through Ambassador Hill, who was telegraphically directed to convey to the foreign office the President's condolence. Says that the Baroness von Sternberg was cabled to at Heidelberg.	340
59	Mr. Hill to Mr. Root.....	Aug. 28	Same subject. Incloses copy of note verbale from the foreign office expressing appreciation of the expressions of sympathy from the President and Secretary of State upon the death of Baron von Sternberg.	340
80	Mr. Hill to Mr. Root.....	Sept. 22	Expulsion of Mormon missionaries from Germany. Incloses copies of correspondence exchanged between the embassy and the consulate at Breslau concerning the expulsion of Adelbert A. Taylor and Henry A. Rich, Mormon missionaries, and requests instructions from department as to whether the embassy should offer remonstrance against said expulsion.	366
49	Mr. Bacon to Mr. Hill.....	Oct. 16	Same subject. Acknowledging No. 80 of Sept. 22, incloses copy of recent note to Netherlands legation and gives department's attitude in the premises. Refers to certain correspondence in foreign relations of 1898, and says it is proper to lay facts before German Government if satisfied that individual Mormon agents are seeking embassy's intervention may not be teaching or secretly practicing polygamy.	369
	Mr. Root to Mr. Hill (telegram).	Oct. 20	Recognition of Mouley Hafid as Sultan of Morocco. See telegram of Oct. 20 to Morocco.	649
	Mr. Root to Mr. Hatzfeldt....	...do.....	Same subject. See note of Oct. 20 to Spanish legation.	650
	Mr. Root to Mr. Hill.....	Nov. 6	Joint international commission for investigation of the opium question in the Far East. See telegram of Nov. 6 to Japan.	108
	Mr. Bacon to Mr. Hill.....	Nov. 11	Same subject. See telegram of Nov. 11 to Great Britain.	109
	Same to same.....	Nov. 19	Same subject. See telegram of Nov. 19 to Great Britain.	110
	Mr. Hill to Mr. Root (telegram).	Nov. 28	Same subject. Report that Germany agrees to postponement of conference to Feb. 1, and that Herr Roessler, consul at Canton, has been given rank and character of consul general during conference.	113

GERMANY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
153	Same to same.....	1908. Dec. 1	Expulsion of Mormon missionaries from Germany. Refers to previous correspondence and incloses copy of memorandum addressed to German Government in which it is pointed out that Mormon missionaries are entitled to protection of United States the same as other American citizens so long as their religion is without moral grounds of objection.	370
	Mr. Root to Mr. Hill (telegram).	Dec. 3	Joint international commission for investigation of the opium question in the Far East. See telegram of this date to Great Britain.	114

GREAT BRITAIN.

16	Mr. Bryce to Mr. Root.....	1908. Jan. 20	Revolution in Haiti. Requests that naval authorities be instructed to afford protection to British subjects in Haiti pending arrival of H. M. S. Indefatigable.	428
224	Mr. Carter to Mr. Root.....	Jan. 21	Affairs in the Kongo. Reports being informed that British minister to Belgium has been instructed to make to that Government communication already arranged with Minister Wilson as stated in Ambassador Reid's No. 216. Says this will enable British minister to act as soon as Department instructs Minister Wilson.	539
223	Mr. Root to Mr. Bryce.....	Jan. 23	Revolution in Haiti. Acknowledges his No. 16 of Jan. 20, and says that commanding officer of U. S. S. Eagle has been instructed by cable to afford protection to British subjects.	428
545	Same to Same.....	Feb. 28	Affairs in the Kongo. Reports substance of interview with Sir Edward Grey in regard to the Kongo during which Sir Edward defined more clearly his position.	543
65	Mr. Bryce to Mr. Root.....	Mar. 23	Same subject. Announces forwarding to British Government report on conditions in the Kongo by Consul General Smith at Boma.	553
	Mr. Carter to Mr. Root (telegram).	Mar. 31	Same subject. Reports forwarding copy of Sir Edward Grey's instructions to British minister at Brussels in which is explained British Government's view of treaty obligations of the Kongo Free State, and opinion of what is required to bring administration of that State into harmony with said obligations.	555
567	Same to same.....	.....do.....	Same subject. Incloses copy of note from foreign office of even date together with copy of dispatch from Sir Edward Grey to British minister at Brussels to which it refers.	555
75	Mr. Bryce to Mr. Root.....	Apr. 7	Same subject. Gives purport of telegram from Sir Edward Grey giving the line of policy he proposes to adopt toward the Belgian Government with reference to the Kongo. Says that in the event United States views prove similar to the British it is hoped instructions may be telegraphed to American minister at Brussels accordingly.	561
287	Mr. Root to Mr. Bryce.....	Apr. 8	Same subject. Acknowledges note No. 75 of Apr. 7 and expresses thanks for information therein contained. Says that in response to views expressed by Sir Edward Grey department has telegraphically instructed the American minister at Brussels to join in representations in the same sense.	562
582	Mr. Reid to Mr. Root.....	Apr. 16	Same subject. Refers to embassy's No. 567 of Mar. 31, and incloses copy of memorandum transmitted with dispatch from Sir Edward Grey to British minister at Brussels in regard to annexation of the Kongo by Belgium.	567
	Mr. Root to Mr. Reid (telegram).	May 7	Joint international commission for investigation of opium question in the Far East. Instructs him to inform British Government that United States has named Shanghai, and Jan. 1, 1909, as place and time of meeting. Says a commission will be appointed, and outlines preliminary steps each commission should take.	80
		June 5	Arbitration convention between the United States and Great Britain. Text.	382
	Mr. Adee to Mr. Reid (telegram).	June 20	Joint international commission for investigation of opium question in the Far East. See telegram of June 20 to Japan.	92
640	Mr. Reid to Mr. Root.....	June 25	Affairs in the Kongo. Refers to his No. 626 of June 11, and incloses copy of Sir Edward Grey's memorandum to Belgian minister at London.	574
	July 1	Treaty between United States and Great Britain relating to fisheries in United States and Canada waters.	379

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		1908.		
		July 1	Treaty between the United States and Great Britain relating to the Canadian international boundary.	384
		July 10	Reciprocity treaty between the United States and Great Britain.	397
	Mr. Adee to Mr. Reid (telegram).	July 11	Joint international commission for investigation of the opium question in the Far East. Directs him to inform foreign office that United States commission is at work on opium question; enumerates particular points to be considered, and suggests that it would be advantageous if each commission could, before the meeting at Shanghai, study the question as it affects each country.	92
	Sir Edward Grey to Mr. Reid	July 15	Newfoundland fisheries agreement between the United States and Great Britain. States that Newfoundland Government have expressed the desire that the herring fishery during ensuing season should be conducted on same principles as season of 1907.	378
	Mr. Bacon to Mr Reid	July 21	Joint international commission for investigation of opium question in the Far East. States that department would be gratified to learn whether time and place of meeting of the commission are agreeable to British Government, and instructs him to report names and rank of commissioners to be appointed, also what action will be made before the meeting at Shanghai.	93
	Mr. Reid to Sir Edward Grey.	July 23	Newfoundland fisheries agreement between the United States and Great Britain. Acknowledges communication of July 15, and expresses gratification that Newfoundland Government was so well satisfied with modus vivendi for last year that American fishermen shall be permitted to conduct herring fisheries this year in same way. Says Mr. Alexander will be sent again this year.	378
	Mr. Adee to Mr. Reid	Aug. 1	Joint international commission for investigation of opium question in the Far East. See telegram of Aug. 1 to Japan.	94
689	Mr. Reid to Mr. Root	Aug. 25	Same subject. Incloses copy of reply from foreign office, accepting proposal for meeting of commission; naming certain modifications in scope and procedure of commission deemed desirable, and stating that three British delegates will be named.	96
	Mr. Root to Mr. Reid (telegram).	Oct. 20	Recognition of Mouley Hafid as Sultan of Morocco. See telegram of Oct. 20 to Morocco.	649
230	Same to same	Oct. 22	Same subject. See instruction No. 162 of Oct. 20 to Morocco.	651
	Same to same	Nov. 6	Joint international commission for investigation of the opium question in the Far East. See telegram of Nov. 6 to Japan.	108
	Mr. Bacon to Mr. Reid (telegram).	Nov. 11	Same subject. Informs him that the United States gives opium delegates simple designation as commissioners, and that it is hoped Chinese Government will grant them personal standing with, but before, consuls general.	109
756	Mr. Reid to Mr. Root	Nov. 13	Same subject. Reports the names and ranks of the British commissioners to the opium conference.	109
	Mr. Bacon to Mr. Reid (telegram).	Nov. 19	Same subject. States that owing to death of Emperor and Empress of China foreign office has requested postponement of conference until Feb. 1, and directs him to communicate information to British Government and report telegraphically its attitude.	110
	Mr. Reid to Mr. Root (telegram).	...do....	Same subject. Communicates request of Sir Edward Grey for further information, it not being clear how instructions to British delegates should be worded.	111
	Mr. Bacon to Mr. Reid (telegram).	Nov. 20	Same subject. States there has been some misunderstanding on part of British foreign office. Outlines again instructions to United States commissioners as to investigations before meeting at Shanghai.	111
	Mr. Adee to Mr. Reid (telegram).	Dec. 1	Same subject. Instructs him to inform foreign office that majority of powers have agreed to postponement and to ask early reply from British Government.	113
	Mr. Reid to Mr. Root (telegram).	Dec. 2	Same subject. "British Government approves postponement. Delay caused by the foreign office awaiting official assent of other departments."	114
	Mr. Root to Mr. Reid (telegram).	Dec. 3	Same subject. Instructs him to inform British Government that conference will convene Feb. 1, also to express appreciation at concurrence in the Chinese suggestion.	114

GREECE.

No.	From and to whom.	Date.	Subject.	Page.
35	Mr. Root to Mr. Coromilas...	1908. Dec. 12	Illegal immigration of Greeks into the United States. Incloses copy of report made by Miltiades M. Constantinides, interpreter in immigration service at Boston, relative to practice of certain Greeks who enter the United States as alleged priests of Greek Church, and requests an expression of views thereon.	400
1454	Mr. Coromilas to Mr. Root..	Dec. 19	Same subject. Acknowledges department's note of Dec. 12 with its inclosure, and says an agreement has been reached between the Holy Synod of Greece and the Patriarchate of Constantinople according to which all priests emigrating to North America and belonging to the dioceses of Constantinople, Jerusalem, and Alexandria have been placed under the jurisdiction of the Holy Synod. Adds that it is possible to have certified to the sacerdotal capacity of clergymen, the manner of which certification will be announced later on.	402
36	Mr. Adee to Mr. Coromilas..	Dec. 31	Same subject. Acknowledges his note of Dec. 19 and expresses gratification that certification can be given in cases of clergymen of the Patriarchates of Constantinople, Jerusalem, and Alexandria. Adds that department will be glad to receive further information promised.	403

GUATEMALA.

15	Mr. Sands to Mr. Bacon.....	1907. Oct. 14	Outrage on Milliken and Shine. Incloses affidavits of Simon Shine and George Milliken, relative to brutal beating of both by Gen. Ariz, governor of Zacapa, and his suite, with testimony of witnesses and correspondence with consul general at Guatemala City in regard to the matter.	410
22	Same to same.....	Oct. 21	Same subject. Refers to his No. 15 of Oct. 14, and reports being assured by the minister for foreign affairs that he would be given full details as soon as they were received; also that severe sentence would be passed upon the assailants and that Gen. Ariz would be removed from office.	411
24	Same to same.....	Oct. 29	Same subject. Refers to his Nos. 15 and 22 of Oct. 14 and 21, respectively, and reports assurance given by President Cabrera that the case should be satisfactorily terminated. Also reports proposition made by minister for foreign affairs that indemnity be fixed for injured men. Comments on difficulties of settling petty police cases without intervention of the President, and relations between legation and the Government.	411
	Mr. Sands to Mr. Root (telegram).	Nov. 6	Same subject. Refers to his Nos. 15, 22, and 24; reports, after examination of negroes, the assault unprovoked and particularly brutal, and states that Guatemalan Government proposes money indemnification to victims and judicial punishment of minor offenders. Asks if proposal shall be accepted or whether he shall insist on trial of governor, officers, bodyguard, and jail officials.	412
	Same to same (telegram)....	Nov. 13	Same subject. Reports that negroes assaulted at Zacapa are still awaiting department's decision in case before departing; are without funds and living at his expense. Asks instructions.	412
	Mr. Bacon to Mr. Sands (telegram).	Nov. 15	Same subject. Acknowledges telegrams of Nov. 6 and 13 and authorizes him to settle on basis of money indemnification and punishment of minor offenders. States that fixing of indemnity at \$5,000 for each man is approved.	413
36	Mr. Sands to Mr. Root.....	Nov. 20	Same subject. Refers to his No. 32 of Nov. 14; reports communicating to the minister for foreign affairs contents of cabled instructions of Nov. 16, and gives account of the measures taken by him with a view to settling the matter. States that minister for foreign affairs seems willing to agree to department's terms on all points except amount of indemnity, which is considered excessive.	413
	Mr. Barrios to Mr. Root.....	Nov. 30	Completion of the Interoceanic Railway of Guatemala. Informs department that the railway will be formally opened Jan. 15, and asks that the United States be officially represented at the ceremonies.	404

GUATEMALA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Memorandum from the Guatemalan legation.	1907. Dec. 6	Outrage on Milliken and Shine. Discusses the alleged outrage on Shine and Milliken in Guatemala, from which it appears that the authorities were merely trying to quell a negro disturbance in Shine's saloon, and asks for time in which to make a thorough investigation of the case.	414
	Mr. Bacon to Mr. Sands (telegram).	Dec. 7	Same subject. Directs him informally to advise the minister for foreign affairs that ample time will be allowed for a thorough investigation of the facts of the cases; also instructs him to continue his investigations, reporting all material facts to department, and to take no further action until instructed.	415
	Memorandum to the Guatemalan legation.	...do.....	Same subject. Acknowledges memorandum of Dec. 6, and states that as the department desires that the cases shall be settled on their merits the fullest investigation of the facts is courted and the American chargé d'affaires ad interim at Guatemala City has been instructed to advise the minister for foreign affairs that ample time is allowed for said investigation.	415
65	Mr. Bacon to Mr. Sands.....	Dec. 10	Same subject. Acknowledges his No. 36 of Nov. 20, confirms department's telegram of Dec. 6, and incloses copies of memoranda from and to the Guatemalan minister at Washington on the subject.	416
	Mr. Bacon to Mr. Barrios...	1908. Jan. 6	Completion of the Interoceanic Railway of Guatemala. Acknowledges his note of Nov. 30, 1907, and announces the selection of Maj. Gen. G. W. Davis, U. S. Army, retired, as the representative of the United States at the ceremonies attending the opening of the road.	404
	Mr. Barrios to Mr. Root (telegram).	...do.....	Same subject. Announces completion of work on the Interoceanic Railway, and asks that an American delegation be sent to its inauguration on Jan. 19.	405
14	Mr. Root to Mr. Herrarte....	Jan. 7	Same subject. Informs him that the President has commissioned Maj. Gen. George B. Davis, U. S. Army, retired, as minister on special mission, as the representative of the United States at ceremonies attending formal opening of railway.	405
	Mr. Root to Mr. Heimke (telegram).	...do.....	Same subject. Instructs him to advise Guatemalan Government that Maj. Gen. Davis leaves this date with his secretary accredited as minister on special mission to represent United States at opening of railroad.	405
	Mr. Root to Mr. Barrios (telegram).	...do.....	Same subject. Acknowledges telegram of Jan. 6, and offers congratulations on completion of railway. States that Maj. Gen. Davis has been designated to represent the United States at opening of the road on Jan. 19.	405
	Mr. Sands to Mr. Root (telegram).	Jan. 8	Outrage on Milliken and Shine. Reports concerning the proposition made by Gen. Ariz and the minister for foreign affairs for an immediate settlement of the affair, and inquires whether the offer shall be accepted.	416
	Same to same (telegram)	Jan. 9	Completion of the Interoceanic Railway of Guatemala. Expresses appreciation of President of Guatemala for appointment of so distinguished an American delegate to the opening of the railroad and friendly spirit of the United States.	406
	Mr. Root to Mr. Sands (telegram).	...do.....	Outrage on Milliken and Shine. Acknowledges his telegram of Jan. 8, and states that payment of \$1,000 each to the two men and punishment of the policeman who wounded them will be acceptable with appropriate reprimand to the commanding general.	416
	Mr. Barrios to Mr. Root (telegram).	Jan. 11	Completion of the Interoceanic Railway of Guatemala. Expresses thanks for felicitations and for sending of representative.	406
74	Mr. Sands to Mr. Root.....	Feb. 21	Same subject. Reports departure of Gen. Davis, Feb. 10, by special steamer for Colon, Panama, after attending ceremonies connected with opening of the railway, and describes the favorable impression created by Gen. Davis and courtesies extended to him by President Cabrera.	406
89	Mr. Bacon to Mr. Sands.....	Mar. 10	Same subject. Acknowledges his No. 74 of Feb. 21, and expresses gratification at the success of Gen. Davis's mission and the courtesies extended to him by President Cabrera.	407

GUATEMALA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
91	Mr. Root to Mr. Sands.....	1908. Mar. 14	Same subject. Incloses personal letter addressed by President Roosevelt to President Estrada to be transmitted through the channel most agreeable to the latter.	407
	Mr. Root to Mr. Barrios (telegram).	May 28	Inauguration of Court of Justice for Central America. See telegram of even date to the Costa Rican minister of foreign relations, Mr. Anderson.	216
	Mr. Heimke to Mr. Root (telegram).	Sept. 16	Same subject. Reports inauguration of the bureau on Sept. 15.	417
	Mr. Cabrera to Mr. Root (telegram).	...do....	Inauguration of the International Central American Bureau. Announces the inauguration of the bureau under most favorable auspices.	417
51	Mr. Herrarte to Mr. Adee.....	...do....	Same subject. Announces that in accordance with the convention concluded at Washington, Dec. 20, 1907, the bureau was inaugurated, Sept. 15, 1908, at Guatemala City.	417
	Mr. Echeverria, Mr. Gillen, Mr. Pinto, Mr. Barahona, and Mr. Zeledon to Mr. Roosevelt (telegram).	...do....	Same subject. Announce the inauguration of the bureau, by the President of Guatemala, in impressive solemnity and amidst great rejoicing.	417
	Mr. Echeverria, Mr. Gillen, Mr. Pinto, Mr. Barahona, and Mr. Zeledon to Mr. Root (telegram).	...do....	Same subject. Announce the inauguration, in Guatemala City, of the bureau by the President of Guatemala.	418
	Mr. Cabrera to Mr. Roosevelt (telegram).	...do....	Same subject. Announces the inauguration of the bureau, and expresses gratitude as well as extending greetings in the name of Guatemala and in his own.	418
99	Mr. Heimke to Mr. Root.....	...do....	Same subject. Reports details in connection with the inauguration of the bureau, in accordance with the convention signed at Washington, Dec. 20, 1907. States that the delegates are Ricardo Echeverria, Costa Rica; Jose Pinto, Guatemala; Manuel Echeverria, Honduras; Dr. Benjamin F. Zeledon, Nicaragua; and Dr. Carlos Gillen, Salvador.	419
	Mr. Barrios to Mr. Root (telegram).	Sept. 17	Same subject. Announces inauguration this day of the bureau, in accordance with the convention signed at Washington.	420
	Mr. Adee to Mr. Echeverria, Mr. Gillen, Mr. Pinto, Mr. Barahona, and Mr. Zeledon (telegram).	Sept. 20	Same subject. In the name of the Secretary of State extends cordial congratulations to the members of the bureau, and good wishes for a useful and broad field of work.	420
	Mr. Adee to Mr. Barrios (telegram).	...do....	Same subject. Offers appreciative acknowledgment of his gratifying telegram reporting the inauguration of the bureau.	420
	Mr. Roosevelt to Mr. Echeverria, Mr. Gillen, Mr. Pinto, Mr. Barahona, and Mr. Zeledon.	...do....	Same subject. Offers cordial congratulations and good wishes for the success of the high purposes of the bureau.	420
	Mr. Roosevelt to Mr. Cabrera (telegram).	...do....	Same subject. Conveys congratulations upon inauguration of the bureau.	420
	Mr. Adee to Mr. Cabrera (telegram).	...do....	Same subject. Tenders congratulations upon the opening of the bureau.	421
	Mr. Echeverria, Mr. Gillen, Mr. Barahona, Mr. Pinto, and Mr. Zeledon to Mr. Root.	Sept. 25	Same subject. Refer to telegram announcing opening of the bureau on Sept. 15, and give assurances of intention to do all in their power to attain the high purposes for which the bureau was created, at the same time asking for the moral and effective support of personages like the Secretary who are interested in the peace, union, and progress of the Central American Republics.	421
	Mr. Root to Mr. Echeverria, Mr. Gillen, Mr. Barahona, Mr. Pinto, and Mr. Zeledon.	Oct. 14	Same subject. Acknowledges their letter of Sept. 25, confirming their telegram of Sept. 16, and expresses gratification at the assurances of intention to attain the high purpose for which the bureau was created.	421
	Same to same.....	Oct. 19	Same subject. Acknowledges, by reference from the President, letter of Sept. 25, and expresses gratification occasioned by the assurances that it is their intention to do everything possible to attain the high purposes for which the bureau was created.	422
9	Mr. Herrarte to Mr. Root.....	Oct. 30	Special mission of the minister for foreign affairs of Guatemala to the United States. Announces arrival in Washington of Don Juan Barrios, minister of foreign relations of Guatemala, appointed as envoy extraordinary and minister plenipotentiary on special mission, and asks that an audience with the President be obtained.	408
	Mr. Adee to Mr. Herrarte.....	...do....	Same subject. Acknowledges note of even date and informs him that the President will receive him and Minister Barrios at the White House on Nov. 2.	408

HAITI.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Furniss to Mr. Root (telegram).	1908. Jan. 16	Revolution in Haiti. Reports outbreak of revolution headed by Gen. Gumeau and the falling of Gonaives and St. Marc into hands of revolutionists.	423
278	Same to same.....	Jan. 17	Same subject. Reports meeting of diplomatic corps at legation, and incloses copy of note of protest against bombardment of St. Marc without notice, addressed to minister for foreign affairs and signed by American, French, German, and British representatives.	423
280	Same to same.....	do.....	Same subject. Incloses copies of correspondence with foreign office relative to blockade decreed at Gonaives and St. Marc.	425
	Same to same (telegram)....	do.....	Same subject. Reports formal notification of the blockade of St. Marc and Gonaives. Says consular agent at Gonaives reports fall of that town and that Government officers have taken shelter in agency, the revolutionists refusing permission for them to embark. States that French minister has cabled for man-of-war.	425
	Same to same (telegram)....	do.....	Same subject. Reports interview with Haitian President who insists on bombarding St. Marc, and says diplomatic corps have decided to protest against bombardment.	426
1711	Mr. Leger to Mr. Root.....	Jan. 18	Same subject. Announces that the ports of Gonaives and St. Marc have been declared to be in state of blockade.	426
	Mr. Furniss to Mr. Root (telegram).	Jan. 20	Same subject. "Haitian Government announces that St. Marc is in the hands of the Government troops."	426
	Mr. Root to Mr. Furniss (telegram).	Jan. 22	Same subject. Informs him it is understood that revolutionary leader at St. Marc is at American consulate and is agent of conspirators in New York. Instructs him to inform Government of dismissal of consul, and to go or send responsible person to receive archives.	427
	Mr. Furniss to Mr. Root (telegram).	Jan. 23	Same subject. Suggests that consular agency at St. Marc be temporarily turned over to a responsible person at that place, as it is impossible on account of lack of means of communication to go or send anyone from Port-au-Prince. Says that Haitian officials have sought shelter at consular agency at Port de Paix, which place is in hands of revolutionists.	427
286	Same to same.....	Jan. 24	Same subject. Refers to his No. 278 of Jan. 17, and incloses copy of note from minister of foreign affairs acknowledging his note of protest against bombardment of St. Marc.	427
	Same to same (telegram)....	Jan. 28	Same subject. Reports the surrender of Gonaives, which doubtless ends the revolution, and says the archives of the consular agency are in custody of Hugo Jurgensen, a German merchant, whom it will be necessary to designate as agent temporarily.	429
	Mr. Root to Mr. Furniss (telegram).	do.....	Same subject. Directs him to convey congratulations to Haitian Government on ending of revolution, and to assure minister for foreign affairs that revolutionists are not to be considered under protection of United States. Approved temporary designation of Hugo Jurgensen as agent at St. Marc, and gives instructions for attitude of agent at Gonaives toward anyone participating in revolution.	429
	Mr. Furniss to Mr. Root (telegram).	Jan. 29	Same subject. Reports removal of blockade at Gonaives and St. Marc.	429
	Mr. Bacon to Mr. Furniss (telegram).	Jan. 31	Same subject. Refers to department's telegram of Jan. 28, and instructs him to proceed at once to St. Marc and Gonaives if necessary and report exact condition of affairs, as Haitian minister states that consular agent at St. Marc continues to protect revolutionary refugees.	430
	Mr. Furniss to Mr. Root (telegram).	Feb. 1	Same subject. Reports receipt of telegram from consular agent at St. Marc stating that 5 of the refugees at Miot's have been shot and 10 put in prison; that consulate at Gonaives is guarded by Haitian troops, the Haitians therein refusing to leave; that the Indefatigable is at Gonaives, and that consular agent at Port de Paix reports having 11 refugees. Asks what instructions he shall give Port de Paix.	430
	Mr. Bacon to Mr. Furniss (telegram).	Feb. 3	Same subject. Acknowledges his telegram and instructs him regarding the attitude he is to assume with regard to the refugees, in view of the altered situation at Gonaives and Port de Paix.	430

HAITI—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Furniss to Mr. Root (telegram).	1908. Feb. 5	Same subject. Reports conveying instructions of Feb. 3 to minister for foreign affairs, and says it is impossible to have refugees at Gonaives and Port de Paix brought to Port au Prince, Haitian Government agreeing to consider them under protection of legation. Urges department to await confidential dispatches before entering into agreement with Haiti as to giving up refugees for trial.	431
	Same to same (telegram).....	do....	Same subject. Reports explaining to diplomatic corps department's position as to extending asylum to revolutionists. Quotes telegram sent by French, German, and British representatives to their Governments concerning the refugees and expressing a desire to request their embarkation on the declaration that they will not return to Haiti during the present Presidency.	431
	Mr. Bacon to Mr. Furniss (telegram).	Feb. 7	Same subject. Acknowledges his telegram of Feb. 5, and instructs him not to lend either official or personal support to any action such as suggestion to deport all refugees to Cuba, as that island is under responsible administration of United States and any proposal to make it a place of political asylum could not be sanctioned.	432
	Mr. Furniss to Mr. Root (telegram).	Feb. 10	Same subject. Reports that Haitian refugees escaped from consular agency at Gonaives at their own risk and peril. Says consul at Cape Haitian reports he has 5 Haitian refugees who took no part in revolution and that they will be allowed to leave.	432
333	Same to same.....	Mar. 17	Same subject. Refers to his No. 237 of Mar. 12 and incloses copies of correspondence exchanged between the legation and foreign office relative to his request for extension of few days in execution of orders of expulsion issued against 2 persons claiming American citizenship. Points out serious trouble likely to result from summary expulsion of foreigners from Haiti.	433
347	Same to same.....	Mar. 27	Same subject. Refers to press reports concerning attitude of United States in the matter of asylum for Haitians being pursued for political offenses, and requests instructions as to future practice of the legation and consulates relative to acceptance of so-called political offenders.	435
355	Same to same.....	Apr. 9	Refusal of Haitian Government to permit the landing of American travelers at Haitian ports. Incloses copies of correspondence had with ministry of foreign affairs relative to disposition of Haitian authorities to prevent landing of American travelers at Haitian ports.	447
112	Mr. Bacon to Mr. Furniss....	Apr. 11	Revolution in Haiti. Acknowledges his No. 347 of Mar. 27, and instructs him as to question of asylum of refugees.	435
117	Mr. Root to Mr. Furniss.....	Apr. 27	Refusal of Haitian Government to permit the landing of American travelers at Haitian ports. Acknowledges his No. 355 of Apr. 9, and expresses approval of his course in the matter.	449
374	Mr. Furniss to Mr. Root.....	May 12	Revolution in Haiti. Refers to department's No. 112 of Apr. 11, and reports that the policy of the United States in regard to asylum in the legation or consular offices in Haiti has been published. Incloses copies of correspondence with Consul Livingston and minister for foreign affairs.	436
376	Same to same.....	May 13	Refusal of Haitian Government to permit the landing of American travelers at Haitian ports. Referring to his No. 355 of Apr. 9, incloses copies of correspondence had with foreign office concerning permission for Americans to land at Haitian ports, and gives details surrounding case of Martin J. Iorns.	449
384	Same to same.....	May 22	Revolution in Haiti. Incloses copy of note from minister for foreign affairs announcing abolition of custom of granting asylum by various legations and consulates in Haiti, and requesting that consular agencies be given precise instructions in conformity therewith. Calls attention to dissatisfaction of his colleagues with note in that it virtually conveys orders to them.	437
121	Mr. Root to Mr. Furniss.....	June 1	Refusal of Haitian Government to permit the landing of American travelers at Haitian ports. Acknowledges his No. 376 of May 13, and expresses approval of his course in dealing with the matter. Department does not deem it advisable to raise any further question in the instance of Mr. Martin J. Iorns.	452

HAITI—Continued.

No.	From and to whom.	Date.	Subject.	Page.
389	Mr. Furniss to Mr. Root.....	1908. June 3	Fees exacted from Americans for permits to leave Haiti. Incloses copies of correspondence with minister for foreign affairs concerning collection of fees for permits enabling Americans to leave Haiti. Calls attention to apparent desire of Haitian Government to avoid saying whether they intend doing away with the illegal fees, and requests instructions.	452
	Mr. Leger to Mr. Bacon.....	July 17	Revolution in Haiti. Expresses thanks for department's efforts in obtaining abolishment of alleged right of asylum in Haiti, and requests the Government of United States to aid in obtaining from European powers a relinquishment of the practice.	439
126	Mr. Bacon to Mr. Furniss...	July 23	Fees exacted from Americans for permits to leave Haiti. Acknowledges his No. 389 of June 3, discusses questions raised in correspondence inclosed therein, and instructs him that in case specific instances of improper collections are brought to his notice to again bring such instances informally to the attention of the minister for foreign affairs and request that restitution be directed.	455
417	Mr. Furniss to Mr. Root.....	Aug. 10	Same subject. Acknowledges department's No. 126 of July 25, and reports that since his representation to Haitian Government there has been no further cause for complaint so far as treatment of Americans who have made application for permits to leave Haiti is concerned.	455
	Same to same (telegram)....	Nov. 21	Revolution in Haiti. "Haitian Government has officially notified me that the port of Aux Cayes is declared blockaded."	439
	Mr. Root to Mr. Furniss (telegram).	Nov. 23	Same subject. Acknowledges his telegram of Nov. 21 and instructs him to convey to Haitian Government the usual notice that blockade must be proclaimed and maintained by adequate force in order to be respected.	439
	Mr. Furniss to Mr. Root (telegram).	Nov. 26	Same subject. Reports minister for foreign affairs admits Haitian Government's inability to make blockade effective, and has notified local steamship agents that merchandise for ports declared closed must be landed at Port au Prince. Requests instructions concerning American merchandise on German vessel from New York.	440
	Mr. Bacon to Mr. Furniss (telegram).	Nov. 27	Same subject. Informs him that blockade and closing of ports held by insurgents without previous notice and effective force will not be recognized, and indemnity may be claimed for losses sustained by reason of refusal to clear vessels for such ports.	440
	Same to same (telegram)....	Nov. 28	Same subject. States that circumstance that part of cargo of German vessel may be American property does not give United States right to intervene on behalf of vessel, and adds that German legation is competent to deal with the case.	440
458	Mr. Furniss to Mr. Root.....	...do....	Same subject. Incloses copies of correspondence exchanged between legation and foreign office concerning the blockade and closing of the ports of Aux Cayes, Jeremie, and Aquin, together with copies of decrees relative to said ports.	441
	Mr. Root to Mr. Furniss (telegram).	Dec. 5	Same subject. Informs him that in absence of naval vessels of European powers with interests in Haiti, American naval forces will afford protection and refuge from immediate violence upon urgent request for protection.	442
	Mr. Furniss to Mr. Root (telegram).	Dec. 6	Same subject. Reports Haitian Navy has professed loyalty to Simon, who has convoked Congress for immediate session to elect President. Reports also arrival of returning exiles.	443
	Same to same (telegram)....	...do....	Same subject. Refers to instructions of this date and inquires whether it was intentional to exclude Dominicans and Cubans who are without war ships and expect protection from United States. Reports on situation, and asks whether in the event Simon and his party set up provisional government without the adherence of all Haiti, he should recognize it.	443
	Mr. Bacon to Mr. Furniss (telegram).	Dec. 7	Same subject. Refers to supplementary telegram of Dec. 5 and says temporary protection will be cheerfully extended, as far as practicable, to citizens of any friendly State not having naval vessel at hand. Instructs him to show this to senior American naval officer.	444

HAITI—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Furniss to Mr. Root (telegram).	1908. Dec. 11	Same subject. Reports publication of decree convoking Congress on Dec. 17 for election of President, also giving the cabinet of Simon, and receipt of note from Gen. Simon, provisional minister for foreign affairs, which is presumably a request for recognition. Inquires whether he shall recognize the provisional government.	444
	Same to same (telegram)....	...do....	Same subject. Refers to his telegram of yesterday and says diplomatic corps unanimously decided that situation is not opportune to recognize present existing authority.	444
	Mr. Root to Mr. Furniss (telegram).	Dec. 11	Same subject. Acknowledges his telegrams of Dec. 11, and states that no formal act of recognition is necessary or expedient. Outlines nature of answer he should address to provisional minister for foreign affairs.	445
	Mr. Furniss to Mr. Root (telegram).	Dec. 17	Same subject. "Simon unanimously elected President by Congress to-day at noon. All is calm."	445
	Mr. Bacon to Mr. Furniss (telegram).	...do....	Same subject. Instructs him to recognize the de facto presidency of Simon, and to confer with naval commander as to salutes.	445
	Mr. Furniss to Mr. Root (telegram).	Dec. 18	Same subject. Reports recognition of de facto Government this date, and states that inauguration of President will be on Dec. 20.	445
	Same to same (telegram)....	Dec. 21	Same subject. Reports inauguration of President Dec. 20, without incident.	446
478	Same to same.....	Dec. 24	Same subject. Incloses copy of decree of the Haitian Congress declaring Gen. Antoine Simon elected President, and also copy of presidential decree declaring appointments to the new cabinet.	446

HONDURAS.

9	Mr. Bacon to Mr. Gregory....	1908. Mar. 20	Extradition of William Adler et al. from Honduras. Instructs him to ascertain whether, in view of pending negotiations between United States and Honduras for an extradition treaty, the latter would be willing, as act of comity, to surrender fugitives from justice charged with embezzlement.	470
9	Mr. Gregory to Mr. Root....	May 1	Same subject. Refers to No. 9 of Mar. 20 and states that Honduran Government will grant extradition of fugitives if crime is of recent date and parties not Hondurans.	470
14	Mr. Dodge to Mr. Root.....	May 18	Same subject. Refers to No. 9 of May 1, from Mr. Gregory, and incloses copy of note of Apr. 28 from minister for foreign affairs to consul at Tegucigalpa stating that extradition will be granted.	471
	Mr. Root to Mr. Giallos (telegram).	May 28	Inauguration of the Court of Justice for Central America. See telegram of even date to the Costa Rican minister of foreign relations, Mr. Anderson.	216
	Mr. Root to Mr. Dodge (telegram).	June 1	Detention of the Goldsboro and extradition of Francis G. Bailey, Albert W. Bailey, Alfred Oxley, and Herbert H. Meyers from Honduras. Informs him of request of Governor of New York for extradition of Francis G. Bailey, from Honduras, who is alleged to have sailed from New York, May 2, on tramp steamer Goldsboro. Gives description of Bailey, and instructs him to request detention of vessel and cargo. Authorizes him to communicate with consul at Tegucigalpa.	474
	Mr. Dodge to Mr. Root (telegram).	June 3	Same subject. Reports that minister for foreign affairs has ordered the arrest of Bailey and detention of the Goldsboro and cargo.	475
	Mr. Bacon to Mr. Dodge (telegram).	June 4	Same subject. Acknowledges his telegram of June 3; requests him to advise department immediately upon arrest of Bailey and detention of Goldsboro, and instructs him to ascertain what formalities will be required before turning Bailey and vessel over to the United States.	475
	Mr. Dodge to Mr. Root (telegram).	June 7	Same subject. Reports that Bailey and the Goldsboro are held at Ceiba, and advises that an officer come as soon as possible to take him into custody. Says only copy of indictment issued by the New York authorities is required by Honduran Government.	476
	Same to same (telegram)....	June 9	Same subject. Reports that Bailey and vessel will be conveyed to Puerto Cortes.	476

HONDURAS—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Bacon to Mr. Dodge (telegram).	1908, June 10	Same subject. Directs him to convey to the Government of Honduras satisfaction and appreciation for prompt and considerate action in arrest and detention of Bailey and the Goldsboro.	476
	Mr. Root to Mr. Alger (telegram).	June 13	Same subject. Refers to telegram of June 1 to legation to Salvador and instructs him to request provisional arrest and detention of Albert W. Bailey with view to extradition to United States. Directs him to state that this Government is unable to extend same courtesy in absence of extradition treaty.	476
	Mr. Alger to Mr. Root (telegram).	June 14	Same subject. Reports arrest of Albert W. Bailey...	477
	Mr. Root to Mr. Dodge (telegram).	June 19	Same subject. Refers to department's telegram of June 16 and directs him to request provisional arrest and detention of H. H. Meyers and Alfred Oxley on charge of conspiring to commit offense against United States and using mails with intent to defraud. Instructs him to direct consul at Puerto Cortes to turn Goldsboro and cargo over to official designated by Honduran Government.	477
	Mr. Dodge to Mr. Root (telegram).	June 20	Same subject. Acknowledges telegram of June 18; reports detention of Oxley and Meyers 6 days and says detention limit will not effect detention of Bailey and party.	478
	Mr. Alger to Mr. Root (telegram).	June 25	Same subject. Reports Government prepared to deliver both Baileys, Oxley, and Meyers to agent merely upon certification that agent has authority.	478
	Mr. Adee to Mr. Dodge (telegram).	June 26	Same subject. Refers to his telegram of June 25 and informs him President's warrants have been mailed to consul at Puerto Cortes.	478
	Mr. Dodge to Mr. Root (telegram).	July 1	Same subject. Refers to department's telegram of June 26, reports the delivery of the men to the agent on June 29 and the escape of Francis G. Bailey on June 30. States that the crew is mutinying, claiming that responsibility for wages and transportation to New York rests with Honduran Government. Adds that President of Honduras desires relief from the ship's custody.	479
	Mr. Bacon to Mr. Dodge (telegram).	July 2	Same subject. Acknowledges his telegram of July 1, and says department regards disposition of the vessel and cargo and rights and remedies of crew under maritime law as against the vessel and cargo as a matter to be decided by Honduran authorities. Instructs him to communicate substance of this cable to Honduran Government.	479
30	Mr. Dodge to Mr. Root.....	July 21	Cancellation of the exequaturs of the American consul and vice consul at Ceiba, Honduras, by the Honduran Government. Quotes telegram from consul at Ceiba regarding disturbances against foreigners and reports his action in the matter.	456
47	Mr. Adee to Mr. Dodge.....	...do....	Detention of the Goldsboro and extradition of Francis G. Bailey, Albert W. Bailey, Alfred Oxley, and Herbert H. Meyers. Refers to previous correspondence and instructs him to ask the Honduran Government for permission to bring the men to trial not only for the specific charge for which extradition has been granted, but also upon any indictment that may be found against the men either in the State or Federal courts.	480
	Mr. Dodge to Mr. Root (telegram).	July 28	Cancellation of the exequaturs of the American consul and vice consul at Ceiba, Honduras, by the Honduran Government. Reports cancellation of exequaturs of American consul and vice consul at Ceiba, and also of French consular agent. Says no reason is given for this step.	457
32	Same to same.....	...do....	Same subject. Refers to his No. 30 of July 21 and reports circumstances in connection with cancellation of exequaturs of consul and vice consul at Ceiba. Suggests appointment of vice consul at Puerto Cortes to take charge temporarily at Ceiba.	457
	Mr. Bacon to Mr. Ugarte....	July 31	Same subject. Calls attention to embarrassment caused by action of Honduras in matter of exequaturs, and expresses desire that the issue be speedily settled.	458
	Mr. Ugarte to Mr. Root.....	Aug. 1	Same subject. Acknowledges note of July 31, and gives reasons which gave rise to action of Honduras regarding the consular officers.	459
	Same to same.....	Aug. 5	Same subject. Announces receiving reply from minister of foreign relations and states he will be glad to give explanation and submit such data as may be necessary.	461

HONDURAS—Continued.

No.	From and to whom.	Date.	Subject.	Page.
37	Mr. Dodge to Mr. Root.....	1908. Aug. 5	Detention of the Goldsboro and extradition of Francis G. Bailey, Albert W. Bailey, Alfred Oxley, and Herbert H. Meyers from Honduras. Acknowledges No. 47 of July 21 and reports being informed by minister for foreign affairs that Francis G. and Alfred W. Bailey, Alfred Oxley, and Herbert H. Meyers may be tried for other criminal charges which may be made against them, provided that crime or crimes with which they are charged are of those which give occasion for extradition.	480
	Same to same (telegram).....	do....	Same subject. Acknowledges No. 47 and reports that Honduran Government agrees to trial of men on other criminal charges provided crimes are such as give occasion for extradition.	481
	Same to same (telegram)....	Aug. 9	Cancellation of the exequaturs of the American consul and vice consul at Ceiba, Honduras, by the Honduran Government. Reports publication of revocation of decree, but says suspension of it can be secured, probably, if desired, until successors of consul and vice consul have been appointed. States that investigation convinced Honduran Government of consul's incorrect action, and public opinion forced the action.	462
40	Same to same	Aug. 11	Same subject. Refers to his No. 34 of Aug. 3, and reports concerning communications exchanged with Consul Alger at Tegucigalpa, in regard to the cancellation of the exequaturs of the American consul and vice consul at Ceiba.	462
	Mr. Adee to Mr. Dodge.....	Aug. 14	Same subject. Acknowledges his No. 32 of July 28, and refers to department's telegram of Aug. 6 stating that it did not seem advisable to place anyone in charge of consulate at Ceiba at present.	463
	Same to same (telegram)....	do....	Same subject. Discusses the Ceiba incident and states that the United States can accept no less than fair play and a just disposal of the incident by agreement of the 2 Governments meeting as equals, nor could enter into any discussion which disregards equality and treats the course of Honduras as irrevocable.	464
	Same to same.....	Aug. 19	Same subject. Confirms department's telegram of Aug. 14, and incloses copies of papers in the case. Calls attention to department's note of July 31 to Honduran minister at Washington and to minister's notes of Aug. 1 and 5 in reply. Sets forth department's attitude and informs him that much will depend upon his discretion and tactful handling of the matter.	464
	Mr. Dodge to Mr. Root (telegram).	Sept. 3	Same subject. Reports agreement by minister for foreign affairs to settlement of Ceiba incident subject to approval by department of suggested decree. Quotes decree and says Reynolds is objectionable to Honduras on grounds other than recent incident, and future usefulness of Linard impaired. Adds that Mexico has offered mediation if necessary.	465
	Mr. Adee to Mr. Dodge (telegram).	Sept. 5	Same subject. Says the suggested settlement of Ceiba consul question seems to be satisfactory with the exception of the word unjustifiable, the omission of which would not prejudice full opportunity of Honduras to establish its allegation. Expresses appreciation of Mexican offer of good offices but says department is glad to believe that a direct satisfactory settlement is in sight.	466
	Mr. Dodge to Mr. Root (telegram).	Sept. 7	Same subject. Acknowledges telegram of Sept. 5 and reports settlement of the Ceiba incident.	466
	Mr. Adee to Mr. Dodge (telegram).	Sept. 8	Same subject. Compliments Mr. Dodge upon settlement of the Ceiba incident and directs his return to Salvador. Instructs him to notify Honduran Government of appointment of Mr. Gibson as secretary of legation to Honduras.	466
51	Mr. Dodge to Mr. Root.....	Sept. 9	Same subject. Refers to his No. 42 of Aug. 19, and reports the steps taken by him in matter of the restoration of exequaturs of the American consul and vice consul at Ceiba. Incloses newspaper clippings containing text of official decree annulling cancellation of the exequaturs.	466
	Mr. Bacon to Mr. Dodge....	Sept. 30	Same subject. Acknowledges his No. 51 of Sept. 9 and commends his treatment of the question.	469
3	Mr. Root to Mr. Gibson.....	Oct. 15	Extradition of William Adler et al. from Honduras. Incloses copies of department's note of Oct. 1 to Honduran minister, Minister Dodge's No. 14 of May 18 with inclosures, and instructs him to ascertain whether Honduran Government will, as act of comity, grant extradition of William Adler, William H. Simmons, and John Ripplinger.	471

HONDURAS—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Dodge to Mr. Root (telegram).	1908. Nov. 9	Same subject. William Adler sailed from Puerto Cortez Nov. 3 by steamer <i>Ellis</i> , destination New Orleans.	472
1	Mr. Gibson to Mr. Root.....	Nov. 18	Same subject. Reports action taken by him with view of obtaining extradition of William Adler, William Simmons, and John Ripplinger from Honduras, and incloses copy of communication from minister for foreign affairs discussing matter and stating that if formal request is made for delivery of persons named orders will be issued for their capture and delivery.	472
5	Mr. Adee to Mr. Gibson.....	Dec. 7	Same subject. Acknowledges his No. 1 of Nov. 18 and expresses approval of course taken by him.	474

ITALY.

	Memorandum to Italian Embassy.	1907. Dec. 3	International commission for adjustment of damages growing out of the disorders at Casablanca. See memorandum of Dec. 3 to French embassy.	633
		1908. Jan. 29	Convention between the United States and other powers for the creation of an international institute of agriculture.	483
	Memorandum from the Italian Embassy.	Feb. 15	Destruction of tobacco belonging to the Italian Government. Refers to department's memorandum of Dec. 23, 1907, and asks that the attention of the governor of Tennessee be promptly called to the alarming conditions of affairs in that State.	490
	Memorandum to the Italian Embassy.	Feb. 21	Same subject. Acknowledges memorandum of Feb. 15, copies of which have been communicated to the governors of Kentucky and Tennessee.	491
139	Mr. Root to Mr. Hitt.....	Mar. 14	Punishment of Italians in Italy for extraditable crimes committed in the United States. Requests report of cases occurring within last five years in which request has been made by department upon Italian Government for punishment of Italian subjects who have committed crime in United States and escaped to Italy.	484
	Memorandum to the Italian Embassy.	Mar. 16	Destruction of tobacco belonging to the Italian Government. Quotes from letter received from the governor of Kentucky, dated Feb. 24, in which he advises department of precautions taken to protect the tobacco property of the Italian Government in that State. States that the memorandum of the embassy has been communicated to the governor of Tennessee.	492
	Memorandum from Italian embassy.	Apr. 25	Identification requested by Italian postal authorities. Sets forth difficulties encountered by foreigners in Italy because their passports when written in any other language than French are not recognized by employees of Italian post offices, and inquires whether United States Government would be willing to instruct its consular officers in Italy to certify to translations of passports held by American citizens.	482
	Memorandum to the Italian embassy.	Apr. 30	Same subject. Acknowledges memorandum and states that department sees no objection to instructing its consular officers in Italy to certify to translations of passports held by American citizens, and that department will advise, by public announcement in the press, American travelers to Italy to provide themselves with <i>livrete d' identit�</i> .	482
358	Mr. Griscom to Mr. Root....	May 12	Punishment of Italians in Italy for extraditable crimes committed in the United States. Acknowledges No. 139 of Mar. 14 and incloses detailed report of cases occurring within the last five years in which request has been made upon Italian Government for punishment in Italy of Italians who had committed crimes in United States.	484
175	Mr. Adee to Mr. Griscom....	July 3	Same subject. Acknowledges his No. 358 of May 12, and says department desires to be informed of the outcome, whether the accused was convicted or acquitted, in each particular case noted in list of those reported by him.	488

ITALY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
417	Mr. Griscom to Mr. Root....	1908. Aug. 26	Same subject. Referring to department's No. 175 of July 3, submits report giving outcome of 6 of the 12 cases, and states foreign office has been requested to assist in procuring information in regard to other 6.	489
	Mr. Root to Mr. Griscom (telegram).	Oct. 20	Recognition of Mouley Hafid as Sultan of Morocco. See telegram of Oct. 20 to Morocco.	649
204	Same to same.....	Oct. 22	Same subject. See instruction No. 162 of Oct. 20 to Morocco.	651
3656	Mr. Mayor to Mr. Root.....	Nov. 6	Destruction of tobacco belonging to the Italian Government. Gives list of factories engaged by agent of Royal Italian Regie to pack tobacco during forthcoming season and asks that special vigilance be had over goods purchased by Italian Monopoli, places where stored, and persons charged with custody thereof.	492
	.....	Nov. 17	Arrangement between the United States and other powers for the establishment of the international office of public health. Text.	493
464	Mr. Griscom to Mr. Root....	Nov. 19	Punishment of Italians in Italy for extraditable crimes committed in the United States. Refers to his No. 175 of July 3, and to No. 417 of Aug. 26 and transmits copy of note from the foreign office giving desired information, as to outcome of the trial of certain Italians, requested by department.	489
703	Mr. Adee to Mr. Mayor.....	Dec. 5	Destruction of tobacco belonging to the Italian Government. Refers to department's note of Nov. 24, and says governor of Kentucky informs department that no danger threatens the factories where tobacco of the Royal Italian Tobacco Regie has been stored.	493
	Mr. Griscom to Mr. Root (telegram).	Dec. 29	Earthquake in southern Italy. Reports occurrence of disastrous earthquake in Sicily and southern Italy with 50,000 reported killed. Says he expressed to the King sympathy of the President and American people.	499
	President Roosevelt to the King of Italy (telegram).	...do....	Same subject. Expresses sympathy and states that the American National Red Cross has issued an appeal for contributions.	499
	Mr. Bacon to Mr. Griscom (telegram).	...do....	Same subject. Quotes telegram from William H. Taft, president of the American National Red Cross, tendering to Italian Red Cross sympathy, and stating that an appeal has been issued for contributions.	499
	Mr. Griscom to Mr. Root (telegram).	Dec. 30	Same subject. Reports further concerning the earthquake, stating that he has asked the foreign office to furnish information as to consuls at Messina and Palermo, no word having been received from them. Says foreign nations are hurrying warships and suggests that United States send one or two at earliest possible moment. Requests authorization to send Naples vice consul to Messina immediately.	499
	Mr. Bacon to Mr. Griscom (telegram).	...do....	Same subject. Announces that American Red Cross will cable to-morrow for account of Italian Red Cross \$50,000 for relief of earthquake sufferers.	500
	Same to same (telegram)....	Dec. 31	Same subject. Acknowledges telegram of Dec. 31. Expresses regret no warships could reach Italy before arrival of fleet about Jan. 14, and informs him <i>Scorpion</i> ordered from Constantinople. Directs him to draw for \$5,000 if necessary.	500
	Mr. Griscom to Mr. Root (telegram).	...do....	Same subject. Reports accepting invitation of prime minister to proceed to Messina, leaving Rome Jan. 1, and taking with him Vice Consul Cutting, of Milan, to be put in temporary charge of consulate at Messina; interpreter of the embassy, one of staff of Naples consulate, and Winthrop Chanler, private citizen, to do special work searching for and aiding Americans. Asks for few thousand dollars in case of necessity. Says death of Consul Cheney and family is confirmed, that estimate of 100,000 dead is not exaggerated, and that aid for sufferers will be gratefully accepted.	500
	Mr. Bacon to Mr. Griscom (telegram).	...do....	Same subject. Quotes telegram from American Red Cross, asking Italian Red Cross to state whether clothing and food are desired from the United States, and to cable brief statement as to character and magnitude of relief operations.	501
	Same to same (telegram)....	...do....	Same subject. Directs him to draw on Secretary of State for \$70,000, taking duplicate receipts from Italian Red Cross, \$50,000 of which is contributed by American Red Cross and \$20,000 by Louis Klopsch, of Christian Herald, New York.	501

JAPAN.

No.	From and to whom.	Date.	Subject.	Page.
66	Viscount Aoki to Mr. Root..	1907. Nov. 7	Tokyo Exposition. Outlines purpose and scope of National Exposition to be held at Tokyo from Apr. 1 to Oct. 31, 1912, and invites the Government and people of the United States to participate therein.	515
156	Mr. O'Brien to Mr. Root....	1908. Jan. 22	Joint international commission for investigation of the opium question in the Far East. Acknowledges instructions 16 and 17 of Oct. 14 and 16, 1907, respectively, and quotes from a note from Japanese minister for foreign affairs stating that matter of time and place of meeting of the commission is left entirely to the United States for decision.	75
171	Same to same.....	Jan. 29	Customs in Manchuria. Incloses copy of dispatch from the consul at Dalny reporting the opening, on the 8th instant, of the Port Arthur branch of the imperial Chinese maritime customs, and stating that the rumors to the effect that Port Arthur was to be opened to foreign trade on the same basis as Dairen have been officially denied.	128
	Mr. Roosevelt to the Emperor of Japan (telegram).	May 1	Explosion of the Japanese war vessel <i>Matsushima</i> . Expresses sympathy on behalf of American people and himself.	505
	Mr. Root to Mr. O'Brien (telegram).	...do....	Same subject. Directs that an expression of President's and Government's sympathy be extended the Japanese Government.	505
	The Emperor of Japan to President Roosevelt (telegram).	May 2	Same subject. Expresses thanks for the President's message of sympathy.	506
309	Mr. O'Brien to Mr. Root....	...do....	Same subject. Acknowledges department's telegram of May 1, and incloses copy of note addressed to the foreign office conveying the President's and Government's sympathy. Says Count Hayashi asked him to express the Japanese Government's appreciation and thanks therefor.	506
314	Same to same.....	May 5	Same subject. Refers further to his No. 309 of May 2, and incloses copy of note from minister for foreign affairs expressing appreciation of the President's and Government's sympathy.	506
	Mr. Root to Mr. O'Brien....	May 7	Joint international commission for investigation of opium question in the Far East. See telegram of May 7 to Great Britain.	86
	Same to same (telegram)....	May 21	Tokyo Exposition. Directs him to inform minister for foreign affairs of passage of bill authorizing acceptance of invitation to participate in exposition and expenditure of \$1,500,000 therefor. Also to announce confirmation by Senate of treaties regarding trade-marks, copyrights, and patents in Japan and Korea.	515
341	Mr. O'Brien to Mr. Root....	June 2	Agreement between Japan and China relating to the Yalu Forest. Incloses copy of agreement, together with copy of summary of press comments.	502
	Mr. Root to Mr. O'Brien....	June 5	Explosion of the Japanese war vessel <i>Matsushima</i> . Expresses approval of his note of May 2 to the minister for foreign affairs.	507
	Mr. Adee to Mr. O'Brien (telegram).	June 20	Joint international commission for investigation of opium question in the Far East. Directs him to inform minister for foreign affairs the President has appointed Hon. Thomas Burke, Dr. Hamilton Wright, and Dr. Charles D. Tenney American commissioners joint international commission to investigate opium in the Far East.	92
48	Baron Takahira to Mr. Root.	...do....	Commercial agreement between the United States and Germany. Incloses copy of principal provisions of the law governing Japanese chambers of commerce and requests that the same treatment be accorded these chambers as is given those of Germany, Great Britain, and others.	343
	Mr. Adee to Mr. O'Brien....	...do....	Tokyo Exposition. Refers to department's telegram of May 21, and informs him of appointment, as commissioners general to the exposition, of Francis B. Loomis, Frederick J. V. Skiff, and Francis D. Millet. Incloses copy of act providing for participation by the United States.	516
	Mr. Bacon to Baron Takahira.	June 29	Commercial agreement between the United States and Germany. Acknowledges his note No. 48 of June 20 and informs him that copy thereof, with inclosures, has been transmitted to Treasury Department for consideration.	344

JAPAN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
371	Mr. Jay to Mr. Root.....	1908. July 1	Protection of foreign trade-marks and copyrights in China and Korea. Incloses copies of notes exchanged between the embassy and minister for foreign affairs which shows that Japanese Government intends to cancel or reject all wrongful registrations no matter how long they may have been registered.	525
35	Mr. Adee to Baron Takahira.	July 18	Commercial agreement between the United States and Germany. Refers further to note of June 20, and states that customs officers will be instructed that provisions of point "F" of diplomatic note annexed to agreement with Germany have been extended to Japanese chambers of commerce.	344
	Mr. Bacon to Mr. O'Brien...	July 21	Joint international commission for investigation of the opium question in the Far East. See telegram of July 21 to Great Britain.	93
	Mr. Jay to Mr. Root (telegram).	July 23	Same subject. States that time and place of meeting designated perfectly agreeable to Japanese Government, and that the appointment of commissioners awaits early action by new cabinet. Adds that method of investigation must be referred to Government of Formosa, hence some delay unavoidable.	93
	Mr. Adee to Mr. O'Brien (telegram).	Aug. 1	Same subject. Directs him to inform minister for foreign affairs, Charles H. Brent replaces Thomas Burke as senior American commissioner on joint international opium commission.	94
	Mr. Jay to Mr. Root (telegram).	Aug. 10	Same subject. "Tsungiro Mitaski, councilor of embassy; Dr. Yoshizumi Tahara, expert, home department; Tomoye Takagi, expert, Government of Formosa, have to-day been appointed commissioners."	94
	.....	Aug. 11	Treaty between United States and Japan regarding protection of trade-marks in Korea. Text.	518
	.....do.....	.....	Treaty between United States and Japan regarding protection of trade-marks, etc., in China.	521
408	Mr. Jay to Mr. Root.....	Aug. 23	Protection of foreign trade-marks and copyrights in China and Korea. Transmits translations of imperial ordinances No. 196-203 relating to operation of the new conventions for protection of industrial and literary property in China and Korea, promulgated in Official Gazette of Aug. 13, together with newspaper clippings containing articles commenting upon the ordinances.	526
419	Same to same.....	Aug. 29	Same subject. Referring to department's No. 174 of July 16, incloses copies of correspondence between Japanese officials and British Embassy relative to Article XII of the Japanese trade-mark law regarding cancellation of registered trade-marks.	527
	.....	Sept. 1	Arbitration convention between United States and Japan.	503
	Mr. Takahira to Mr. Root (telegram).	.....do.....	Tokyo Exposition. Announces that imperial decree to postpone exposition will be dated Sept. 1.	517
	Mr. Jay to Mr. Root (telegram).	Sept. 2	Same subject. Reports gazetting of postponement of the exposition and inquires whether Commissioner Loomis is coming to Japan.	517
430	Same to same.....	Sept. 7	Protection of foreign trade-marks and copyrights in China and Korea. Refers to his No. 408 of Aug. 23, and transmits translations of ordinances and regulations for carrying them out.	529
432	Same to same.....	Sept. 8	Same subject. Acknowledges instruction No. 186 of Aug. 7, and calls attention to fact that a foreigner to obtain a patent in Japan must be represented before the Japanese patent bureau by a duly qualified agent resident in Japan; incloses list of patent lawyers in Japan.	534
	Mr. Adee to Mr. O'Brien (telegram).	Sept. 11	Tokyo Exposition. Acknowledges telegram of Sept. 2, and states Commissioner Loomis sailed Sept. 8, and has personal rank of minister plenipotentiary.	518
443	Mr. Jay to Mr. Root.....	Sept. 19	Protection of foreign trade-marks and copyrights in China and Korea. Refers to his No. 419 of Aug. 29, and incloses copy of note from minister for foreign affairs to British ambassador, in which it is stated that according to interpretation of administrative authorities concerned under trade-mark law it is not necessary to have business in Japan in order to enjoy protection of a trade-mark.	535
	Same to same (telegram).....	Oct. 6	Tokyo Exposition. Quotes telegram Commissioner Loomis requested be transmitted in which it is announced that the exposition, on much larger lines, would take place in 1917, and the President thanked in the Emperor's name for his interest in the enterprise, and also for sending such a highly competent commission.	518

JAPAN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1908.		
	Mr. Root to Mr. O'Brien (telegram).	Oct. 9	Extradition of Yoshitaro Abe from Japan to Hawaii. Instructs him to request provisional arrest and detention of Abe, charged with forgery in Hawaii, understood to be under arrest at Yokohama.	512
212	Mr. Bacon to Mr. O'Brien...	Oct. 13	Same subject. Refers to department's telegram of Oct. 13, informs him of issuance of President's warrant authorizing Chester A. Doyle to take Abe into custody for surrender to Hawaiian authorities, and incloses papers with instruction to present them to Japanese Government with formal requisition for extradition of fugitive.	512
	Mr. O'Brien to Mr. Root (telegram).	Oct. 15	Same subject. Refers to department's telegrams of Oct. 9 and 10, and states that foreign office requests assurance that United States will reciprocate under similar circumstances in the future.	513
	Mr. Root to Mr. O'Brien (telegram).	Oct. 19	Same subject. Refers to his telegram of Oct. 15 and informs him United States will surrender American citizens under similar circumstances.	513
	Mr. Matsui to Mr. Phillips..	Oct. 31	Joint international commission for investigation of the opium question in the Far East. States that the Japanese chargé d'affaires at Peking informed the Wai-wu-Pu on Oct. 15 of Japan's assent to the prohibition of morphia and its instruments to China.	107
	Mr. Phillips to Mr. Matsui..	Nov. 4	Same subject. Acknowledges with thanks his note of Oct. 31.	107
476	Mr. O'Brien to Mr. Root....	do...	Extradition of Yoshitaro Abe from Japan to Hawaii. Refers to dispatch No. 465 of Oct. 14, reports action taken with view to arrest and detention of Abe, and incloses copies of correspondence with the foreign office concerning the matter.	513
	Mr. Root to Mr. O'Brien (telegram).	Nov. 6	Joint international commission for investigation of the opium question in the Far East. Informs him of countries composing commission and suggests that each commission should be able to inform whole commission at Shanghai, Jan. 1, as to regulations and restrictions in force in its respective country.	108
	Mr. Bacon to Mr. O'Brien ..	Nov. 11	Same subject. See telegram of Nov. 11 to Great Britain.	109
	Same to same.....	Nov. 19	Same subject. See telegram of Nov. 19 to Great Britain.	110
	Mr. O'Brien to Mr. Root (telegram).	Nov. 27	Same subject. "There is no objection on the part of the Government of Japan to the proposed postponement."	112
	Mr. Takahira to Mr. Root...	Nov. 30	Far Eastern policy of United States and Japan. Sets forth the aim, policy, and intention of Japan in the region of the Pacific Ocean.	510
	Mr. Root to Mr. Takahira....	do...	Same subject. Acknowledges note of even date and confirms on behalf of the United States the declaration of the two Governments.	511
514	Mr. O'Brien to Mr. Root....	Dec. 2	Joint international commission for investigation of the opium question in the Far East. Incloses copy of note from foreign office stating that Japanese commissioners have completed opium question on lines similar to items of investigation by United States commissioners.	113
	Mr. Root to Mr. O'Brien (telegram).	Dec. 3	Same subject. See telegram of this date to Great Britain.	114
31	Mr. O'Brien to Mr. Root....	Dec. 15	Treaty of amity, commerce, and navigation between the Empire of Japan and the Colombian Republic.	507
	Mr. O'Brien to Mr. Root (telegram).	Dec. 17	Extradition of Yoshitaro Abe from Japan to Hawaii. Reports that Abe is being conveyed to Yokohama for delivery to Hawaiian officer on board S. S. China sailing Dec. 23.	514
	Same to same (telegram).....	Dec. 23	Same subject. Refers to his telegram of Dec. 17 and reports that Officer Doyle sailed this date on the China with Abe en route to Honolulu.	515

KONGO.

21	Mr. Smith to Mr. Root.....	1908. Mar. 21	Affairs in the Kongo. Incloses report on political conditions of upper Ituri district, and calls attention to conditions brought about by imposition of excessive rubber tax, and the working of the Kilo mines by forced labor.	551
	Same to same.....	Apr. 9	Same subject. Refers to report of Nov. 20, 1907, and transmits report on land legislation in the Kongo in its relation to commercial policy of the State.	563
8	Mr. Handley to Mr. Root...	Nov. 24	Same subject. Transmits summary of information received from British consul at Boma on the conditions in the Kasai district, particularly that of the Kasai Co.	589

MEXICO.

No.	From and to whom.	Date.	Subject.	Page.
60	Mr. Bacon to Mr. Creel.....	1907. July 2	Claim of owners of Mexican steamship Tabasqueno. In reply to his No. 50 of May 9, gives results of department's examination of claim and informs him that if its views meet with concurrence of Mexican Government, department will recommend to Congress an appropriation for settlement of case.	615
2	Mr. Godoy to Mr. Bacon.....	July 6	Same subject. Acknowledges No. 60 of July 2 and says substance thereof has been communicated to Mexican Government.	618
47	Same to same.....	Oct. 5	Same subject. Refers to his note of July 6 and submits statement of items Mexican Government asks concurrence in.	618
139	Mr. Root to Mr. Creel.....	Dec. 2	Extradition of George Deering Reed to Mexico. Refers to embassy's note of Mar. 10, 1906, and subsequent correspondence, and quotes telegram from Attorney General stating that Reed is under arrest and provisional detention in New Jersey.	597
127	Mr. Godoy to Mr. Root.....	1908. Jan. 28	Same subject. Announces that favorable decision has been given in case of Reed and order issued for delivery to Mexican authorities. Asks that warrant be issued for surrender of the fugitive.	598
189	Mr. Bacon to Mr. Godoy.....	Feb. 14	Same subject. Acknowledges note No. 127 of Jan. 28, and incloses warrant as requested.	598
138	Mr. Godoy to Mr. Root.....	Feb. 17	Same subject. Refers to previous correspondence and asks that Reed be transferred to Laredo, Tex., there to be delivered to authorized Mexican agent.	598
191	Mr. Adee to Mr. Godoy.....	do.....	Same subject. Acknowledges his No. 138 of Feb. 12, outlines practice of United States in re delivery of fugitives, and says if embassy desires to secure exceptional procedure with understanding that such action is not to be invoked as precedent, department will communicate request to Attorney General, the charge for same to be included in bill rendered.	599
149	Mr. Godoy to Mr. Root.....	Feb. 29	Same subject. Refers to No. 191 of Feb. 17, and renews request for transfer of Reed to Laredo, Tex., for delivery to Mexican agents. Calls attention to transfer of an offender named Morales to the same town.	599
152	Same to same.....	Mar. 3	Interpretation of Article X of the extradition treaty between the United States and Mexico. Requests from department a ruling upon meaning of that part of Article X which specifies the period during which fugitives should be detained pending production of documents necessary to hearing of extradition cases. Gives reasons why Mexican Government does not concur in interpretation by United States of article cited.	594
204	Mr. Bacon to Mr. Godoy.....	Mar. 10	Extradition of George Deering Reed to Mexico. Acknowledges No. 204 of Feb. 29, and incloses copy of letter from Attorney General naming person willing to undertake delivery of Reed to Mexican authorities at Laredo.	600
161	Mr. Godoy to Mr. Root.....	Mar. 19	Same subject. Refers to department's No. 204 of Mar. 10, and incloses warrant issued by department together with credentials issued by the embassy to Mr. Alcott to obtain delivery of fugitive.	600
213	Mr. Root to Mr. Godoy.....	Mar. 28	Same subject. Refers to department's No. 204 of Mar. 10, and informs him that T. J. Alcott, United States marshal, left Princeton, N. J., Mar. 23, en route for Laredo, Tex., with Reed in custody for delivery to Mexican authorities.	601
	Mr. Thompson to Mr. Root.....	Apr. 2	Messages of the President of Mexico to the Mexican Congress. Incloses newspaper clippings containing messages.	601
	.....	Apr. 9	Copyright convention between the United States and other powers. Text.	621
220	Mr. Bacon to Mr. Godoy.....	Apr. 13	Claim of owners of Mexican steamship Tabasqueno. Refers to his No. 47 of Oct. 3, 1907, and requests explanation of certain items in statement submitted.	619
202	Mr. Godoy to Mr. Root.....	May 18	Same subject. Refers to previous correspondence, particularly No. 220 of Apr. 13, and enumerates amounts acceptable to Mexican Government.	620
	.....	May 25	Same subject. Message of President to Congress submitting report by Secretary of State concerning claim, with accompanying papers.	605

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Root to Mr. Creel (telegram).	1908. June 19	Inauguration of the Court of Justice for Central America. Extends congratulations upon his safe return to Mexico and upon the great work for peace and civilization accomplished by his mission to Costa Rica.	216
	Mr. Creel to Mr. Root (telegram).	June 20	Same subject. Expresses appreciation of congratulations upon his return to Mexico.	216
	.....	June 29	Arbitration convention between the United States and Mexico. Text.	625
295	Mr. Bacon to Mr. Creel.....	July 16	Interpretation of Article X of the extradition treaty between the United States and Mexico. Refers to embassy's note No. 152 of Mar. 3, and incloses copy of letter from the Attorney General giving his opinion as to the interpretation of the forty days' detention period of fugitive criminals.	595
17	Mr. Creel to Mr. Root.....	July 21	Same subject. Refers to department's note No. 295 of July 16, with inclosure, and says embassy agrees to rules fixed by the Attorney General for computing the forty days referred to in Article I of treaty.	597
1244	Mr. Sands to Mr. Root.....	Sept. 18	Messages of the President of Mexico to the Mexican Congress. Incloses clippings from the "Mexican Herald" concerning the opening by President Diaz of the Twenty-fourth Congress on Sept. 16, and also his message.	603

MOROCCO.

133	Mr. Bacon to Mr. Gummeré.	1908. Feb. 6	Acquisition of property for American missionaries in Morocco and rental of a house in the Moorish quarter of Mequinez. Supplementing instruction of Feb. 5, informs him of visit to department by Rev. G. S. Fisher, president of the Gospel Union Mission, and instructs him to again address the Shereefian Government and ask explanation of nonenforcement of orders given to the Basha in 1906. Incloses copy of letter to Mr. Fisher.	638
	Mr. Gummeré to Mr. Root..	Mar. 5	Same subject. Acknowledges instruction No. 133 of Feb. 6 and incloses copy of note to foreign office requesting explanation of nonenforcement of orders given to the Basha of Mequinez in November, 1906.	640
142	Mr. Bacon to Mr. Gummeré.	Mar. 23	Same subject. Acknowledges his dispatch of Mar. 5 and expresses approval of his action.	641
337	Mr. Gummeré to Mr. Root..	Mar. 25	Same subject. Refers to his dispatch of Mar. 5 and incloses copy of letter from foreign office stating that as soon as order is reestablished in Mequinez orders will be given re fulfillment of Shereefian promises.	641
145	Mr. Bacon to Mr. Gummeré.	Apr. 13	Same subject. Acknowledges No. 337 of Mar. 25 and expresses gratification that promises will be fulfilled when order is restored.	642
	Mr. Gummeré to Mr. Root..	May 16	International commission for the adjustment of damages growing out of the disorders at Casablanca. Confirming telegram of this date, reports that Sultan has named May 31 for first meeting of claims commission at Casablanca, and requests instructions re standing of claims of American citizens already submitted to department. Asks that nomination of Mr. Philip as member of commission be confirmed. Incloses copy of letter from the grand vizier to the dean of diplomatic corps in which was transmitted decree of the Sultan concerning the commission of claims.	634
	Same to same (telegram)....	June 18	Recognition of Mulai Hafid as Sultan of Morocco. "Pretender proclaimed yesterday at Tetuan, eight hours from here."	643
	Same to same.....	.....do.....	Same subject. Confirms his telegram of even date and reports arrival of couriers announcing proclamation of Mulai Hafid as Sultan. Says Tangier is quiet.	644
	Mr. Bacon to Mr. Gummeré (telegram).	July 2	International commission for the adjustment of damages growing out of the disorders at Casablanca. Authorizes him to sit as United States representative on mixed claims commission, and to designate a competent person to act in case it is impossible for him to act in that capacity. Gives instructions as to course to be pursued by American representatives in presenting their claims.	636

MOROCCO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Philip to Mr. Root.....	1908. Aug. 15	Same subject. Reports adjournment of commission this date to reassemble Sept 24. Says he presented 16 claims for indemnity, the total awards for which amount to 194,370 francs.	637
381	Mr. Philip to Mr. Root.....	Sept. 15	Recognition of Mulai Hafid as Sultan of Morocco. Transmits copy of translation of letter dated Sept. 7 from the Sultan to the dean of the diplomatic corps, requesting formal recognition by the powers signatory to the act of Algeciras.	645
	.....	Oct. 19	Same subject. Draft of note sent to Mulai Hafid by the powers submitted to department by French ambassador and Spanish chargé.	648
	Mr. Root to Mr. Gummeré (telegram).	Oct. 20	Same subject. Informs him of receipt of identical draft of note from French ambassador and Spanish chargé to be communicated through the dean of diplomatic corps to Mulai Hafid, formulating terms and conditions of guarantees to be given by new Sultan as condition precedent to his recognition. Sets forth attitude of United States and instructs him re action in the matter.	649
162	Mr. Root to Mr. Gummeré..	Oct. 22	Same subject. Quotes department's telegram of Oct. 20, and incloses copy of draft submitted by French ambassador and Spanish chargé as well as copy of department's memorandum in response.	651
	Mr. Philip to Mr. Root.....	Nov. 18	International commission for adjustment of damages growing out of the disorders at Casablanca. Referring to telegraphic instructions of July 29, reports the character of claims presented by him to commission, and incloses copy of note to the commission which he requested be entered upon the official minutes of the proceedings.	638
	Mr. Gummeré to Mr. Root..	Nov. 20	Recognition of Mulai Hafid as Sultan of Morocco. Confirms telegram of Nov. 19, and reports delivery, by the dean of the diplomatic corps to the representative of Mulai Hafid for transmission, of letter and collective note.	651
	Same to same.....	Dec. 7	Same subject. Confirms telegram of this date, and reports acceptance by Mulai Hafid of all the terms of the collective note of the powers. Incloses official translation of Mulai's reply.	652
	Mr. Adee to Mr. Gummeré..	Dec. 11	Same subject. Acknowledges dispatch of Nov. 20, and says department awaits Mulai's reply to collective note of the diplomatic corps.	654
	Mr. Root to Mr. Gummeré (telegram).	Dec. 17	Same subject. Instructs him to inform dean of diplomatic corps that United States accepts assurances given by Mulai and acquiesces in concurrent notification of recognition.	654
407	Mr. Gummere to Mr. Root..	Dec. 30	Same subject. Reports circulation among diplomatic corps of identical letters received by the dean from the French chargé d'affaires and Spanish minister, being response to Mouley Hafid's reply to original note of the powers. Says the representatives of United States, Germany, Italy, Sweden, Holland, Russia, Great Britain, and Portugal have informed the dean of adhesion to Franco-Spanish note.	655

NETHERLANDS.

	Mr. Root to Mr. van Swinderen.	1907. May 16	Commercial agreement between the United States and the Netherlands. Referring to agreement signed this date, quotes instructions to be issued to customs officers of United States to take effect July 1.	658
854	Mr. van Swinderen to Mr. Root.	Nov. 12	International commission for the adjustment of damages growing out of disorders at Casablanca. Discusses the French and Spanish identic notes of Oct. 19, and gives views of Netherlands Government concerning settlement of indemnities.	632
167	Mr. Bacon to Mr. van Swinderen.	Nov. 15	Same subject. Acknowledges his note of Nov. 12, and states that United States would not oppose proposition set forth therein if it were found acceptable to the other interested powers.	633
33	Mr. van Swinderen to Mr. Root.	1908. Jan. 7	Commercial agreement between the United States and Germany. Inquires whether any special steps must be taken to secure to Netherlands chambers of commerce privileges provided in agreement between United States and Germany.	344

NETHERLANDS—Continued.

No.	From and to whom.	Date.	Subject.	Page.
169	Mr. Bacon to Mr. van Swinderen.	1908. Jan. 16	Same subject. Acknowledges his note of Jan. 7, and informs him that Treasury Department will grant privileges as soon as Netherlands chambers of commerce enjoy semiformal status.	345
150	Mr. Royaards to Mr. Root..	Feb. 13	Same subject. Refers to department's note of Jan. 16, and incloses copy of bulletin, No. 76, 1896, in which will be found the royal decree of May 4, 1896, concerning general regulations of chambers of commerce in the Netherlands.	345
177	Mr. Bacon to Mr. Royaards..	Feb. 25	Same subject. Acknowledges his note of Feb. 13, and states that decree inclosed therein has been transmitted to Treasury Department.	346
184	Same to same.....	Mar. 24	Same subject. Refers to previous correspondence and communicates purport of letter of Mar. 17 from Treasury Department.	347
	Mr. Root to Mr. Beaupré....	May 7	Joint international commission for investigation of opium question in the Far East. See telegram of May 7 to Great Britain.	86
	Mr. Adeë to Mr. Beaupré (telegram).	June 20	Same subject. See telegram of June 20 to Japan....	92
	Same to same.....	July 11	Same subject. See telegram of July 11 to Great Britain.	92
	Mr. Bacon to Mr. Beaupré..	July 21	Same subject. See telegram of July 21 to Great Britain.	93
	Mr. Adeë to Mr. Beaupré....	Aug. 1	Same subject. See telegram of Aug. 1 to Japan....	94
	.....	Aug. 12	Commercial agreement between the United States and the Netherlands. Text.	656
51	Mr. Beaupré to Mr. Root....	Sept. 7	Joint international commission for investigation of the opium question in the Far East. Reports appointment of commissioners by the Netherlands.	102
851	Mr. Royaards to Mr. Bacon..	Sept. 30	Status of Mormon missionaries. Quotes a petition addressed to the Queen by the Interdenominational Council of Women for Christian and Patriotic Service, of New York, and says the Netherlands Government wishes to learn opinion of American authorities regarding arguments advanced and as to whether the Mormon religion is opposed to polygamy.	659
210	Mr. Adeë to Mr. Royaards..	Oct. 10	Same subject. Acknowledging his note No. 851 of Sept. 30, informs him of the attitude of department toward Mormon missionaries asking protection abroad, and incloses copy of President's proclamation pardoning Mormon adherents who had abstained from polygamy since 1890. States no final action has been taken in Congress on bills to amend Constitution by prohibiting polygamy.	659
13	Mr. Root to Mr. Beaupré....	Oct. 22	Recognition of Mouley Hafid as Sultan of Morocco. See instruction No. 162 of Oct. 20 to Morocco.	651
	Same to same.....	Nov. 6	Joint international commission for investigation of the opium question in the Far East. See telegram of Nov. 6 to Japan.	108
	Mr. Bacon to Mr. Beaupré..	Nov. 11	Same subject. See telegram of Nov. 11 to Great Britain.	109
	Same to same.....	Nov. 19	Same subject. See telegram of Nov. 19 to Great Britain.	110
	Mr. Beaupré to Mr. Root (telegram).	Nov. 27	Same subject. "The Government of the Netherlands agrees to the postponement to Feb. 1 international opium conference, but desires to be informed when new date is fixed."	112
	Mr. Root to Mr. Beaupré (telegram).	Dec. 3	Same subject. See telegram of this date to Great Britain.	114

NICARAGUA.

	Mr. Root to Mr. Espinoza (telegram).	1908. May 28	Inauguration of the Court of Justice for Central America. See telegram of even date to the Costa Rican minister of foreign relations, Mr. Anderson.	216
114	Mr. Bacon to Mr. Coolidge...	July 15	Protection of Chinese interests in Nicaragua. Incloses copy of note from Chinese minister requesting protection by diplomatic and consular officers, of Chinese subjects and their interests in Nicaragua. Instructs him in the sense of the minister's note.	661

NORWAY.

	1908. June 29	Arbitration Convention between the United States and Norway. Text.	663
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PANAMA.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Squiers to Mr. Root (telegram).	1907. Apr. 4	Commission for appraisement and settlement of damages to property in Panama Canal Zone. Reports appointment of two Panaman members of joint commission, and says both American members are in Panama. Asks that umpire be appointed immediately to avoid delay in proceedings of commission.	670
24	Mr. Arango to Mr. Root.....	July 22	Jurisdiction over the waters of Manzanilla Bay. Refers to negotiations between the Central & South American Telegraph Co. and Government of Panama for landing of company's cable, and to report that United States had granted permission to the company to land in the Canal Zone, and asks to be advised what has been done in the matter.	677
55	Mr. Adee to Mr. Arango.....	Aug. 3	Same subject. Acknowledges his note, No. 24, of July 22, and informs him that it has been transmitted to the War Department for its views in the premises.	678
56	Same to same.....	Aug. 24	Same subject. Refers to his note of July 22; to department's reply of Aug. 3, and communicates reply of War Department to inquiry.	679
78	Mr. Bacon to Mr. Squiers....	1908. Jan. 2	Same subject. Incloses copy of letter from the President transmitting one from the chairman and chief engineer of Isthmian Canal Commission, and instructs him to advise Panaman Government that United States holds that Panama has no jurisdiction over waters through which ships must pass in entering the canal.	679
220	Mr. Squiers to Mr. Root.....	Feb. 22	Commission for appraisement and settlement of damages to property in Panama Canal Zone. Suggests, at instance of minister for foreign affairs, that he be instructed to take up the question of appointment of the fifth person or umpire of commission, and says Panaman Government is willing to accept an American citizen residing on the Isthmus.	670
	Mr. Root to Mr. Squiers (telegram).	Apr. 8	Same subject. Refers to dispatch of Feb. 22, and says it would facilitate matters if Minister Arango would take up with the department the question of selecting an umpire. Directs him to interview minister for foreign affairs on this point.	671
	Mr. Squiers to Mr. Root (telegram).	Apr. 9	Same subject. Reports that minister for foreign affairs approves suggestion and will instruct Minister Arango accordingly.	671.
	Mr. Root to Mr. Squiers (telegram).	May 21	Same subject. Instructs him to give formal notification of appointment of Mr. Edward C. Bumpus and Hon. Edwin Denby as commissioners plenipotentiary on the tribunal for assessment of land under Article VI of treaty of Nov. 18, 1903, between United States and Panama.	671.
12	Mr. Arosemena to Mr. Root..	May 27	Same subject. Announces appointment of Srs. Gil Ponce Jaen and Santiago de la Guardia as members of commission.	672.
	Mr. Squiers to Mr. Root.....	June 1	Same subject. Incloses copy of note of May 30 from the foreign office, and copy of letter from Richard Reid Rogers, general counsel of Isthmian Canal Commission, in regard to exercise of judicial power by the joint committee.	672.
117	Mr. Adee to Mr. Squiers.....	June 26	Same subject. Acknowledges his dispatch of June 1, and informs him department agrees with views as expressed in notes of Minister Arias and Mr. Rogers.	674.
18	Mr. Arango to Mr. Bacon....	July 9	Same subject. Proposes, by direction of Panaman Government, Mr. Edwin Denby as umpire of the mixed commission.	674.
339	Mr. Weitzel to Mr. Root.....	Aug. 19	Same subject. Advises department of the delivery, on Aug. 8, of the award made by the mixed commission, also the decision of the umpire, Mr. Denby, on the findings of the joint commission of 1907. Incloses text of decision published in the Canal Record.	674.
346	Same to same.....	Aug. 31	Election and inauguration of Don José de Obaldia as President of Panama. Reports concerning a meeting of the electoral college of Panama Aug. 30, which formally declared de Obaldia elected President.	665.
	Same to same (telegram)....	Oct. 2	Same subject. Reports re successful inauguration and appointment of José Augustin Arango as minister for foreign affairs, and of Carlos Constantine Arosemena as minister at Washington.	665.

PANAMA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
361	Same to same.....	1908, Oct. 2	Same subject. Referring to telegram of this date reports in regard to the inaugural ceremonies, and incloses newspaper clipping containing the President's speech.	666
	Mr. Arango to Mr. Root (telegram).	Oct. 3	Same subject. Informs department of the assumption of the Presidency by Sr. de Obaldia and names members of the Cabinet appointed by the President.	668
	Mr. Root to Mr. Arango (telegram).	...do....	Same subject. Asks that his congratulations and good wishes be presented to President Obaldia. Expresses gratification at his appointment as minister for foreign affairs.	668
	Mr. Arango to Mr. Root (telegram).	...do....	Same subject. Expresses appreciation of felicitations.	668
	Mr. Root to Mr. Weitzel (telegram).	...do....	Same subject. Instructs him to convey to new minister for foreign affairs sincere congratulations and good wishes.	668
	Mr. Roosevelt to Mr. Obaldia (telegram).	...do....	Same subject. Extends congratulations on his auspicious inauguration.	669
	Mr. Arango to Mr. Root (telegram).	Oct. 6	Same subject. Expresses appreciation of the President and himself for kind congratulations.	669
	Mr. Cromwell to Mr. Root...	...do....	Same subject. Advises department of the inauguration of Sr. Obaldia as President, and gives the names of members of new Cabinet.	669
	Mr. Obaldia to Mr. Roosevelt (telegram).	Oct. 7	Same subject. Expresses gratitude for telegram of congratulations, and extends greetings.	670
	Mr. Roosevelt to Mr. Obaldia (telegram).	Oct. 31	Same subject. "Please accept my cordial thanks for good wishes extended by yourself and members of your Cabinet in your message of Oct. 28."	670

PERSIA.

33	Mr. Jackson to Mr. Root....	1908 Feb. 12	Murder of Rev. Benjamin W. Labaree. Confirms his telegram of Feb. 9; department's reply of Feb. 10, and expresses gratification at closing of the case. Says minister for foreign affairs thanked him, at his weekly reception, for attitude of United States re punishment of accessories to the murder.	681
9	Mr. Root to Mr. Jackson....	Mar. 16	Same subject. Acknowledges his No. 33 of Feb. 12, and informs him he has correctly apprehended the attitude of United States in the Labaree matter.	682
29	Mr. Adee to Mr. Jackson....	Aug. 26	Joint international commission for investigation of the opium question in the far East. Instructs him to extend to Persia invitation to participate in proposed joint opium commission.	98
33	Mr. de Billier to Mr. Root (telegram).	Oct. 29	Same subject. "The Persian Government will participate opium international conference."	105
	Mr. Adee to Mr. de Billier....	...do....	Same subject. Asks that names and ranks of Persian commissioners be reported at early date, also proposed plan of investigation.	105
	Mr. Jackson to Mr. Root (telegram).	Nov. 4	Same subject. "Government of Persia has no objection to postponement. Local merchant Shanghai will be named the delegate. No one will be sent from Persia and no preliminary investigation will be made."	107
	Mr. Root to Mr. Jackson....	Nov. 6	Same subject. See telegram of Nov. 6 to Japan.	108
	Mr. de Billier to Mr. Root....	Nov. 11	Same subject. Incloses copy of note from foreign office accepting invitation to participate in conference and stating that representative will be appointed.	108
	Mr. Bacon to Mr. Jackson....	...do....	Same subject. See telegram of this date to Great Britain.	109
	Same to same.....	Nov. 19	Same subject. See telegram of this date to Great Britain.	110
	Mr. Adee to Mr. de Billier....	Dec. 1	Same subject. See telegram of this date to Great Britain.	113
	Mr. Root to Mr. Jackson (telegram).	Dec. 3	Same subject. See telegram of this date to Great Britain.	114
34	Mr. Adee to Mr. de Billier....	Dec. 8	Same subject. Directs that the foreign office be sent an expression of appreciation.	115
129	Mr. Jackson to Mr. Root....	Dec. 25	Same subject. Reports appointment of Hadji Mirza Djafar as "Commercial representative" of Persia.	115

PERU.

No.	From and to whom.	Date.	Subject.	Page.
120	Mr. Neill to Mr. Root.....	1908. May 27	Election and inauguration of Augusto B. Leguia as President of Peru. Reports election of Sr. Leguia as President; Dr. Eugenio Larrabure y Unanue as first vice-president; and Dr. Belisario Sosa as second vice-president, and says inauguration will take place Sept. 24.	684
	Mr. Root to Mr. Leguia (telegram).	May 28	Same subject. Offers congratulations on his election to the presidency.	685
	Mr. Leguia to Mr. Root (telegram).	May 29	Same subject. Expresses thanks for congratulatory telegram.	685
148	Mr. Neill to Mr. Root.....	July 29	Message of the President of Peru. Reports opening of Congress July 28, and incloses copy of President's message, together with translation of salient points thereof.	683
170	Mr. Coombs to Mr. Root....	Sept. 28	Election and inauguration of Augusto B. Leguia as President of Peru. Reports inauguration of Mr. Leguia as President on Sept. 24, and reception of the diplomatic corps by him Sept. 25.	685

PORTUGAL.

	Mr. Bryan to Mr. Root (telegram).	1908. Feb. 1	Assassination of King and Crown Prince of Portugal, and accession of King Manuel II to the Throne. Reports assassination of the King and Crown Prince. Says the Queen and second son were saved.	686
	Mr. Alte to Mr. Root.....	Feb. 2	Same subject. Gives text of telegram from Portuguese Government announcing the assassination of King and Crown Prince of Portugal.	686
	Mr. Bacon to Mr. Alte.....	...do....	Same subject. Acknowledges his note of this date, and tenders condolence and sympathetic sorrow of himself and people of United States.	686
	Mr. Roosevelt to King of Portugal (telegram).	Feb. 3	Same subject. Expresses condolence to him and to his queen mother.	687
	Mr. Bacon to Mr. Bryan (telegram).	...do....	Same subject. Directs him to tender to Portuguese Government condolence and sorrow of people of United States, and to minister for foreign affairs his personal sentiments.	687
374	Mr. Bryan to Mr. Root.....	...do....	Same subject. Confirms his telegram of Feb. 1 and reports details of the tragedy and events leading to it. Calls attention to the friendly sentiment of the new King to the United States.	687
375	Same to same.....	...do....	Same subject. Confirms his telegram of this date, and gives personnel of the new ministry.	689
	Same to same (telegram)....	Feb. 4	Same subject. Reports date of funeral obsequies and says the Prince of Wales and other special ambassadors will attend.	689
	Mr. Root to Mr. Bryan (telegram).	...do....	Same subject. Instructs him that he will represent the President as special ambassador at the funeral.	690
	Same to same (telegram)....	...do....	Same subject. Quotes resolution adopted by the Senate, deploring the tragedy, and directs that it be communicated to the minister for foreign affairs.	690
	Mr. Alte to Mr. Root.....	...do....	Same subject. Express appreciation of royal family and himself for sympathy extended by President and people of United States.	690
	Mr. Root to Mr. Bryan (telegram).	Feb. 5	Same subject. Quotes resolution adopted by the House of Representatives expressing sympathy for the Portuguese Government and directs that it be transmitted through the minister for foreign affairs.	691
381	Mr. Bryan to Mr. Root.....	Feb. 17	Same subject. Reports that minister for foreign affairs has requested that acknowledgments be expressed to Congress of condolatory resolutions adopted by Senate and House of Representatives; says resolutions had very happy effect in Portugal.	691
	Mr. Bacon to Mr. Bryan....	Mar. 5	Same subject. Acknowledges his No. 381 of Feb. 17, and says copies thereof have been transmitted to Vice President and Speaker for information of Senate and House of Representatives.	691
	Mr. Alte to Mr. Root.....	Mar. 7	Same subject. Asks that the thanks of the King and Portuguese Government be conveyed to Senate and House of Representatives, pending receipt of fitting response from the Portuguese Parliament.	692
160	Mr. Bacon to Mr. Bryan....	Mar. 10	Joint international commission for investigation of opium question in the Far East. Instructs him to bring to attention of Portuguese Government proposal of United States for a joint commission to investigate opium question and to ask for early reply.	79

PORTUGAL—Continued.

No.	From and to whom.	Date.	Subject.	Page.
54	Mr. Bacon to Mr. Alte.....	1908. Mar. 19	Assassination of King and Crown Prince of Portugal and accession of King Manuel II to the Throne. Acknowledges his note of Mar. 7, copies of which have been communicated to the Vice President and Speaker of the House of Representatives.	692
	Mr. Root to Mr. Bryan.....	May 7	Joint international commission for investigation of opium question in the Far East. See telegram of May 7 to Great Britain.	86
	Mr. Root to Mr. Alte.....	do....	Extradition convention between the United States and Portugal. Note concerning death penalty.	699
	Mr. Alte to Mr. Root.....	do....	Same subject. Note concerning death penalty.....	699
	Mr. Adee to Mr. Bryan (telegram).	June 20	Joint international commission for investigation of opium question in the Far East. See telegram of June 20 to Japan.	92
	Same to same.....	July 11	Same subject. See telegram of July 11 to Great Britain.	92
	Mr. Bacon to Mr. Bryan....	July 21	Same subject. See telegram of July 21 to Great Britain.	93
	Mr. Adee to Mr. Bryan.....	Aug. 1	Same subject. See telegram of Aug. 1 to Japan....	94
	Mr. Bryan to Mr. Root (telegram).	Aug. 3	Same subject. "The King of Portugal proposes naming a commission to study opium question. Later on the joint high commission will be named."	94
170	Mr. Root to Mr. Lorillard...	Oct. 22	Recognition of Mouley Hafid as Sultan of Morocco. See instruction No. 162 of Oct. 20 to Morocco.	651
446	Mr. Lorillard to Mr. Root...	Oct. 30	Joint international commission for investigation of the opium question in the Far East. Refers to instruction No. 160 of Mar. 10 and incloses copy of note from foreign office stating that Portuguese Government accepts invitation and intends to be represented on commission.	106
	Mr. Root to Mr. Bryan.....	Nov. 6	Same subject. See telegram of Nov. 6 to Japan....	108
	Mr. Bacon to Mr. Bryan....	Nov. 11	Same subject. See telegram of Nov. 11 to Great Britain.	109
	Same to same.....	Nov. 19	Same subject. See telegram of Nov. 19 to Great Britain.	110
	Mr. Root to Mr. Bryan (telegram).	Dec. 3	Same subject. See telegram of this date to Great Britain.	114
		Dec. 14	Extradition convention between the United States and Portugal.	693
		...do....	Naturalization treaty between the United States and Portugal.	700
		...do....	Arbitration convention between the United States and Portugal.	702
468	Mr. Lorillard to Mr. Root...	Dec. 19	Joint international commission for investigation of the opium question in the Far East. Incloses note from foreign office announcing appointment of Oscar George Potier and Carlos Assumpção, as Portuguese delegates.	115

RUSSIA.

265	Mr. Schuyler to Mr. Root....	1907. Apr. 25	Declaration re Baltic Sea. Reports the signing on Apr. 23 by the representatives of Russia, Germany, Sweden, and Denmark, of a convention for the preservation of the status quo on the Baltic.	704
	Baron Rosen to Mr. Root...	Oct. 25	Commercial agreement between the United States and Germany. Requests that customs privileges granted by United States to German chambers of commerce as regards certificates of value for goods shipped to United States be extended to committees of Russian exchanges.	347
53	Mr. Root to Baron Rosen...	Oct. 31	Same subject. Acknowledges note of Oct. 25 and asks that department be furnished with text of articles 591-598 of Russian code of commerce, and those statutes of the St. Petersburg exchange which define powers of committees of Russian exchanges.	348
103	Baron Rosen to Mr. Root...	1908. Mar. 14	Same subject. In reply to No. 53 of Oct. 31, incloses articles of Russian commercial code, etc., requested by department, and makes certain explanations.	348
69	Mr. Bacon to Baron Rosen...	Mar. 18	Same subject. Acknowledges his note of Mar. 14, and states it will receive consideration.	350
73	Same to same.....	Apr. 3	Same subject. Refers to his note of Mar. 14, and incloses copy of letter of Mar. 31 from Treasury Department.	350
172	Mr. Adee to Mr. Riddle.....	Aug. 26	Joint international commission for investigation of the opium question in the Far East. Instructs him to extend to Russia invitation to participate.	98
188	Mr. Root to Mr. Riddle.....	Oct. 22	Recognition of Mouley Hafid as Sultan of Morocco. See instruction No. 162 of Oct. 20 to Morocco.	651

RUSSIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Same to same.....	1908. Nov. 6	Joint international commission for investigation of the opium question in the Far East. See telegram of Nov. 6 to Japan.	108
	Mr. Bacon to Mr. Riddle....	Nov. 11	Same subject. See telegram of Nov. 11 to Great Britain.	109
	Same to same.....	Nov. 19	Same subject. See telegram of Nov. 19 to Great Britain.	110
	Mr. Riddle to Mr. Root (telegram).	Nov. 26	Same subject. "Postponement of International Commission to Feb. 1 is entirely acceptable to Russian Government."	112
	Mr. Root to Mr. Riddle (telegram).	Dec. 3	Same subject. See telegram of this date to Great Britain.	114

SALVADOR.

66	Mr. Gregory to Mr. Root....	1908. Apr. 7	Flying of foreign flags in Salvador. Refers to department's No. 19 of Mar. 19, concerning the flying of foreign flags, and incloses copy of executive order of Feb. 1, 1908.	705
77	Same to same.....	Apr. 21	Decree relating to treaties, status of foreigners, etc. Transmits decree.	705
90	Mr. Dodge to Mr. Root.....	May 23	Same subject. Incloses copy of act of National Legislative Assembly promulgated May 8, approving executive decree of April 13.	707
	Mr. Root to Mr. Rodriguez (telegram).	May 28	Inauguration of the court of justice for Central America. See telegram of even date to the Costa Rican minister of foreign relations, Mr. Anderson.	216
	.....	July 23	Naturalization convention between the United States and Salvador.	707

SAN MARINO.

	San Marino, Republic of.....	1908.	Extradition treaty between the United States and the Republic of San Marino. Text.	710
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SIAM.

370	Mr. King to Mr. Root.....	1908. Jan. 8	Rules for international courts as established by treaty of Mar. 23, 1907, between Siam and France. Incloses copy of rules, and says these rules will probably largely enter into whatever treaty negotiations may pass between Siam and Great Britain.	715
	Mr. Root to Mr. King (telegram).	Oct. 2	Joint international commission for investigation of the opium question in the Far East. Instructs him to extend invitation to Siam.	103
	Mr. MacMurray to Mr. Root (telegram).	Oct. 20	Same subject. "Siamese Government accepts invitation to participate Shanghai opium conference."	104
	Mr. Root to Mr. King.....	Oct. 22	Same subject. Outlines scope of preliminary investigations, and directs him to report names and ranks of Siamese commissioners.	105
	Same to same.....	Nov. 6	Same subject. See telegram of Nov. 6 to Japan.	108
	Mr. Bacon to Mr. King.....	Nov. 11	Same subject. See telegram of Nov. 11 to Great Britain.	109
	Same to same.....	Nov. 19	Same subject. See telegram of Nov. 19 to Great Britain.	110
	Mr. King to Mr. Root (telegram).	Nov. 23	Same subject. States that Siamese Government would not object to postponement of conference to Feb. 1 next.	112
	Mr. Root to Mr. King (telegram).	Dec. 3	Same subject. See telegram of this date to Great Britain.	114

SPAIN.

	Mr. Pastor to Mr. Root.....	1907. Oct. 21	International commission for the adjustment of damages growing out of the disorders at Casablanca. States that copy of circular relative to indemnities was mailed from Madrid Oct. 16.	630
55	Mr. Root to Mr. Pastor.....	Oct. 23	Same subject. Acknowledges note of Oct. 21; quotes memorandum left at department by French ambassador, and states that department has informed the ambassador of its approval of an indemnity commission.	631

SPAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
56	Same to same.....	1907. Oct. 29	Same subject. Acknowledges note of Oct. 28, and states that proposal for constitution of a commission meets with approval.	632
	Memorandum to Spanish legation.	Dec. 3	Same subject. See memorandum of Dec. 3 to the French embassy.	633
	Memorandum from Spanish legation.	1908. Jan. 17	Recognition of Mulai Hafid as Sultan of Morocco. Gives attitude of Spanish Government re defense of interests in Morocco, and requests department's opinion thereon.	642
	Mr. Root to Mr. Pina.....	Jan. 20	Same subject. Refers to oral promise, and incloses memorandum giving department's opinion as to such action as may prove necessary to protect life and property.	643
474	Mr. Collier to Mr. Root.....	Feb. 4	Adhesion of Spain to the declaration of Paris of 1856. Transmits text of royal decree whereby Spain accepts all the rules, including that for abolition of privateering, laid down in declaration of Paris of 1856.	720
	.....	May 21	Extradition treaty between the United States and Spain. Text.	723
	.....	June 3	Arbitration convention between the United States and Spain. Text.	721
	Mr. Pastor to Mr. Root.....	Sept. 12	Commercial agreement between the United States and Germany. Requests that certificates issued by chambers of commerce of Spain be accepted as are those of Germany, France, and Great Britain.	351
107	Mr. Adee to Mr. Pastor.....	Sept. 18	Same subject. Acknowledges his note of Sept. 12, and asks that department be furnished with information as to organization and operation of Spanish chambers of commerce.	352
	Mr. Pastor to Mr. Root.....	Sept. 24	Same subject. Refers to department's note of Sept. 18, and says copy of laws and regulations governing chambers of commerce will be forwarded as soon as received from Madrid.	352
	Mr. Bacon to Mr. Pastor....	Sept. 30	Same subject. Acknowledges his note of Sept. 24, and says information contained therein has been communicated to Treasury Department.	353
	Mr. Root to Mr. Pastor.....	Oct. 9	Recognition of Mulai Hafid as Sultan of Morocco. See note of Oct. 9 to French ambassador.	647
108	Same to same.....	Oct. 14	Commercial agreement between the United States and Germany. Refers to previous correspondence and informs him that provisions of point "F" have been extended to Spanish chambers of commerce.	353
	Mr. Root to Mr. Collier (telegram), Mr. Root to Mr. Pastor.....	Oct. 20 ...do....	Recognition of Mulai Hafid as Sultan of Morocco. See telegram of Oct. 20 to Morocco.	649 650
	Memorandum from Spanish Legation.	Dec. 17	Same subject. Expresses satisfaction at reply from Muley Hafid to collective note sent through dean of the diplomatic corps, and says powers signatory to the act of Algeciras have decided to recognize Mulai as Sultan.	654
	Mr. Root to Mr. Pina.....	Dec. 19	Same subject. Informs him of telegraphic instructions sent to American minister at Tangier Dec. 17.	655

SWEDEN.

150	Mr. Graves to Mr. Root.....	1908. Jan. 16	Speech of King Gustav V at the opening of the Riksdag. Reports in regard to the opening of the Riksdag, and incloses copy of the King's speech.	730
	.....	Sept. 1	Arbitration convention between the United States and Sweden. Text.	731
108	Mr. Root to Mr. Graves.....	Oct. 22	Recognition of Mulai Hafid as Sultan of Morocco. See instruction No. 162 of Oct. 20 to Morocco.	651

SWITZERLAND.

65	Mr. Bacon to Mr. Vogel.....	1908. Mar. 5	Protection afforded Swiss citizens in Colombia by the American Legation. Incloses copy of correspondence between the legation at Bogota and department concerning use of legation's good offices in behalf of Swiss citizens in Colombia.	734
	.....	Dec. 23	Arbitration convention between the United States and Switzerland. Text.	734

TURKEY.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Bacon to Mr. Leishman..	1908. June 30	Status of residents of Turkey who claim to be naturalized American citizens. Refers to circular instruction of Apr. 19, 1907, and incloses copy of remonstrance which E. C. Tambaky and others have addressed to the President in which they criticize department's interpretation of act of Mar. 2, 1907, in reference to expatriation of citizens and their protection abroad.	738
	Mr. Leishman to Mr. Root (telegram).	July 24	Political reforms in Turkey. Reports that the Sultan has proclaimed the constitution, which had lapsed for 30 years, and sent orders to all governors with a view to proceeding to election of parliamentary representatives.	745
	Same to same (telegram)....	July 28	Same subject. Reports proclamation of amnesty for all political prisoners, and changes in the ministry, pressure being brought to bear upon the Sultan to dismiss the palace clique who are held responsible for deplorable state of affairs which brought about the revolution.	746
	Mr. Bacon to Mr. Leishman (telegram).	July 30	Rights of American citizens to prosecute claims against the Turkish Government in courts of that country. Acknowledges his telegram of July 25; informs him of provisions of sec. 1068 of Revised Statutes, and instructs him to reply whether an American citizen could sue Turkish Government in Turkish courts and whether remedy accorded is as practicable, efficient, and absolute as remedy in Court of Claims. Also nature of cases in which Americans can sue Turkish Government in those courts.	737
	Same to same (telegram)....	Aug. 3	Political reforms in Turkey. Instructs him to express sympathetic interest with which the President has observed the confirmation of representative Government in Turkish dominions.	746
733	Mr. Leishman to Mr. Root....	do....	Same subject. Refers to previous dispatches and reports formal proclamation of the constitution.	746
738	Same to same.....	Aug. 8	Same subject. Reports further in regard to recent occurrences and the enormous impetus the power of the Young Turks has recently received.	747
751	Same to same.....	Aug. 20	Same subject. Referring to recent dispatches, reports further concerning the new Government; states that sudden death of new minister of war was a severe blow to the reformers, and that bands in Smyrna and Macedonia are laying down arms.	748
415	Mr. Adee to Mr. Leishman..	Aug. 26	Joint international commission for investigation of opium question in the Far East. Instructs him to extend to Turkey invitation to participate.	98
417	Same to same.....	Aug. 31	Removal of restrictions on emigration of wives and minor children of naturalized citizens of Ottoman origin. Instructs him to report whether there has been any change in attitude of Turkish Government in matters of assessment of personal taxes in Turkey against former Ottoman subjects, and emigration of their relatives other than wives and minor children.	757
774	Mr. Leishman to Mr. Root..	Sept. 19	Removal of restrictions on the sale of the Bible and other books, typewriters, etc. Reports settlement of difficulty regarding Bible colportage in consequence of which the American Bible Society will probably have no further cause for complaint.	755
775	Same to same.....	Sept. 28	Political reforms in Turkey. Reports in regard to the new constitutional Government, the establishment of which has eliminated the cause of much annoyance to the United States and other countries. Says the strained relations with Bulgaria threatens the stability of the Government.	749
	Mr. Bacon to Mr. Leishman (telegram).	do....	Same subject. Informs him that Navy Department has detailed the Scorpion to be stationed at Constantinople, and that vessel is ready for immediate departure as soon as department can be assured informally that request for permission to pass the Dardanelles will be granted.	751
784	Mr. Leishman to Mr. Root..	do....	Removal of restrictions on emigration of wives and minor children of naturalized American citizens of Ottoman origin. Reports that henceforth no action upon the part of United States will be necessary, as according to the constitution all Ottoman subjects enjoy right of free travel.	757
785	Same to same.....	do....	Same subject. Acknowledges No. 417 of Sept. 31 and reports concerning regulations governing emigration and immigration under the new form of Government.	758

TURKEY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1908.		
434	Mr. Root to Mr. Leishman..	Oct. 2	Removal of restrictions on the importation of type-writing machines. Incloses copy of letter from Remington Typewriter Co., inquiring concerning removal of restrictions on importation of typewriters, and instructs him to make inquiry in regard to this matter and report. Quotes pertinent statement in report from Consul Jewett at Trebizond.	755
795	Mr. Leishman to Mr. Root..	Oct. 6	Rights of American citizens to prosecute claims against the Turkish Government in courts of that country. Acknowledges telegram of July 30 and answers department's inquiries.	737
	Same to same (telegram)....	Oct. 9	Political reforms in Turkey. Reports that although rumors of war continue to circulate it is hoped that recourse to arms will be avoided, as leaders of constitutional party are doing everything to calm the bellicose spirit of the army.	751
807	Same to same.....	Oct. 17	Removal of restrictions on the importation of type-writing machines. Acknowledges No. 434 of Oct. 2; refers to his No. 774 of Sept. 19, and reports that no restrictions whatever exist on importation of printing machinery.	756
	Mr. Bacon to Mr. Leishman (telegram).	Oct. 21	Political reforms in Turkey. Informs him the Scorpion will sail on Oct. 22 and that her commander, Lieut. Commander G. W. Logan, U. S. Navy, will telegraph from Malta to settle formalities for passage of the Dardanelles. Directs that an expression of the President's satisfaction at permission granted by Ottoman Government be conveyed to the Sultan.	751
	Mr. Leishman to Mr. Root (telegram).	...do....	Same subject. Quotes note received from the ministry for foreign affairs informing the embassy that an imperial irade authorizes the passage through the Dardanelles of the Scorpion.	752
440	Mr. Bacon to Mr. Leishman..	Oct. 26	Same subject. Refers to department's telegram of Oct. 21, and incloses copy of letter to Secretary of the Navy regarding the detail of U. S. S. Scorpion as stationnaire at Constantinople.	752
	Mr. Leishman to Mr. Root (telegram).	Nov. 19	Joint international commission for investigation of the opium question in the Far East. Quotes reply from Sublime Porte to effect that as there is no representative in China, Turkey can not be represented on international commission.	110
447	Mr. Bacon to Mr. Leishman..	Nov. 27	Same subject. Acknowledges telegram of Nov. 19 and expresses regret that Ottoman Government will not participate.	112
	Mr. Leishman to Mr. Root (telegram).	Dec. 4	Political reforms in Turkey: "Scorpion arrived today."	753
	Mr. Leishman to Mr. Bacon (telegram).	Dec. 16	Same subject. Says that congratulatory telegrams to Turkish Parliament are being received from European Parliaments and suggests that United States take similar action.	753
	Mr. Bacon to Mr. Leishman (telegram).	Dec. 17	Same subject. Quotes congratulatory resolutions passed by Senate and House of Representatives, and instructs him to communicate them to the Turkish Parliament through appropriate channel.	753
846	Mr. Leishman to Mr. Root..	...do....	Same subject. Reports opening of Turkish Parliament by the Sultan this date. Says the representatives took the oath of fidelity to the constitution and to the Sultan so long as he respected the constitution.	754
848	Same to same.....	Dec. 18	Same subject. Acknowledges telegram of Dec. 17 and reports that copy of congratulations to Ottoman Government have been handed to minister for foreign affairs.	754

URUGUAY AND PARAGUAY.

		1908.		
	Mr. O'Brien to Mr. Root (telegram).	July 7	Revolution in Paraguay. Reports re beginning of revolution in Asuncion July 2; the resignation of President Ferreira and assumption of the presidency by Vice President Navero revolutionary sympathizer; and intervention of diplomatic corps resulting in cessation of hostilities.	760
	Same to same (telegram)....	July 8	Same subject. Reports dissolution of Paraguayan Congress by new President and declaration of 30 days' martial law.	760
	Same to same (telegram)....	July 9	Same subject. Reports reception on July 8, by minister for foreign affairs, of representatives of United States, Great Britain, France, Germany, and Italy.	760

URUGUAY AND PARAGUAY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1908. July 10	Extradition treaty between United States and Uruguay. Text.	769
28	Mr. O'Brien to Mr. Root....	July 16	Revolution in Paraguay. Incloses report made as dean of diplomatic corps covering proceedings taken by the body in connection with revolution which broke out in Asuncion, July 2.	761

VENEZUELA.

	Mr. Root to Mr. Russell.....	1907. Feb. 28	Severing of diplomatic relations between the United States and Venezuela. Informs him of most careful reexamination of claims of Americans against Venezuela; discusses status of claims and instructs him to bring them again to attention of Venezuelan Government, and also to deliver copy of this instruction to minister for foreign affairs.	774
186	Mr. Russell to Mr. Root.....	Apr. 7	Same subject. Incloses copy of note to minister for foreign affairs presenting the five cases in which American citizens claim redress and copy of reply from minister for foreign affairs stating that he can not fail to take the favorable action in each case that American Government expects.	797
188	Same to same.....	Apr. 28	Same subject. Referring to instructions of Feb. 28, incloses copy of note from minister for foreign affairs transmitting memorandum discussing points raised by American Government in above instructions. Says Venezuelan Government is disposed to come to some amicable arrangement in regard to Critchfield case, and will consider proposition from United States and Venezuela Company for a new contract.	798
90	Mr. Root to Mr. Russell.....	June 21	Same subject. Acknowledges his No. 188 of Apr. 28; expresses regret at position assumed by Venezuelan Government, and instructs him to reiterate views expressed in instruction of Feb. 23. Outlines brief reply to be made to each point raised by memorandum of Venezuela.	800
	Mr. Russell to Mr. Root (telegram).	July 27	Same subject. Reports Venezuelan Government reiterates position stated in memorandum, and asks whether he shall present formal proposition for arbitration as per instructions in No. 90 of June 21.	805
218	Same to same.....	Aug. 4	Same subject. Refers to instruction No. 90 of June 21, and incloses copy of correspondence with foreign office in regard to the five cases.	805
	Mr. Bacon to Mr. Russell (telegram).	Aug. 6	Same subject. "Answering yours July 27, you will present formal proposal for arbitration, following instruction No. 90."	811
	Mr. Russell to Mr. Root (telegram).	Aug. 22	Same subject. Reports presentation of formal proposition for arbitration on June 13, and says Government of Venezuela adheres wholly to position as stated in memorandum of Apr. 23, and in note of July 24.	811
228	Same to same.....	Aug. 24	Same subject. Refers to his telegram of Aug. 22, and incloses copy of his note of Aug. 13 to minister for foreign affairs and copy of reply.	811
	Mr. Adee to Mr. Russell (telegram).	Sept. 14	Same subject. Quotes language to be embodied in a note to the minister for foreign affairs when the Venezuelan Government pays the first installment due United States on awards of mixed commission of 1903.	812
	Mr. Russell to Mr. Root (telegram).	Sept. 27	Same subject. Reports Venezuelan Government considers money received by him as paid on account of all the awards of mixed commission of 1903, including award to Orinoco Steamship Co., and that it does not consider there is any question pending in regard to award to said company.	813
236	Same to same.....	Sept. 28	Same subject. Refers to department's telegram of Sept. 14, and reports accepting 33,771.10 bolivars, first installment of money due on account of awards of mixed commission of 1903. Reports concerning strained situation and suggests that means of cable communication with Curacao be afforded him. Incloses correspondence with foreign office.	813
	Mr. Root to Mr. Russell (telegram).	Dec. 16	Same subject. Quotes language to be embodied in note to minister for foreign affairs acknowledging receipt of first payment on awards to American claimants.	817

VENEZUELA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
269	Mr. Russell to Mr. Root.....	1908. Jan. 4	Same subject. Refers to telegram of Dec. 19, 1907, and incloses copy of note of Dec. 30 to minister for foreign affairs and his reply of Jan. 3 in regard to the quotas collected and forwarded to Washington.	817
121	Mr. Root to Mr. Russell.....	Jan. 21	Same subject. Acknowledges his No. 269 of Jan 4 with inclosures, and instructs him in acknowledging receipt of all payments to say that American Government adheres to its position as set forth in his note of Dec. 30, 1907.	818
	Same to same (telegram)....	Feb. 18	Same subject. Instructs him to ascertain whether refusal of Venezuela to accept American proposal of arbitration is designed to apply to each and every one of the five claims, presented on Mar. 30 or which, if any, she is willing to arbitrate.	819
289	Mr. Russell to Mr. Root.....	Feb. 29	Same subject. Incloses copy of note to minister for foreign affairs of Feb. 22 and reply thereto of Feb. 29 repropoed arbitration of pending claims.	819
	Same to same (telegram).....	do....	Same subject. Reports minister for foreign affairs states Venezuela refrains from considering question of arbitration because it has received no refutation of arguments in notes of July 9 and Sept. 20.	820
	Mr. Root to Mr. Sleeper (telegram).	June 13	Same subject. Instructs him to advise Government of intention to close American legation and place interests, property, etc., in hands of Brazil, and also to apply for his passports and safe conduct, leaving legation clerk Brewer to watch over archives and property.	820
335	Mr. Sleeper to Mr. Root.....	June 22	Same subject. Acknowledges telegram of June 15 and incloses correspondence with minister for foreign affairs relative to discontinuance of diplomatic relations. Announces intended departure for United States June 24 or 25.	821
	Mr. Brewer to Mr. Root.....	Aug. 5	Same subject. Acknowledges inclosures sent through Brazilian ambassador at Washington and says that in view of suspension of his consular functions Brazilian chargé at Caracas will not hand over monthly payments on accounts of awards of mixed commission of 1903, nor furnish copies of communications with foreign office. Asks for specific instructions.	829

CORRESPONDENCE.

CIRCULARS.

EXPATRIATION AND PROTECTION OF AMERICANS IN CHINA.

File No. 1271.

DEPARTMENT OF STATE,
Washington, May 13, 1908.

*To the diplomatic and consular officers
of the United States in China.*

GENTLEMEN: Section 2 of the act of March 2, 1907, and paragraph 144 of the Diplomatic Instructions and Consular Regulations, as amended by the Executive order of April 6, 1907, relative to expatriation and the protection of Americans abroad, are applicable to American citizens who reside in China.

Therefore, a person of Chinese birth and race who, through former acquisition of Hawaiian citizenship during Hawaiian independence, became a naturalized citizen of the United States on the annexation of Hawaii, and who returns to China and there resides for a period of two years, will be presumed to have ceased to be an American citizen; and any other naturalized citizen not being of Chinese birth and race who resides in China for five years will likewise be presumed to have ceased to be an American citizen.

The presumption may be overcome in either case by his presenting to a diplomatic or consular officer of the United States proof establishing the following facts:

(a) That his residence in China is solely or principally as a representative of American trade and commerce and that he intends eventually to return to the United States to reside; or

(b) That some unforeseen and controlling exigency beyond his power to foresee has prevented his carrying out a bona fide intention of returning to the United States within the time limited by law and that it is his intention to return to reside permanently in the United States immediately upon the removal of the preventing cause; or

(c) That he is regularly employed in an enterprise having for its object the development or advancement of the people and in no wise inconsistent with American interests, and that he intends eventually to return to the United States to reside; or

(d) That he resides in China in the employ of the Chinese Government in a capacity not inconsistent with his American citizenship, and calculated to advance legitimate American interests, commercial or otherwise, and that he intends eventually to return to the United States to reside; or

(e) That he resides in China as the regularly appointed missionary of a recognized American church organization.

The evidence required to overcome the presumption of expatriation must be of the specific facts and circumstances which bring the alleged citizen under one of the foregoing heads, and mere assertions, even under oath, of any of the enumerated reasons existing will not be accepted as sufficient.

Whenever evidence shall be produced to overcome the presumption of expatriation as indicated in this instruction, the depositions and other proofs must be made in duplicate, one copy thereof being sent forthwith to this department, and if the proofs have been presented to a consul he shall notify the legation at Peking of the name of the person and of the facts concerning his residence abroad.

This instruction, in so far as it relates to the presumption of expatriation from residence in China, supersedes the corresponding parts of the department's circular instruction of April 19, 1907, entitled "Expatriation."

I am, etc.,

ELIHU ROOT

AMENDMENT TO RULE (A), TO OVERCOME THE PRESUMPTION OF EXPATRIATION.

File No. 1271.

DEPARTMENT OF STATE,
Washington, May 14, 1908.

To the American diplomatic and consular officers.

GENTLEMEN: You are hereby instructed that rule (a), relative to the facts to be established to overcome the presumption of expatriation, prescribed in the circular instruction of April 19, 1907, entitled "Expatriation," and the circular instruction of December 11, 1907, entitled "Expatriation and Protection of Americans in Turkish Dominions," is hereby amended so as to read:

(a) That his residence abroad is solely or principally as a representative of American trade and commerce and that he intends eventually to return to the United States to reside.

I am, etc.,

ELIHU ROOT.

THIRD PAN AMERICAN CONFERENCE CONVENTIONS.

File No. 249.

DEPARTMENT OF STATE,
Washington, May 15, 1908.

To the diplomatic officers of the United States to Mexico, Cuba, the Dominican Republic, and the Central and South American States.

GENTLEMEN: The conventions signed by the delegates accredited to the Third Pan American Conference at Rio de Janeiro, relating to (1) arbitration of pecuniary claims, (2) the status of naturalized citizens, and (3) codes of public and private international law, have been ratified by the United States, and, in accordance with the procedure which is observed in the cases of international acts signed in one original, the instruments of ratification by the United States

were deposited with the Government of Brazil in order that that Government might notify the other Governments through diplomatic channels. The department is advised that this has been done.

The American ambassador at Rio de Janeiro has informed the department, under date of March 28, 1908, that no other Government had deposited its ratification of any of these conventions with the Brazilian Government. It would appear, however, from information previously received from the ambassador, that the Government of Brazil had been notified of the ratification of the convention for the arbitration of pecuniary claims by Mexico, and of the convention looking to the establishment of an international commission of jurists for the purpose of preparing draft codes of private and public international law by Mexico, Colombia, the Dominican Republic, Brazil, Uruguay, Peru, Costa Rica, the Argentine Republic, and Guatemala.

The department is further informed by a note from the minister of Nicaragua at Washington, dated February 20, 1908, that all the conventions and resolutions signed at the Rio conference had been ratified by the Legislature of Nicaragua; but no information has been received by the department showing that the Brazilian Government has been notified to this effect.

The department thinks it probable that there are other countries which have ratified some or all of these three conventions, but have not, owing to lack of information as to the procedure to be followed, deposited their ratifications with, or given notice of their ratification to, the Brazilian Government. For this reason the department will be pleased to have you communicate the foregoing to the Government to which you are accredited, sending to it at the same time copies of the three conventions mentioned, which are inclosed herewith for the purpose, and inquiring whether it has ratified any or all of these conventions. If any of them has not been ratified by that Government, the department desires you to ascertain whether it is its intention to ratify and, if not, the reason why.

I am, etc.

ROBERT BACON,
Acting Secretary.

DEATH OF HONORABLE GROVER CLEVELAND.

File No. 14279.

DEPARTMENT OF STATE,
Washington, June 24, 1908.

To the diplomatic and consular officers of the United States.

GENTLEMEN: Your attention is invited to the President's proclamation of to-day's date announcing the death of ex-President Grover Cleveland, and directing proper expressions of honor to his memory.

You will cause the flags of your respective offices to be displayed at half-staff for a period of 30 days from the day of the receipt of this instruction or from the day on which you may have received advance information by telegraph.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

Announcing the death of Honorable Grover Cleveland.

BY THE PRESIDENT OF THE UNITED STATES.

A PROCLAMATION.

THE WHITE HOUSE, June 24, 1908.

To the people of the United States:

Grover Cleveland, President of the United States from 1885 to 1889 and again from 1893 to 1897, died at 8.40 o'clock this morning at his home in Princeton, New Jersey. In his death the Nation has been deprived of one of its greatest citizens. By profession a lawyer, his chief services to his country were rendered during his long, varied, and honorable career in public life. As mayor of his city, as governor of his State, and twice as President, he showed signal power as an administrator, coupled with entire devotion to the country's good and the courage that quailed before no hostility when once he was convinced where his duty lay. Since his retirement from the Presidency he has continued well and faithfully to serve his countrymen by the simplicity, dignity, and uprightness of his private life.

In testimony of the respect in which his memory is held by the Government and people of the United States, I do hereby direct that the flags on the White House and the several departmental buildings be displayed at half-staff for a period of thirty days; and that suitable military and naval honors, under the orders of the Secretaries of War and of the Navy, be rendered on the day of the funeral.

Done this twenty-fourth day of June in the year of our Lord one thousand nine hundred and eight and of the independence of the United States of America the one hundred and thirty-second.

[SEAL.]

THEODORE ROOSEVELT.

By the President:

ALVEY A. ADEE,

*Acting Secretary of State.***ALASKA-YUKON-PACIFIC EXPOSITION.**

File No. 1636.

DEPARTMENT OF STATE,
*Washington, September 16, 1908.**To the diplomatic officers of the United States.*

GENTLEMEN: I transmit herewith an invitation extended to the Government and people of the country of your residence by the management of the Alaska-Yukon-Pacific Exposition, to be held at the city of Seattle, in the State of Washington, from June 1 to October 16, 1909, to take part therein and to be represented by "official commissioners and an adequate display of the arts, sciences, and industries and a State building."

I also transmit a folder¹ giving the plan and scope of the exposition and an official classification of exhibits,¹ which have been furnished by the management to accompany the invitation.

In transmitting the invitation to the Government to which it is addressed, you will make it clear that the invitation comes from the management of the exposition and not from the Government of the United States, which would, however, be glad to learn that the expo-

¹ Not printed.

sition is considered of such importance by the invited Government as to warrant its acceptance of the invitation. And you may add that while the exposition will not be under the auspices or control of the Government of the United States, the Congress of the United States has made liberal provision for the participation of the Government in the exposition and has provided for the admission, free of the payment of duties, customs fees, or charges, of all articles that shall be imported from foreign countries for the sole purpose of exhibition at the exposition.

The provisions of the sundry civil appropriation act approved May 27, 1908, relating to the Alaska-Yukon-Pacific Exposition are herewith inclosed for the further information of the invited Government.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

ARGENTINE REPUBLIC.

JURISDICTION OVER ESTATES OF AMERICAN CITIZENS DYING IN THE ARGENTINE REPUBLIC.

File No. 4033/3.

The Secretary of State to Minister Wilson.

No. 154.]

DEPARTMENT OF STATE,
Washington, January 21, 1908.

SIR: It appears from the correspondence with the consulate general at Buenos Aires, of which I inclose copies, that the moneys in an Argentine bank belonging to the estate of the late Frank Bates, who was an American citizen, have been unclaimed for more than one year, and under Argentine laws would now escheat to the Republic.

You are requested to bring this case to the attention of the Argentine Government with the object of obtaining possession of the estate under the provisions of article 9 of our treaty with the Argentine Republic; and if this can not be done, you will request such an exercise of the central power of the Argentine Government as will effect a delay in any proceedings now pending looking toward the forfeiture of the estate, in order that you may communicate with your Government. Meanwhile, in order that the department may be fully and accurately advised concerning the exact situation as to such estates in the Argentine Republic, you will send an early and full report to the department regarding the usual procedure in the administration of the estates of persons dying intestate in that country, covering in such report the general practice regarding the estates of deceased Argentine nationals, and giving fully the procedure concerning the estates of deceased foreigners, both of American and other nationalities. You will report particularly concerning the procedure in the Bates case.

I am, etc.,

E. Root.

[Inclosure 1.]

Consul General Snyder to the Assistant Secretary of State.

No. 36.]

AMERICAN CONSULATE GENERAL,
Buenos Aires, April 23, 1907.

SIR: Having reference to my No. 16 of December 13, 1906,¹ reporting the death of Frank Bates, American citizen, I have the honor to inform you that according to advice received from officials in Mendoza, said Frank Bates left no papers to indicate in any way the address of his relatives in the United States, but I understand that he had only been in this country a short time.

¹Not printed.

The attorney of this office informs me that, according to the Argentine law, unless the heirs of an American citizen who dies here present their claims within a year from his decease all moneys left by him go to the State. Rights and Duties of Consuls (Moore), top of page 120, treats of this question and I respectfully refer you to same. I understand that the law above referred to is still in full force in all that applies to the estates of foreigners dying in this country.

I have, etc.

ALBAN G. SNYDER.

[Inclosure 2.]

The Secretary of State to Consul General Snyder.

No. 47.]

DEPARTMENT OF STATE,
Washington, July 30, 1907.

SIR: I have to acknowledge the receipt of your No. 36 of the 23d ultimo relative to the settlement of the estate of the late Frank Bates, who died at Mendoza in November last.

You state that under the laws of the Argentine Republic unless the heir or legal representative of an American citizen dying in that country presents a claim for the estate within a year from the date of death, such estate escheats to the Argentine Government. Under the treaty of 1853 you have the right to intervene in the possession, administration, and judicial liquidation of the estates of American citizens dying within your district for the benefit of the creditors and legal heirs, but only in conformity with the laws of the country. It would appear, therefore, that in the event of the heirs of the late Frank Bates not having presented a claim for the estate at or about the expiration of the statutory year, the matter should then be reported to the department in order that it may suitably instruct our minister to bring the matter to the attention of the Argentine Government.

I am, etc.,

W. J. CARR.
(For the Secretary of State.)

[Inclosure 3.]

Consul General Snyder to the Assistant Secretary of State.

No. 63.]

AMERICAN CONSULATE GENERAL,
Buenos Aires, November 14, 1907.

SIR: Having reference to the department's No. 47 of July 30, 1907, relative to the settlement of the estate of the late Frank Bates, who died at Mendoza in November last, I have the honor to inform you that a year has now elapsed since the death of the said Frank Bates, and no heirs have presented a claim for the estate.

As stated in my previous dispatch, the laws of the Argentine Republic state that unless the heirs or legal representative of an American citizen dying in this country presents a claim for the estate within a year, the estate escheats to the Argentine Government, and should some attempt be made to settle the estate now the probabilities are that the law will be enforced.

In accordance with your instructions I report the matter in order that suitable action may be taken.

I have, etc.,

ALBAN G. SNYDER.

File No. 4033/4-6

Minister Beaupré to the Secretary of State.

No. 723.]

AMERICAN LEGATION,
Buenos Aires, April 7, 1908.

SIR: Referring to the department's instruction No. 154, dated January 21, 1908, in regard to the estate of the late Frank Bates, an American citizen, who died in Mendoza in 1906, I have the honor to

inclose herewith a copy of a note, together with translation of same, received from the minister of foreign affairs in reply to one which I addressed to that ministry on the subject.

In his note the minister states that private property can not in any way be confiscated by the State, and refers to article 17 of the Argentine Constitution, which reads as follows, to support this statement:

Private property is inviolable, and no inhabitant of the nation shall be deprived of what belongs to him, unless by judicial decision, founded on law. Condemnation for public use shall be regulated by law, and the payment of the indemnification shall be made previously. Congress alone shall have the power to impose the taxes referred to in Article IV. No personal service shall be required of anyone, except when provided by law or by judicial sentence, founded on law. Authors or inventors are the exclusive owners of their works, inventions, or discoveries, for the length of time established by law.

The penalty of confiscation of property shall be forever forbidden in the Argentine criminal code. No armed body can make requisition or demand assistance of any kind.

The minister further states that if Bates died without heirs, and that if no claim to the estate has been made by interested parties, that the treaty of friendship, navigation, and commerce between the United States and the Argentine Republic provides for such cases in its Article IX, and he indicates the steps to be taken by the consul general before the proper authorities, in order that, in conformity with Argentine law, he may intervene in the possession, administration, and judicial liquidation of the estate of the deceased for the benefit of the creditors and legal heirs.

In regard to the department's further inquiries as to the usual procedure in the administration of the estates of persons dying intestate in this country, whether Argentine or foreigners, both of American and other nationalities, a lawyer, who was consulted in the matter by the legation, states that if a foreigner dies in the Argentine without heirs, the consul has the right to take personal charge of all papers and documents, and to take preliminary measures to protect the estate. He should also address the judge, requesting that the heirs be notified, and if he sees fit, an executor named. The judge thereupon orders the proceedings to be published in the official papers during 30 days, directing the heirs and creditors to appear. If, at the end of this period, no heirs or creditors present themselves, the judge declares the estate unclaimed, and the same to be turned over to the national council of education, if the death has occurred in the capital, and to the provincial government, if it has occurred in the provinces. It should be added that the 30 days mentioned above is merely a nominal period, and is for the preliminary proceedings in the settlement of the estate. In fact the period is rather indefinite, and frequently the judge is not able to declare the estate unclaimed for some years owing to developments in the preliminary proceedings. Should the estate pass into the hands of the national council of education, or the provincial government, as explained above, both of these bodies are obliged to return the said estate, in the same condition as received, should any legitimate heirs present themselves within 30 years to claim the same. After this period of 30 years the estate escheats to the State.

The above rule applies to all foreigners as well as Argentines dying intestate in the country.

In regard to the Bates estate it would seem that a reasonable construction of Article IX of the treaty of friendship, navigation, and commerce referred to above, and of the note of the minister of foreign affairs, gives the consul general the right to apply to the local authorities for the possession of the estate.

The minister for foreign affairs uses the word "confiscation" in his note, and some of his deductions are based upon the proper definition of that word, and therefore irrelevant; whereas, in my note to him (copy of which is inclosed herewith), I used the words "escheat" and "forfeit," having an entirely different significance.

I am, etc.,

A. M. BEAUPRÉ.

[Inclosure 1.]

Minister Beaupré to the Minister for Foreign Affairs.

AMERICAN LEGATION,
Buenos Aires, March 20, 1908.

MR. MINISTER: Acting under instructions from my Government, I have the honor to bring to the attention of your excellency's Government a matter in regard to the settlement of the estate of one Frank Bates, an American citizen.

The above-mentioned Bates died in Mendoza on November 8, 1906, leaving certain moneys in the London and River Plate Bank of that city, which moneys, it appears, having been unclaimed for more than one year would now, according to Argentine law, escheat, at least provisionally, to the Republic.

I am directed to bring this case to the attention of your excellency's Government, with the object of obtaining possession of this estate through our consul general in Buenos Aires, under the provisions of article 9 of the treaty of friendship, navigation and commerce between the Argentine Republic and the United States; and if this can not be done to request such an exercise of the central power of the Argentine Government as will effect a delay in any proceedings now pending looking toward the forfeiture of this estate, in order that I may communicate with my Government.

I avail myself of this occasion to renew, etc.,

A. M. BEAUPRÉ.

[Inclosure 2—Translation.]

The Minister for Foreign Affairs to Minister Beaupré.

ARGENTINE REPUBLIC,
MINISTRY OF FOREIGN AFFAIRS,
Buenos Aires, April 4, 1908.

MR. MINISTER: I have had the honor to receive duly your excellency's note of March 20 last, in which my attention is called to the settlement of the estate of one Frank Bates, an American citizen, who died in Mendoza in 1906.

In the above-mentioned note, your excellency, referring to article 9 of the treaty of friendship, navigation, and commerce between this Republic and the United States, requests that the consul general of the latter country in Buenos Aires may be given possession of the property left by Bates, or that the Argentine Government take measures to delay the proceeding in regard to the settlement of the estate, on the supposition, as your excellency's note states, that the property will be confiscated by the Argentine Government in conformity with its laws.

Regarding this last statement, and in order to dissipate any doubt or uneasiness which your excellency may have in regard to the case referred to in your note, I beg to state that there is no Argentine law—nor can be any law—which authorizes or gives ground for belief that private property is subject to confiscation in any case whatsoever—even provisional—in favor of the State, as the law concerning property established by the Constitution of the Republic in its article 17 is sufficient guarantee.

If, as your excellency states, the American citizen Bates died in the Province of Mendoza without heirs, and without any claim having been made by interested parties, the same article of the treaty cited by your excellency, and which provides for the case, marks the proceeding which ought to be pursued by the consul in question before the proper authorities, in order that, in conformity with Argentine law, he may intervene in the possession, administration, and judicial settlement of the property of the deceased for the benefit of the creditors and legal heirs.

Having shown what is the attitude to take in the case referred to in your note, it only remains to avail myself of the opportunity to renew to your excellency the assurances of my highest consideration.

E. S. ZABELLOS.

EMPLOYMENT OF PRIVATE DETECTIVES IN LOCATING FUGITIVES FROM JUSTICE IN EXTRADITION PROCEEDINGS.

File No. 8682.

The Argentine Chargé to the Secretary of State.

[Translation.]

THE ARGENTINE LEGATION,
Washington, September 28, 1907.

MR. SECRETARY OF STATE: I have the honor to apply to your excellency with a request that you be pleased to ask of the police authorities of the United States that they ascertain the whereabouts of Oreste Rosen, charged with fraudulent bankruptcy for a large amount in the city of Buenos Aires. I transmit to your excellency a description of the fugitive to serve the purpose.

I avail myself, etc.,

JULIAN E. PORTELA.

File No. 8682.

The Acting Secretary of State to the Argentine Chargé.

No. 44.]

DEPARTMENT OF STATE,
Washington, October 15, 1907.

SIR: I have the honor to acknowledge the receipt of your note of the 28th ultimo, inquiring concerning the whereabouts of Oreste Rosen, charged with fraudulent bankruptcy in the Argentine Republic.

In reply I have the honor to say that the search for and location in the United States of offenders against the laws of other countries is generally accomplished through the agency of private detectives, with such assistance as the local police can from time to time give in the ordinary course of their duties, which have to do with crimes and offenses committed in the United States.

It may be stated, however, that inasmuch as fraudulent bankruptcy is not an extraditable crime under the treaty of extradition in force between the United States and the Argentine Republic, the fugitive could not be lawfully held for extradition. If a knowledge of the whereabouts of the fugitive is desired for the purpose of obtaining a recovery of the property, this should be done through private channels.

Accept, etc.,

ROBERT BACON.

File No. 8682/3.

Chargé Wilson to the Secretary of State.

No. 666.]

AMERICAN LEGATION,
Buenos Aires, January 10, 1908.

SIR: I have the honor to report that the minister for foreign affairs sent me yesterday an extract from a note which the Argentine legation at Washington had received from the Department of State, and asked me to be kind enough to request some further information in the matter.

The facts of the case are, I understand, as follows:

The Argentine legation at Washington requested the provisional arrest and detention of a criminal pending extradition, to which the following reply was received from the department:

In reply I have the honor to say that the search for and location in the United States of offenders against the laws of other countries is generally accomplished through the agency of private detectives, with such assistance as the local police can from time to time give in the ordinary course of their duties, which have to do with crimes and offenses in the United States.

This, the minister claims, is not the practice in Argentine nor in other countries with which the Argentine Republic has extradition treaties, and he considers that the Government on whom the demand for the arrest of an offender is made by another Government is bound to employ the police of the country in apprehending such offender, and that it is not proper that the country making such demand should be obliged to employ private detectives or police.

The minister, stated, however, that if his Government should be forced to employ private means in locating Argentine criminals in the United States, that naturally the Argentine Republic would feel obliged to request the United States to use the same sort of means of locating American offenders, which would certainly in this country have the same effect of making the apprehension of criminals much more expensive and more difficult.

I am, etc.,

CHARLES S. WILSON.

File No. 8682/3.

The Acting Secretary of State to Chargé Wilson.

No. 164.]

DEPARTMENT OF STATE,
Washington, February 29, 1908.

SIR: I have the honor to acknowledge the receipt of your No. 666 of the 10th ultimo, wherein you report the receipt by you of a note from the foreign office relative to the means to be employed to locate criminals in the United States whose extradition is desired by the Argentine Government.

In reply I have to say that the extract quoted in your despatch forms a portion of a note from this department to Mr. Portela, chargé d'affaires ad interim of the Argentine Republic at Washington, dated October 15 last, in reply to a note from him in which he requested that "the police authorities of the United States * * * ascertain the whereabouts of Oreste Rosen, charged with fraudulent bankruptcy for a large amount in the city of Buenos Aires." The note

was accompanied by a description of the person wanted, but there was no information in the note or its inclosure concerning the place to which the fugitive had probably fled; and, indeed, nothing to show that he had fled to this country at all. Moreover, the department at that time informed Mr. Portela that fraudulent bankruptcy was not among the crimes enumerated in the treaty of extradition between the United States and the Argentine Republic, so that the fugitive could not be extradited for this offense even if his whereabouts had become known. It was manifestly impracticable, therefore, under these circumstances, to have brought to the attention of the police authorities of the United States the facts set forth by Mr. Portela.

Concerning the location and arrest by this Government of criminals fugitive from other States, and within its jurisdiction, it should be said that in cases where a crime for which extradition can be obtained has been committed, and the approximate location of the fugitive is furnished, the local police authorities are usually pleased, upon appropriate request, to cooperate and render whatever assistance they can to secure the apprehension of the fugitive, and, so far as the department is aware, this voluntary action of the local officials is generally sufficient to accomplish the object desired.

Therefore, if in cases of extradition from the United States to the Argentine Republic, under our treaty of extradition with that country, information be furnished either to this department or to the local authorities concerning the criminal's supposed place of refuge, it is probable that these authorities will fully extend all the assistance that is necessary to effect the arrest of the persons desired.

In view of the foregoing the department is inclined to feel that the difficulties suggested by the Argentine Government are more apparent than real.

I am, etc.,

ROBERT BACON.

File No. 8682/4.

The Argentine Minister to the Secretary of State.

[Translation.]

THE ARGENTINE LEGATION,
Washington, March 28, 1908.

MR. SECRETARY OF STATE: Under date of August 28, I had the honor to address to your excellency a note by which I asked that you be so good as to direct certain action to be taken by the police with the view of ascertaining the whereabouts of Oreste Rosen indicted by the Argentine justice for fraudulent bankruptcy and supposed to have taken refuge in this country. Your excellency deigned to say in reply to that request, on October 15, that the offense with which Rosen was charged not being among those specified in the extradition treaty in force between the United States and the Argentine Republic, private detective agencies should be applied to to obtain this kind of information.

This reply from your excellency's Government was in due course transmitted by me to my Government which instructs me to express the surprise it has caused, inasmuch as the Argentine authorities have always entertained and acted on similar requests of the legation

of the United States at Buenos Aires, on the assumption that they would stand on reciprocity in full accord with international usage.

Having thus complied with my Government's instructions, I have pleasure in renewing, etc.,

EPIFANIO PORTELA.

File No. 8682/4.

The Acting Secretary of State to the Argentine Minister.

No. 57]

DEPARTMENT OF STATE,
Washington, April 21, 1908.

SIR: I have the honor to acknowledge the receipt of your note of the 28th ultimo replying the department's note of October 15, 1907, by which you were advised that Oreste Rosen, who is charged with fraudulent bankruptcy in the Argentine Republic, could not be lawfully held for extradition in case he should be apprehended in the United States, as his offense is not an extraditable one under the treaty of extradition in force between the United States and the Argentine Republic.

Your statement is noted, that your Government instructs you to express its surprise at the department's statement that private detectives should be employed to discover the whereabouts of lawbreakers in cases of this kind, and that the Argentine authorities, having always acted favorably on similar requests of the American legation at Buenos Aires, had expected reciprocal action, in accordance with international usage.

In reply I have the honor to say that on February 29 this department forwarded to the American legation at Buenos Aires, for transmission to your Government, a discussion and explanation of the matters referred to in your note. The substance of that dispatch is inclosed herewith. It would appear that this dispatch crossed the dispatch from your own Government in transit.

The department greatly regrets that it is not able under the system of jurisprudence in the United States to afford the Argentine Republic the reciprocal assistance in matters of apprehension of fugitives from justice which that Government so courteously extends to the United States; but it is believed that the method outlined in the department's dispatch mentioned above, as to the manner in which foreign governments, attempting to locate criminals fugitive in this country, can secure the assistance in such work of local American officials, will prove effective and satisfactory.

Accept, etc.,

ROBERT BACON.

MESSAGE OF THE PRESIDENT OF THE ARGENTINE REPUBLIC TO THE ARGENTINE CONGRESS.

File No. 4519/29-31.

Chargé Wilson to the Secretary of State.

No. 743.]

AMERICAN LEGATION,
Buenos Aires, May 12, 1908.

SIR: I have the honor to report that on the 11th instant the Forty-seventh National Congress was opened by the President of the Republic with the usual ceremonies.

To the joint assembly of both Houses of Congress, and in the presence of the Argentine ministers, the diplomatic corps, and other high officials the President personally read his message.

The President's message, copies of which are inclosed herewith, as well as a synopsis in English, is a lengthy document of 105 pages. It begins by a defense of his decree of January 25 (for closing Congress and keeping in force the budget of 1907, and of his intervention in the Provinces of Corrientes and Santiago del Estero).

As regards the decree the President describes it as a measure of an administrative character made necessary in order to provide for the public expenditure, but not an invasion of "the sphere of legal action of the legislative power." He asserts also that the unavoidable consequences and ulterior proceedings of the decree were determined by serious circumstances and elevated and honorable motives absolutely foreign to the inconceivable design of violating parliamentary privileges.

The part of the message dealing with the department of the interior states that the relations between the nation and the Provinces "have continued in the most frank harmony and solidarity," and then goes on to speak of the revolutions which have occurred in the Provinces of San Luis, Corrientes, and Santiago del Estero, and makes a defense for national intervention which was decreed in the first of those two Provinces.

The labor question is referred to at some length as being one of the most important matters of the present day, and legislation is urged in various directions.

The police and sanitary conditions of the country are referred to as satisfactory, as is also the increased use of the postal and telegraph services during 1907.

Speaking of foreign relations the message says:

We strive to cultivate the most friendly relations with all States and constantly are receiving from them marks of good will and esteem. Holland has raised its representative with us to its highest rank, and several Governments of Europe and Asia have made changes among the diplomats accredited to this Republic, and as the newcomers are highly distinguished men, our cordial relations with these countries are of the best.

Reference is made to the fact that Buenos Aires has been chosen as the place for the meeting of the fourth Pan American Conference and it is stated that—

It was due to the United States Government, acting on behalf of the other States, that our city was finally designated for the honor. For this the Argentine minister in Washington was directed to express his thanks to the American Government.

The President then refers to a treaty with the United States relating to the naturalization of citizens of the two countries and the civil and political status of these which is under discussion, having been agreed to in the main.

Special reference is then made to relations with the various South American countries whose boundaries touch those of the Republic.

With Brazil efforts are being made to improve commercial relations, and both Governments are agreed that mutual allowances and sacrifices must be made in order to come to an understanding.

Treaties of various kinds with Chile are under consideration, and the relations between the two countries are probably more cordial than ever before.

With Paraguay also relations are most friendly.

In regard to Uruguay the message states that notwithstanding the fishing limit industry affairs and the *Constitución* incident, the relations between the two Governments are very cordial.

The President states with satisfaction the fact that notwithstanding the number of foreign residents in the country there is not a single instance pending in which diplomatic intervention has been considered necessary.

Financially the present condition of the country is highly satisfactory, and it is this section of the message which will be read with the greatest interest abroad. With a revenue that totals \$25,500,000 over and above its estimated return, and that revenue 6 per cent better than the figures for the preceding year, the situation is certainly most encouraging. Moreover, on striking the balance of ordinary and extraordinary funds available for service, there remains a surplus of \$7,500,000 paper which will be used in amortizing outstanding debts. Attention is called to the high standard of credit which Argentine enjoys abroad, and reference is made to the importance of maintaining such a standard at all costs. The President lets it be distinctly understood that no project having for its aim the disturbance of existing currency legislation will receive his support.

Touching the administration of justice, the message foreshadows a possibility of reform in certain directions, such as better prisons and better paid judges in order to raise the standard of the judiciary of the country.

In regard to education the President recognizes that there is great chance for improvement, especially in primary education.

Little is said in regard to the department of war, but the condition of the army is stated to be satisfactory. Certain improvements have been made in the artillery and new barracks are being constructed.

The minister of marine announces that the Government will abandon the bill presented to Congress at its last session relating to the purchase of the battleships and will present another authorizing the acquisition of "destroyers" and other "indispensable elements" for the squadron, even if only to fulfill the reduced functions it might have to perform with respect to other naval forces of South America, until modern warships are incorporated in our Navy.

The message refers to agriculture as the chief source of wealth of the country and gives various very satisfactory statistics for the year 1907.

In the section dealing with public works especial attention is called to the need of deepening the port of Buenos Aires, the continuation of irrigation works, and the completion of certain railway lines. At the same time it is declared that financial caution must not be neglected. Recourse to borrowed capital is condemned while there is a possibility of completing such works as may be of the first necessity out of the national resources.

I am, etc.,

CHARLES S. WILSON.

[Inclosure—Extract.]

We strive to cultivate the most friendly relations with all States, and constantly are receiving from these marks of good will and esteem.

Holland has raised its representative with us to highest rank, and several Governments of Europe and Asia have made changes amongst the diplomats accredited to this Republic, and as the newcomers are highly distinguished men, our cordial relations with these countries are of the best.

The Sovereigns of Germany, Spain, and Portugal, the Presidents of the United States and France have shown marked attentions to our training ship *Presidente Sarmiento*, whose officers have fully acknowledged the honors. The hearty welcome accorded our flag in those foreign waters we take as another mark of cordiality on the part of the nations mentioned. The diplomatic representatives of the various American States, assembled in the city of Washington resolved forthwith to designate the city where the fourth Pan American conference should meet. The representatives of the American States voted that the Congress should be held in Buenos Aires. It was due to the United States Government, acting on behalf of the other States, that our city was finally designated for the honor. Your Government duly requested its minister in the States to thank that Government, and following this our minister gave a banquet in honor of the American Secretary of State, the representatives of the various American powers, and other high Government officials.

The United States have named a commission of nine representative gentlemen, who, with an Argentine commission, also composed of nine members, will undertake the preliminary preparations for the conference which is to inaugurate its meetings in our city on the 25th of May, 1910. I have already designated those who will compose our commission, and in which Congress is represented by distinguished members of both chambers. A treaty with the States relating to the naturalization of citizens of the two countries and the civil and political status of these is under discussion, having been agreed to in the main. In due course the terms of the treaty will be placed before you for consideration.

Our relations with American States have claimed my preferential attention, particularly those most in touch with the Argentine Republic. With pleasure I inform you that these relations have been drawn closer during the past year, and I have met with every good wish from the several countries calculated to strengthen the bonds of friendship.

We are complying with the terms of the treaty made with Bolivia last year, and a railway is in construction which will join our northernmost town with Bolivian railways, thus greatly benefiting commercial intercourse between the two countries.

You will be asked in the coming session to vote the necessary funds for continuing these railway works, and the sums voted will be expended gradually. As our Northern Railway has now reached the frontier it is time to put the postal convention into practice, for it is obvious that Bolivian commerce already prefers the Rosario-Quiaca route for its dealings with the exterior.

The Argentine minister appointed to the Brazilian Republic in 1907 has been deferentially received by that Government and is engaged in improving the existing commercial relations. Both Governments are agreed that each country must make certain mutual allowances and sacrifices.

A contract has been signed at Rio de Janeiro ad referendum for the acquisition of a palace in the Beiramar Avenue in that city, and which was at one time the property of Baron de Cotegipe. In due course I shall present a message and the project of law authorizing the purchase thus providing our representative there with a residence in keeping with the importance of that State. This will mean transferring the legation from Petropolis to the center of the Brazilian capital, where our minister will be in closer touch with that Government and the rest of the diplomatic corps.

Treaties of various kinds are under study with our neighbor, Chile. Each country has named a special commission to study the other's commerce and industries.

The people of both Republics have noted those rapprochements with visible pleasure, and our relations with Chile are perhaps stronger to-day than they ever have been before.

From Paraguay also we are constantly receiving attentions which amply testify to that country's professed friendliness toward our State. A special commission, composed of high dignitaries of the Republic, will shortly visit us

to partake in our May festivities. An Argentine commission waited on their Government with a similar mission in 1907.

Various treaties have been entered into with Paraguay, dealing chiefly with commercial interchange. Both countries are jointly taking measures for dredging the River Paraguay, rendering it navigable for large craft. We have authorized the Paraguayan Government to construct a deposit in our docks for timber proceeding from their country and destined for European markets.

An arrangement has been arrived at for the exportation of cattle from Paraguay to the Chaco and Corrientes.

Last year Uruguay sent a distinguished commission of civil and military dignitaries to partake in our 9th of July celebration. The members composing same were accorded a hearty welcome by your Government and the people.

Notwithstanding the fishing-limit industry affair and the *Constitucion* incident, the relations between both Governments are very cordial.

A conference to discuss private international law will meet in this city on the 8th of July, 1909. Your Government conceived the idea of such a conference, and European powers have signified their intention of sending representatives.

The chief preoccupation of my Government has been to maintain and enlarge existing markets and open others. We have been making every effort possible toward obtaining concessions in the European States.

All countries realize to-day the benefit to be derived from mutual concessions, which tend to maintain industrial and commercial prosperity. With this idea in view, I have reorganized our consular service, and no doubt we shall soon reap the benefit.

I have the pleasure and satisfaction of stating that, notwithstanding the number of foreigners resident with us, there is no single instance pending in which diplomatic intervention has been considered necessary.

Frequently this Republic is invited to attend conferences and congresses to consider matters of universal interest, and all these occasions are propitious for showing our progress and furthering our interests.

The Argentine Church continues to develop and extend its mission. We render all aid possible, and the relations with the church are of the best. The La Plata diocese has been endowed with an edifice appropriate to its requirements. I have fostered the establishment of seminaries in the capital and provinces. Thus the church will become thoroughly Argentine. The allowance to the church requires increasing, in view of the increased cost of living. It is only fitting that they should be amply provided for, in view of the importance of their elevated mission. Finally, the Sociedad de Beneficencia continues in its noble but ever-increasing labors. Funds do not, however, come in in proportion to the needs of the society, and I would suggest that more help be rendered in this quarter.

AUSTRIA-HUNGARY.

EXPULSION OF SELIG FINK FROM AUSTRIA.

File No. 4062/6.

The Secretary of State to Ambassador Francis.

No. 78.]

DEPARTMENT OF STATE,
Washington, January 31, 1907.

SIR: I inclose copies of correspondence¹ with Harold E. Parsons, Esq., Cleveland, Ohio, relative to the case of the expulsion from Austria of Mr. Selig Fink.

In view of the fact that Mr. Fink is a duly naturalized citizen of the United States and was provided with a passport, dated July 6, 1905, and at the time of his emigration owed the Austrian Government no military service, and that he left that country, as far as appears, in good standing, you are instructed to exercise further good offices in order that the decree of expulsion may be extended until May of the present year, or until Mr. Fink may have the opportunity to attend to his legitimate business in Austria.

I am, etc.,

E. ROOT.

File No. 4062/7-9.

Chargé Rives to the Secretary of State.

No. 181.]

AMERICAN EMBASSY,
Vienna, February 23, 1907.

SIR: I have the honor to acknowledge the receipt of your dispatch No. 78 of January 31, 1907, relative to the expulsion from Austria of Mr. Selig Fink, a naturalized citizen of the United States.

At the time Mr. Fink received his order of expulsion in July last, he requested this embassy to intervene in his behalf and I called at the foreign office where I had an interview of considerable length with Mr. de Mérey, at that time acting minister for foreign affairs, on the subject.

Since receiving your dispatch I have again called at the foreign office and inquired what their view was in regard to the case of Mr. Fink, and whether the Austro-Hungarian foreign office would adhere to its former refusal in the case, either to extend the period of the decree of expulsion or recall it altogether.

¹ Not printed.

I was received at the foreign office by Mr. de Mérey, at present the first chief of section (assistant secretary of state) who said that in the case of Mr. Fink, there was no use whatever in this embassy's addressing a formal note to the Austro-Hungarian foreign office requesting that Mr. Fink's decree of expulsion be extended until May, 1907. Mr. Fink had, according to the terms of his decree of expulsion (a copy of which is herewith inclosed), resided in Grybów, Galicia, since August 8, 1905, and as he had remained some three weeks in the country after the date set for his expulsion, the Austro-Hungarian foreign office could not interfere with, or reverse the decision of the local authorities.

Mr. de Mérey said all the European Governments reserved the right to expel any foreigner they deemed objectionable, and Mr. Fink could not be allowed to return to his former home, if his presence there was deemed undesirable by the local authorities, no matter what the pretext was.

In this case the Austro-Hungarian Government considered the public interests required the banishment of Mr. Selig Fink, as his actions were derogatory to the executive power of the country. Mr. Fink was merely making use of his American citizenship in Austria as a loophole to avoid military service; he had failed, while living in Austria to report for military examination and had emigrated to the United States without permission of the proper authorities.

For these reasons Mr. Fink's decree of banishment could not be recalled, and his presence was additionally undesirable on account of his conduct.

I beg to quote part of a note received from the foreign office to show the standpoint taken by the Imperial and Royal Government in a similar case:

The opinion that the order of expulsion is a punishment not permitted by the treaty of 1871 can not be considered correct when viewed from the standpoint of Austrian law.

The order of expulsion is in no way to be regarded as a punishment placed * * * because he has not fulfilled his military obligations here in this country, and equally little has the expulsion in question any direct connection with the fact that he * * * acquired citizenship in the United States.

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

Such an act is not only a provocation of discontent in all those who fulfill their obligations to the State, but it acts as a bad example, and were such proceedings unchecked or of frequent occurrence, would work positive harm to the defensive power of the State. According to the standpoint here indicated—which alone has been productive of the order of the expulsion of * * *—the action of the imperial royal officials can only be regarded as an act of precaution which the common considerations of State demand for the paralyzing of the damaging influence of such occurrences and are in no wise to be connected with the obligations stipulated for the contracting parties in the treaty of 1870.

I beg to request the department's instructions if any further action shall be taken by this embassy in the case.

I have, etc.,

GEORGE BARCLAY RIVES.

File No. 4062/7-9.

The Acting Secretary of State to Ambassador Francis.

No. 98.]

DEPARTMENT OF STATE,
Washington, April 13, 1907.

SIR: I have to acknowledge the receipt of your No. 181 of the 23d of February last, in further relation to the expulsion from Austria of Mr. Selig Fink, a naturalized citizen of the United States, of Austrian origin.

The reasons in support of the policy of expulsion as given by Mr. de Mérey and continued in the note of the Austrian foreign office "in a similar case" from which you quote, have long been known to this department and have from time to time been made the subject of earnest remonstrances which, in meritorious cases, have been successful. The department will again endeavor to make clear a distinction which it has several times heretofore drawn in considering this class of cases in order that the subject may again be presented to the Austrian Government for its consideration.

The attitude of the Austrian Government in these cases is understood to be somewhat as follows: If an Austrian subject emigrates to the United States before any liability accrues for the performance of military service, becomes naturalized here and returns to the country of his birth, his case not coming within the exceptions of our naturalization treaty, is covered by it and the Austrian Government will no longer claim him as its subject; but the treaty does not deprive that Government of the rights which are inherent in every nation to adopt such measures as it may see fit for its own protection and preservation, among these rights being the power to expel any foreigner whose presence may be undesirable with regard to public order or safety and who may perhaps become a menace to the Government.

In the matter of these naturalization cases which so frequently arise, the complaint of the Austrian Government is that their subjects emigrate to America only a short time before they reach the age of military service, acquire American citizenship, and then return to their native country where very often they intend permanently to reside. Not only do they in this manner successfully evade the laws of the country of their birth, but this is often accompanied with as widespread a personal advertisement of the fact as the individual has at his command, and its effect may no doubt become serious upon the community in which he resides by creating discontent and dissatisfaction in the minds of those of his townspeople who can not invoke the protection of the treaty as an immunity. As one American minister has aptly said: "Many of these returned pseudo-Americans are loud in their defiance of the military power and openly and shamelessly boast of their smartness in being able to enjoy all the privileges of a government without being obliged to share its burdens of responsibilities."

Up to this point in the argument there should be no serious difference between the two Governments in the treatment of these cases. The United States has no more interest to protect a naturalized citizen who has perpetrated a fraud upon it by using its naturalization

laws for illegitimate purposes than the Austrian Government has in removing the same individual from its realms as an undesirable person. But the point of divergence begins here, for the Austrian Government by its legislation seeks to treat in the same manner all of its former subjects who have become naturalized in the United States and elsewhere, without making any distinction between those who return to Austria bona fide for the sake of a temporary, perhaps indispensable, visit, with the intention to return to their adopted country when their business is completed, and those who expect to remain there permanently, practically in fraud of both Governments. If all naturalized citizens are liable to expulsion from Austria simply because they came to America before the beginning of the period of military service and as an incident escaped the rigor of those laws, expulsion is their punishment for naturalization. It is this situation against which this Government has so often earnestly protested. It is penalty upon the innocent along with the guilty and in its application to the former has the effect of neutralizing to a serious extent the provisions of the naturalization treaty, for the Austrian Government does not recognize and grant to such of our citizens the privilege of full American citizenship—on the contrary it practically denies to them entrance within its territories.

The department's conception of the just attitude to be taken in these naturalization cases is that each should be examined and determined upon its merits. If our naturalized citizens return to Austria-Hungary for purposes of bona fide temporary sojourn and conduct themselves as quiet and inoffensive individuals, this Government should and does protect them as far as possible during such visit. In past cases the Austrian Government has acceded to our protests in cases of this character. In other cases that have been brought to the department's attention and have become the subject of correspondence with the Austrian Government, when it has been made to appear that the person involved has not acted in good faith or if he has been guilty of misconduct against or disrespect for the local laws, the department has withdrawn its protection. In other words, each individual case should be considered upon its own merits and should not be determined in advance against the prospective visitor. The department will confidently expect in the future, as it has in the past, that a naturalized American citizen of Austro-Hungarian origin who returns to Austria-Hungary, for temporary purposes of bona fide visit, business, or travel, will be treated in all respects as a native born American citizen in that country on a similar mission.

The passage which you quote in your dispatch setting forth the views of the Austrian foreign office upon this subject may be found nearly verbatim upon page 421 of volume 3 of Moore's International Law Digest. You will find from an examination of this and the two pages following that the department fully answered the contention of the Austrian minister of foreign affairs, and that the case was settled to the apparent satisfaction of the person in whose behalf the department had interfered. An examination of pages 408 to 423 of this volume relating to correspondence between the two Governments concerning the naturalization treaty is commended to your attention.

The department would be glad to have you recall the attitude of this department toward this question to the attention of the Austrian foreign office. In the particular instance now in hand, it appears from the letter of Mr. Parsons, inclosed with the department's instruction No. 78 of January 31, 1907, that "Mr. Fink returned to Austria in order to help manage his father's business" and while so engaged he was expelled. The nature of this management may well become important later, if Mr. Fink returns to Austria, in its possible bearing upon the permanency of his sojourn there, but it does not yet appear to have been called in question. The reasons for his expulsion as reported by you were that he was making use of his American citizenship to avoid military service, that he had failed, while living in Austria, to report for military examination, and had emigrated without permission of the authorities, and that "his presence was additionally undesirable on account of his conduct." The department can well understand how the last mentioned reason might be sufficient for his expulsion, but the adequacy of the other reasons is disputed upon the grounds already set forth.

Mr. Fink appears now to be in the United States and desires to know what amount of protection will be extended to him in case of his return to Austria-Hungary. The department can not and does not guarantee protection in advance, nor does it encourage its naturalized citizens to return to the country of their origin. In this connection your attention is called to section 2 of the act of March 2, 1907, in reference to the expatriation of citizens and their protection abroad (copy inclosed), which provides that any naturalized citizen who has resided for two years in his native State shall be presumed to have ceased to be an American citizen. The amount of protection to which Mr. Fink would be entitled would depend entirely upon the circumstances of his return. As to this, of course, the department would not be authorized to speak before the emergency arises which might call for its interposition.

I am, etc.,

ROBERT BACON.

File No. 4062/11-12.

Ambassador Francis to the Secretary of State.

No. 225.]

AMERICAN EMBASSY,
Vienna, May 8, 1907.

SIR: I have the honor to acknowledge receipt of Mr. Bacon's No. 98, dated April 13, relative to the expulsion from Austria of Mr. Selig Fink, a naturalized citizen of the United States, of Austrian origin.

Following instructions, I have to-day addressed Baron Aehrenthal at length, not only upon this particular case, but on the attitude of the American Government toward the general question involved of the return of former Austrian or Hungarian subjects to the State of their origin after having become naturalized American citizens.

On account of the constantly increasing number of cases arising, owing to the large annual emigration to the United States from the various countries of this Empire, it is believed a full interchange of

views upon the subject between this embassy and the foreign office will lead to a better understanding between the Governments of the United States and Austria-Hungary as to the recognized rights of such former residents of Austria and Hungary, under the naturalization treaty of September 20, 1870.

I inclose a copy of my note to the minister of foreign affairs which, I trust, will meet with your approval.

I am, etc.,

CHARLES S. FRANCIS.

[Inclosure.]

Ambassador Francis to the Minister for Foreign Affairs.

No. 84.]

AMERICAN EMBASSY,
Vienna, May 7, 1907.

YOUR EXCELLENCY: Recurring to the case of Mr. Selig Fink, an American citizen, who was expelled from Austria by an order issued at Grybow July 4, 1906, and signed by Stach, imperial and royal bezirkshauptmann, I have the honor to call your excellency's attention to the following facts bearing on the incident in question:

Mr. Fink was born in Austria in 1879, emigrated to the United States in 1893 and was subsequently admitted to American citizenship in accordance with the naturalization laws of the United States. In 1905 he returned to his native town in Galicia for the purpose of temporarily assisting his aged father in the management of property interests in Grybow. Arriving in the town of his nativity, Mr. Fink reported to the prefect and presented his American passport and certificate of naturalization, but was ordered to leave the country on the ground that he had not fulfilled his military duty prior to his emigration, had left Austria without permission, and had become an American citizen. Assurances are given me that in this case no complaint or suspicion of any offense was shown before any judicial tribunal, no testimony was taken, and no opportunity afforded Mr. Fink to provide sureties for his proper legal conduct while temporarily sojourning within the borders of Austria. I am reliably informed that upon the presentation of his passport the prefect demanded from Mr. Fink the equivalent in Austrian money of \$20 for the purpose of having the same translated. To this Mr. Fink demurred, saying that he would consult the American consul-general in Vienna on the subject. Subsequently, the prefect withdrew his demand, but shortly afterwards substituted official prosecution in the form of an order of expulsion.

It is Mr. Fink's desire to return to Grybow, Galicia, for a limited period in order to complete the details of the business which originally called him to the country of his birth, and on his behalf I respectfully request the friendly offices of your excellency to obtain a revocation of the order of expulsion in his case; or, at least, to have it so modified that Mr. Fink may have an opportunity to attend to the legitimate business that imperatively calls him to Austria.

I beg to call your excellency's attention to the text of the official order of expulsion in Mr. Fink's case, which declares:

"His presence at Grybow and in the Kingdoms and Provinces represented in the Austrian Parliament is undesirable with a view to public safety and order, for the reason that he did not perform his military duty as an Austrian subject, and he acquired American citizenship, in accordance with article 2 of the treaty of September 20, 1870, Law Bulletin No. 74, without having applied for release from Austrian citizenship, and because he has returned to Grybow with the apparent intention of establishing his permanent residence there."

Permit me, your excellency, to controvert the legality of the reason given in the order of the expulsion "that he (Mr. Fink) did not perform his military duty as an Austrian subject, and he acquired American citizenship * * * without having applied for release from Austrian citizenship," by quoting article 2 of the naturalization convention of September 20, 1870, between the United States of America and the Imperial and Royal Kingdom of Austria-Hungary:

"A naturalized citizen of the one party on return to the territory of the other party remains liable to trial and punishment for an action punishable by

the laws of his original country committed before his emigration, saving always the limitation established by the laws of his original country and any other remission of liability to punishment.

"In particular a former citizen of the Austro-Hungarian monarchy, who under the first article is held to be an American citizen is liable to trial and punishment according to the laws of Austria-Hungary, for nonfulfillment of military duty.

"1. If he has emigrated after having been drafted at the time of the conscription and thus having been enrolled as a recruit for service in the standing army.

"2. If he has emigrated whilst he stood in service under the flag or had a leave of absence only for a limited time.

"3. If, having a leave of absence for an unlimited time, or belonging to the reserve or to the militia, he has emigrated after having received a call into service, or after a public proclamation requiring his appearance, or after war has broken out. On the other hand a former citizen of the Austro-Hungarian monarchy naturalized in the United States, who, by or after his emigration has transgressed the legal provisions on military duty by any acts or omissions other than those above enumerated in the clauses numbered one, two, or three, can on his return to his original country neither be held subsequently to military service, nor remain liable to trial and punishment for the nonfulfillment of his military duty."

At the time of Mr. Fink's emigration he had not arrived at the age when, by so doing, he transgressed the laws of Austria governing liability for military service to the State, and, therefore, on his return 12 years later to the country of his origin he could not, under treaty rights assured him, "remain liable to trial and punishment for the nonfulfillment of his military duty." Nor does it appear how the prefect of Grybow, who issued the official order, arrived at the erroneous conclusion that it was Mr. Fink's "apparent intention of establishing his residence there," for the latter had never been summoned to give testimony in the unwarrantable proceedings against him.

In order that there may be a clearer, mutual understanding between our respective Governments regarding cases coming under the provisions of the existing treaty named, I embrace this opportunity to present the subject, in extenso, to your excellency for your consideration in the hope that there may be reached a more definite, reciprocal comprehension of the common rights assured citizens of the United States and Austria-Hungary under the naturalization treaty of 1870. If an Austrian subject emigrates to the United States before any liability accrues for the performance of military service, becomes naturalized there and returns to the country of his birth, not, however, with the purpose of establishing his domicile therein, his case, not coming within the exceptions of the naturalization treaty of 1870, is covered by it and it is believed the Austrian Government will no longer claim him as its subject; but the treaty does not deprive that Government of the rights which are inherent in every nation to adopt such measures as it may see fit for its own protection and preservation, among these rights being the power to expel any foreigner whose presence may be undesirable with regard to public order or safety, and who may become a menace to the Government.

In the matter of these naturalization cases which so frequently arise, it is understood that the complaint of the Austrian Government is that their subjects emigrate to America only a short time before they reach the age of military service, acquire American citizenship, and then return to their native country where often they intend permanently to reside. It is realized that the effect of this may no doubt in some instances become serious upon the community in which they reside, by creating discontent and dissatisfaction in the minds of their townspeople who can not invoke the protection of the treaty as an immunity. As one American minister has said: "Many of these returned pseudo-Americans are loud in their defiance of the military power and openly and shamelessly boasts of their smartness in being able to enjoy all the privileges of a government without being obliged to share its burdens or responsibilities."

Up to this point in the argument there should be no serious difference between the two Governments in the treatment of these cases. The United States has no more interest to protect a naturalized citizen who has perpetrated a fraud upon it, by using its naturalization laws for illegitimate purposes, than the Austrian Government has in removing the same individual from its realms as an undesirable person. But the point of divergence begins here, for the Austrian Government by its legislation seeks in some instances to treat in the same man-

ner all of its former subjects who have become naturalized in the United States and elsewhere, without making any distinction between those who return to Austria bona fide for the sake of a temporary, perhaps indispensable visit, with the intention to return to their adopted country when their business is completed, and those who expect to remain there permanently, practically in fraud of both Governments. If all citizens are liable to expulsion from Austria simply because they emigrated to America before the beginning of the period of military service and as an incident escaped the rigor of those laws, expulsion is their punishment for naturalization. It is this situation against which the Government of the United States has so often earnestly protested. It is a penalty upon the innocent along with the guilty and in its application to the former has the effect of neutralizing to a serious extent the provisions of the naturalization treaty, for the Austrian Government does not recognize and grant to such of our citizens the privileges of full American citizenship; on the contrary, it practically denies to them entrance within its territories.

The American Government's conception of the just attitude to be taken in these naturalization cases is that each should be examined and determined upon its merits. If naturalized citizens of the United States return to Austria-Hungary for the purposes of bona fide temporary sojourn and conduct themselves as quiet and inoffensive individuals, the American Government should and will protect them as far as possible during such visit. In past cases the Austrian Government has acceded to protests in cases of this character. In other cases that have been the subject of correspondence between the Governments, when it has been made to appear that the person involved has not acted in good faith, or if he has been guilty of misconduct against or disrespect for the local laws, the American Government has withdrawn its protection. In other words, each individual case should be considered upon its own merits and should not be determined in advance against the prospective visitor. The Government of the United States will confidently expect in the future, as it has in the past, that a naturalized American citizen of Austro-Hungarian origin who returns to Austria-Hungary for temporary purposes of bona fide visit, business or travel, will be treated in all respects as a native-born American citizen in this country on a similar mission.

In connection with the return of naturalized American citizens to Austria-Hungary, their obligations to their former State, and the conditions under which they may be permitted to remain in the country of their origin, I respectfully advert to the case of Gustav Wolf Louis Fischer, which several years ago was the subject of correspondence between the Governments of the United States and Austria-Hungary, as recorded in Moore's International Law Digest:

"Mr. Fischer was born in Saxony, July 14, 1868. On the death of his father his mother removed to Vienna, where he was naturalized as an Austrian subject, November 17, 1885. In March, 1888, he was notified to appear for military duty, but on examination was pronounced unfit for service. He then went to the United States, where, December 5, 1893, he was naturalized. March 2, 1895, he obtained a passport and returned to Vienna. Early in 1900 he was summoned before a district magistrate and ordered to be banished. From this order he appealed to the governor of Lower Austria. At this point the minister of the United States at Vienna interposed, and asked that the order of expulsion be revoked.

"The Austrian Government stated that Fischer, at the time of his emigration, was classified as a person 'remanded,' and was under an obligation to report for a later examination. It was admitted that his naturalization was valid under the treaty of September 20, 1870, but it was maintained that his expulsion was not to be considered as a punishment but as an administrative measure. It was, said the Austrian Government, a measure inspired by 'consideration for public order,' and is based on the belief that the latter suffers offense when a person, by assuming foreign citizenship, avoids performance of those duties to his country which are placed upon him as upon all his fellow citizens, and then, protected by this new citizenship from the punishment otherwise resultant from this avoidance of duty, returns and settles permanently in the midst of his former countrymen, who find themselves in a condition not so favorable as his. Such an act is not only provocative of discontent in all those who fulfill their obligations to the State, be their fulfillment voluntary or compulsory, but it acts also as a bad example, and, were such proceedings unchecked or of frequent occurrence, would work positive harm to the defensive power of the State. * * * The offensive impression and the corruptive influence of the action under discussion lie in the extreme con-

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

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

It was also observed that, so far as the Austrian answer dealt with the merits of the case, it comprised two distinct propositions—Mr. Fischer's action prior to his naturalization and his action since. The first, as has been stated, was covered by stipulations of the treaty, and the second, which imputed to him an intention to settle in Austria, brought his case within article 4 of the treaty, which seemed to import that a naturalized citizen might reside indefinitely in the country of his origin without incurring any disability and without being obliged to resume his original citizenship. The Department of State further said: "Mr. Fischer, it now appears, has asked that the order of expulsion be postponed until September, and his petition has been granted. This arrangement may be deemed to embrace a voluntary engagement on his part to quit Austro-Hungarian territory by a given date, and he will be expected to abide thereby, * * * the principles upon which this Government rests in contesting the general claim of the Austro-Hungarian Government * * * being in no way prejudiced by Mr. Fischer's action. * * * You should make our views upon this point and upon the broader point of expulsion for individual cause clear to the minister of foreign affairs."

The Government of Austria-Hungary having stated that the treaty of September 20, 1870, contained no provision granting to American citizens the right to remain, and particularly the right to remain indefinitely, in Austria, and that their right to remain was therefore subject to the laws of the country, according to which (particularly Clause V, par. 2, law of July 27, 1871) persons who are not Austrian subjects may "be expelled from the entire territory or from part thereof, if their stay, for reasons of danger to public order or security, is objectionable," the United States observed that the question whether naturalized citizens of the United States of Austrian origin might be expelled from Austria, as well as the question when they might be expelled would seem to depend upon the particular circumstances of each case; that the United States maintained that the "pernicious character of the returning person should be affirmatively shown in justification of the extreme resort to expulsion, and that the right so claimed should not rest on a vague and general theory of inconvenient example which might be stretched to cover the cases of all Austro-Hungarians naturalized here, and returning to their original jurisdiction;" that the treaty undoubtedly gave the right of inoffensive return, and that this stipulation was not to be impaired by construction.

The Austrian foreign office had alleged as the ground of expulsion in the case under consideration that "the ostentatious manner in which he (John Richter) evaded his legal duty to do military service is causing public scandal and may very easily give others an impetus to similar demoralizing acts." As Richter was only 14 years of age when he was brought to the United States and would not have been subject to military duty till he reached the age of 19, it might, said the Department of State, be questioned whether he left for the purpose of evading such duty.

In view of the fact, however, that Richter had been informed by the American authorities that he might return to the place from which he was expelled, and as he had made no further complaint, it was not deemed desirable to take up the case with the Austrian Government.

Regarding the expatriation of American citizens and their protection abroad, I have the honor to acquaint your excellency with sections 1 and 2 of the act of March 2, 1907, which you will observe apply to those persons who have declared their intention to become citizens of the United States and proceed abroad, and to naturalized citizens returning to the countries of their origin, or visiting other foreign States:

"That the Secretary of State shall be authorized, in his discretion, to issue passports to persons not citizens of the United States as follows: Where any person has made a declaration of intention to become such a citizen as provided by law and has resided in the United States for three years a passport may be issued to him entitling him to the protection of the Government in any foreign country: *Provided*, That such passport shall not be valid for more than six months and shall not be renewed, and that such passport shall not entitle the holder to the protection of this Government in the country of which he was a citizen prior to making such declaration of intention.

"Sec. 2. That any American citizen shall be deemed to have expatriated himself when he has been naturalized in any foreign State in conformity with its laws, or when he has taken an oath of allegiance to any foreign State.

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

Returning to the case before mentioned of Mr. Fink, the apparent reasons for his expulsion from Austria were that he was making use of his American citizenship to avoid military service; that he failed while sojourning in Austria to perform military duty as an Austrian subject; that he emigrated to the United States without the permission of the Austrian authorities, and his presence was additionally undesirable with a view to public safety and order. The American Government can well understand how the last-mentioned reason might be sufficient for his expulsion if his conduct were a menace to public safety, although no specifications of such misconduct are enumerated in the issued order of expulsion, but the adequacy of the other reasons is disputed upon the grounds already set forth.

Awaiting your reply, I avail, etc.,

CHARLES S. FRANCIS.

File No. 4062/11-12.

The Acting Secretary of State to Ambassador Francis.

DEPARTMENT OF STATE,
Washington, July 16, 1907.

SIR: The department has received your No. 225 of the 8th of May last, relative to the expulsion case of Mr. Selig Fink, and awaits the reply of the foreign office to your note of May 7 last on this case and on the general question involved of former Austrian or Hungarian subjects returning as American citizens to the country of their origin.

I am, etc.,

ROBERT BACON.

File No. 4062/13-14.

Ambassador Francis to the Secretary of State.

No. 448.]

AMERICAN EMBASSY,
Vienna, February 5, 1908.

SIR: Supplementing my No. 225, dated May 8, 1907, I have the honor to inclose a copy (accompanied by a translation) of a note

received from the foreign office to-day in the expulsion case of Mr. Selig Fink.

Following the instructions contained in Mr. Bacon's No. 98 dated April 13, 1907, I addressed Baron Aehrenthal on May 7, 1907, at considerable length not only upon the particular case of Mr. Fink but on the general question involved of former Austrian or Hungarian subjects returning, as American citizens, to the country of their origin. Receiving no answer to my communication mentioned, I addressed several notes upon the subject at different times to the imperial and royal minister of foreign affairs, supplemented by personal effort, to obtain the attitude of the Austrian Government toward the general question involved, but not until to-day have I been able to obtain any word in reply from the Austrian Government.

I am, etc.,

CHARLES S. FRANCIS.

[Inclosure—Translation.]

The Minister for Foreign Affairs to Ambassador Francis.

IMPERIAL AND ROYAL MINISTRY FOR FOREIGN AFFAIRS.

No. 7925/7.

In the esteemed note F. O. No. 84 of May 7, 1907, his excellency the ambassador of the United States of America was pleased to state the point of view of the Government of the United States of America in the matter of treatment of naturalized citizens of the United States, who were formerly Austrian citizens, upon their return to their former home, in order that the decree of expulsion issued by the imperial and royal Bezirkshauptmannschaft at Grybow against the naturalized American citizen, Selig Fink, might be revoked.

The undersigned has not failed to convey the contents of the above-mentioned esteemed note to the imperial and royal ministry of the interior for its decision in the matter, and in accordance with the report received from that ministry begs most respectfully to present the following to his excellency, the ambassador of the United States of America.

The imperial and royal ministry of the interior agrees entirely with the point of view of the American Government that it would be wrong and unjust to issue a decree of expulsion against every former Austrian citizen who, before he had fulfilled his military service in his native land, had become naturalized in America and returned to Austria as an American citizen. The ministry of the interior is of the opinion that every case of this kind should be specially examined and treated according to its individual merits.

The ministry of the interior can not agree to the view that in the decision of certain cases special consideration shall be given to those individuals who, under the pressure of particular considerations, assume a residence in their former home for a certain time intending to return to the United States after they have completed their business.

From the point of view of the imperial and royal ministry of the interior the case of Selig Fink can not be included in the list of those deserving special consideration.

The above-named Selig Fink, whose true name is Selig Gottlob, came to Grybow in August, 1905. This fact has been determined by papers submitted by the Bezirkshauptmannschaft. The decree of expulsion against Selig Fink was issued by the imperial and royal Bezirkshauptmannschaft in July, 1906, so that he was able to spend 11 months in Grybow. Fink, therefore, had ample time, if, in his case there had been a question or merely temporary residence, to have attended to all his business affairs.

Under these circumstances the imperial and royal ministry of the interior considers that the imperial and royal officials were entirely justified in making an exception in this case by issuing an order of expulsion and in considering that Fink had the intention of residing permanently in Grybow.

The imperial and royal ministry of the interior wishes in this connection to correct any impression in the mind of his excellency the ambassador of the United States of America of an unfair decision or an evasion of duty on the part of the Austrian officials.

The undersigned avails, etc.

For the minister:

LAD. MÜLLER.

VIENNA, *February 3, 1908.*

RENUNCIATION OF AMERICAN CITIZENSHIP BY PERSONS DESIROUS TO SECURE HUNGARIAN CITIZENSHIP.

File No. 13014.

The Ambassador of Austria-Hungary to the Secretary of State.

[Translation.]

No. 827.]

AUSTRO-HUNGARIAN EMBASSY,
Washington, April 11, 1908.

EXCELLENCY: By a note No. 49 of the 23d of December, 1903,¹ relative to the resumption of the Hungarian nationality by the American citizen Joseph Fuchs, the State Department informed me that the Federal Government did not regard it as necessary, notwithstanding Article IV of the treaty concluded September 20, 1870, between Austria-Hungary and the United States, that a Hungarian naturalized in the United States, who wishes to resume his allegiance to his parent country, produce before such resumption a certificate of acceptance of the renunciation of his American citizenship.

Contrary to this interpretation, the American consul general at Budapest addressed on the 29th of October last to the royal Hungarian ministry of the interior the inclosed letter, by which he requests, under that very article of the treaty above cited, that one Samuel Stark Meisels, who was naturalized in America but subsequently wished to be restored to the Hungarian nationality, be required formally to renounce his American citizenship and that the consulate general be furnished with a certificate to that effect.

I am now instructed in consequence by my Government to obtain authenticated information as to this apparent contradiction and especially to inquire whether the Federal Government has now reached an opinion different from that announced in 1903, and, if so, in what form and before what authority a Hungarian seeking naturalization should declare his renunciation of American citizenship and especially whether a renunciation before Hungarian authority would be considered operative.

I have the honor to apply for your excellency's obliging intercession in this matter, and with a request that the inclosed letter of the American consul general at Budapest be kindly returned to me in due course, I avail, etc.,

HENGELMÜLLER.

¹ See Foreign Relations, 1903, p. 20.

[Inclosure—Translation.]

Consul General Chester to the Hungarian Ministry of the Interior.

No. 6789.]

AMERICAN CONSULATE GENERAL,
Budapest, October 29, 1907.

The Hungarian Ministry of the Interior:

Having learned that Samuel Stark Meisels, a naturalized American citizen, said to have been born at Veröcze, Croatia, on August 29, 1859, and to have emigrated to the United States in June, 1891, where he was naturalized in the Federal court of the southern district of New York on April 16, 1898, notwithstanding which he obtained an American passport from me in 1899, has since secured Budapest citizenship papers and become a Hungarian aulic councillor, in consequence whereof I have the honor to request that you take Mr. Meisels's declaration of renunciation as soon as possible, in accordance with Article IV of the naturalization treaty with Hungary of 1871, inserted in XLII tl. cz., and forward the declaration to me officially, since section 2 of the American law, dated March 2 of this year, requires me in such cases to send the declaration, together with the certificate of American citizenship, to Washington.

Inasmuch as a new American law provides similarly with regard to the loss of citizenship by naturalized citizens of the United States, I have the honor to request your ministry, and through it, the Croatian and Fiume governments, to kindly send me all consular certificates in cases where Hungarians or Croatians have remained in America over five years and then applied for Hungarian citizenship papers.

Very respectfully,

FRANK DYER CHESTER.

File No. 13014.

The Acting Secretary of State to the Ambassador of Austria-Hungary.

No. 338.]

DEPARTMENT OF STATE,
Washington, April 24, 1908.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 11th instant, in which you advert to correspondence between your embassy and this department in the year 1903, and especially to the department's note of December 23 of that year relative to the method of renunciation of American citizenship by a person desirous to secure Hungarian citizenship.

Your excellency incloses a letter from this Government's consul general at Budapest, dated October 29, 1907, to the royal Hungarian ministry of the interior asking that one Samuel Stark Meisels, who has applied for Hungarian citizenship, be required to renounce his American citizenship.

In reply, I have the honor to say that the department has given careful attention to the consul general's letter. He requested that the Hungarian ministry of the interior take Mr. Meisels's declaration and forward it to him in order that he might send it to this city, together with Mr. Meisels's certificate of American naturalization. The consul general stated that, in view of the provisions of a recent law of the United States, he desired to learn the names of all Hungarians or Croatians who had secured American naturalization and had afterwards applied for Hungarian citizenship. There appears to have been some uncertainty concerning the precise nature of the consul general's request, due, possibly, to the fact that his letter was written in the Hungarian language, he being unable, no doubt, to employ the words which would accurately describe his desires.

By an act passed on March 2, 1907, it is provided that an American citizen ceases to be such as soon as he secures naturalization in a foreign country. The consular officers of the United States are, accordingly, required to inform the department whenever an American citizen secures such naturalization, and to transmit proof thereof, the best proof being an official statement of the naturalization from the foreign authorities which conferred it. It is thought that the consul general was endeavoring to obtain such a statement in Mr. Meisels's case and to arrange for securing similar information in other cases that might arise. His request that Mr. Meisels's declaration of renunciation be furnished as soon as possible, in accordance with Article IV of the naturalization treaty, and forwarded to him, was an error on his part, as the treaty is not in any way involved in the administration of the act of March 2, 1907.

I return the consul general's letter, as you request.

Accept, etc.,

ROBERT BACON.

SIXTIETH ANNIVERSARY OF THE REIGN OF THE EMPEROR OF AUSTRIA-HUNGARY.

File No. 10624/3.

The President of the United States to the Emperor of Austria.

[Telegram.]

WASHINGTON, May 22, 1908.

I have charged Mr. Charles S. Francis, the American ambassador at Vienna, to convey to Your Majesty in person my sincere congratulations on the occasion of the sixtieth anniversary of Your Majesty's accession. I beg that Your Majesty may be pleased to receive from him the expression of my best wishes for Your Majesty's welfare and of my earnest desire that the peace, happiness, and prosperity of the Austrian and Hungarian peoples may long continue under Your Majesty's benignant reign.

THEODORE ROOSEVELT.

File No. 10624/4.

The Emperor of Austria to the President of the United States.

[Telegram.]

VIENNA, May 23, 1908.

Delighted with your amiable telegram. I shall be also pleased to receive the American ambassador, Mr. Charles S. Francis, charged to convey to me your kind congratulations on the occasion of the sixtieth anniversary of my reign. I beg you, dear sir, to accept my heartfelt thanks for this new sign of your most appreciated friendship and the assurances of my sincere affection.

FRANCIS JOSEPH.

File No. 10624/8.

The President of the United States to the Emperor of Austria.

[Telegram.]

WASHINGTON, *December 1, 1908.*

In the fullness of honored years Your Majesty completes the sixtieth year of sovereignty over a great nation. I offer you most cordial felicitations upon this memorable occasion, with earnest wishes for your welfare and for the prosperity of the peoples whose destinies you guide. I shall attend the celebration of this event which is to be held in this city.

THEODORE ROOSEVELT.

RESTRICTIONS ON AMERICAN MEATS IMPORTED INTO AUSTRIA.

File No. 821/36-38.

Ambassador Francis to the Secretary of State.

No. 453.]

AMERICAN EMBASSY,
VIENNA, *February 11, 1908.*

SIR: Supplementing my No. 373, dated November 14, 1907,¹ I have the honor to inclose copies of a note and an accompanying memorandum (with translations) received to-day from Baron Aehrenthal in which are defined the position of the Governments of Austria and Hungary on the subject of the admission within their borders of American meats.

I am, etc.,

CHARLES S. FRANCIS.

[Inclosure—Translation.]

The Minister for Foreign Affairs to Ambassador Francis.

FOREIGN OFFICE,
Vienna, *February 10, 1908.*

MR. AMBASSADOR: A few days ago you were kind enough to speak to me regarding two subjects in which you were greatly interested—the expulsion of the naturalized American citizen, Selig Fink, and a protest on the subject of the importation of meat products from America into Austria-Hungary.

Concerning the case of Selig Fink,² I may refer you to the note No. 7925, dated February 3, 1908, which the ministry for foreign affairs has addressed to you on the subject.

With reference to the other matter, I beg to place herewith at your disposal a statement in which is defined the position of the Imperial and Royal Government regarding the importation of meat products from America.

Accept, etc.,

AERENTHAL.

[Subinclosure—Translation.]

Statement of the foreign office.

THE FOREIGN OFFICE,
Vienna, *January 26, 1908.*

This protest is made, first, against the law of 1906, by which the importation of cattle and of fresh and preserved meats from non-European countries is lim-

¹ See Foreign Relations, 1907, p. 66.

² See p. 18.

ited so that the importation can only take place with special permission, which must be obtained in each case, and, secondly, against the demand that pork meat brought from the United States for import into Austria-Hungary must be accompanied by a certificate which states that the meat has been microscopically examined in America.

So far as the law of 1906 is concerned, it affects America only with reference to cattle and beef meat. The importation of hogs, hog meat, bacon, and sausages is allowed in accordance with the terms of the law of 1891.

The United States now enjoys a privilege over all other non-European countries, for the reason that the importation of hogs and hog meat from those countries is absolutely forbidden.

The demand that cattle and beef meat be admitted without restriction can not be granted, for the reason that we have no knowledge whatever of the veterinary regulations of the United States.

The enormous production, as compared with our own, of meat in the United States makes it impossible to control this production by similar regulations, and as rigid, as ours. It is impossible to treat foreign products more favorable than our own.

It should here be noted that Germany forbids the importation of cattle and fresh beef from the United States.

So far as the certificates of microscopical examination are concerned, the United States has recently passed laws abandoning them.

On the ground of sanitary policy, we can not concede the contention relative to the importation of pork, etc., without a certificate of microscopical examination, for the reason that the importation of meat containing "trichina" can only in this way be prevented. Cases are on record where meat containing "trichina" has been imported into Austria-Hungary from America.

There is clearly no prohibition of the importation of pork meat into Austria-Hungary, and it lies with the Government of the United States to reintroduce microscopical examination in order that entry of meat which has been so examined and found wholesome may be permitted.

In Germany the importation of all prepared meats is regulated by laws regarding meat inspection.

File No. 821/39-40.

Ambassador Francis to the Secretary of State.

No. 469.]

AMERICAN EMBASSY,
Vienna, February 29, 1908.

SIR: Supplementing my No. 453, dated February 11, 1908, I have the honor to inclose copy of a note (with translation) received to-day from the foreign office relative to the subject of the admission of American meats within the boundaries of Austria and Hungary.

I am, etc.,

CHARLES S. FRANCIS.

[Inclosure—Translation.]

The Minister for Foreign Affairs to Ambassador Francis.

IMPERIAL AND ROYAL MINISTRY OF FOREIGN AFFAIRS,
Vienna, February 27, 1908.

In the requests made in the esteemed notes F. O. No. 31, of November 6, 1906; F. O. No. 62, of February 16, 1907; F. O. No. 142, of January 20, 1908, by which it was asked that an alteration should be made in the ministerial decree of July 5, 1906 (R. G. Bl. No. 138), whereby meat imported from America and accompanied by a certificate to the effect that it had been examined and found healthy should be admitted into Austria-Hungary; and, further, that an alteration in the ministerial decree of December 4, 1891, (R. G. Bl. No. 168), whereby port meat imported from America should no longer be required to be accompanied by a certificate of American officials to the

effect that it had been thoroughly examined microscopically for "trichina," the undersigned begs to communicate to His Excellency Mr. Charles S. Francis, the ambassador of the United States of America, the following decision of the Imperial Austrian and the Royal Hungarian Governments.

Taking into consideration the fact that in most of the non-European countries, and especially in the United States of America, the enormous number of cattle is such that the administration of the veterinary laws and reports of cattle diseases are not so arranged that we are able to have a continuous insight into the veterinary police conditions of such countries, as is the case in European countries; also for the reason that the number of animals which are duly slaughtered at the great meat exporting houses, with their ever expanding business, is so extensive that an inspection of the animals both before and after slaughtering can not, for purely technical reasons, take place as with us; therefore, the request made to permit the importation of cattle and meat of American origin, with certain restrictions, can not be allowed, for the reason that the foreign product would thereby receive a more favorable treatment than the similar native product, and this could not be permitted as being clearly a departure from the usual international observances in such matters.

In consideration of the above conditions, and for sanitary and veterinary reasons, the importation of cattle and meat from non-European countries can only be permitted in accordance with ministerial decree of July 5, 1906 (R. G. Bl. No. 138), whereby permission must be obtained from the competent officials in the case of each separate importation.

In this connection it should not be passed unnoticed that the United States has been particularly well treated by the above mentioned decree of December 4, 1891 (R. G. Bl. No. 168), whereby the importation of hogs, hog meat of all kinds, bacon and sausages of all kinds, from the United States of America is allowed under certain regulations, governing the microscopic examination of hog meat for "trichina." It should be noticed that this law is still in force, in spite of the extremely bad sanitary conditions which were reported to have existed in the great meat exporting houses—a fact admitted by the Government officials. This condition of affairs was so bad that there has been almost a question of forbidding the importation of American meats altogether.

The Austrian and Hungarian Governments must further call attention to their good will shown to American interests by the fact that recently an importation of hog meat from America, which was accompanied by a certificate as having been found healthy, was, after its arrival, found undoubtedly to contain trichina. In spite of this state of affairs and resulting consequences the importation of American pork meat has not been restricted.

With reference to the recent request of the American embassy that permission need not be obtained in each separate case for the importation of meats of all kinds from America, and that pork meat shall not be accompanied by a certificate of official microscopic examination, the Governments of Austria and Hungary, having in view the stated requirements of sanitation and veterinary police regulations, can not grant the request.

It may here be mentioned that with regard to such matters other States, as for example the German Empire, are much more severe. In Germany the importation, or transportation through the country itself, of cattle or fresh beef meat from America is absolutely forbidden, and importation of meats of other kinds from America is only permitted in accordance with the German regulations governing meat inspection. According to these regulations the importation of certain articles of meat is forbidden without any exception, and for other meats the regulations are so extremely severe that it is almost impossible for the importer to comply with them. This, therefore, practically amounts to absolute prohibition.

The undersigned avails, etc.

For the Minister.

MILHALOVICH.

File No. 821/41.

The Secretary of State to Ambassador Francis.

No. 217.]

DEPARTMENT OF STATE,

Washington, April 29, 1908.

SIR: Referring to previous correspondence on the subject of restrictions on American meats in Austria and Hungary, I inclose here-

with copy of a letter from the Secretary of Agriculture calling attention to the efficient law and regulations which this Government has regarding the inspection of meat and meat food products entering into interstate or foreign commerce.

The department feels that it will be proper to bring again this matter to the notice of the Government to which you are accredited. You are therefore instructed to take appropriate action, in the sense of Secretary Wilson's letter.

I am, etc.,

E. Root.

[Inclosure.]

The Secretary of Agriculture to the Secretary of State.

DEPARTMENT OF AGRICULTURE,
Washington, April 8, 1908.

SIR: I have the honor to acknowledge the receipt of your letters of the 18th and 24th ultimo, inclosing translation of notes received from Ambassador Francis, of Vienna. It would seem from the tone of these letters that no representations that this Government could make would be acceptable to Austria-Hungary. However, it would probably be advisable again to call attention to the efficient law and regulations which this Government has regarding the importation of meat and meat food products which enter into interstate or foreign commerce, and to assure them that this law and the regulations are strictly enforced.

A copy of these regulations is inclosed herewith, together with an article on meat inspection by the Chief of the Bureau of Animal Industry, which explains in detail the method of conducting the inspection from the time of the slaughter of the animals.

The inspection of pork for trichinæ has never been general in this country and was only made for such pork products as were destined to certain foreign countries, including Germany and Austria-Hungary. In the case of Germany this pork was reinspected again after its arrival, and it was considered unnecessary that it should be inspected both in this country and Germany. This inspection when carried out under the most favorable conditions is not thoroughly efficient, as some meat affected with trichinæ to a slight degree may not be detected. Records obtained in Germany and elsewhere prove this assertion. There can be no danger, however, from pork when thoroughly cured, such as would be prepared for export.

There can be objection on the part of this country to submitting pork from the United States to such inspection after its arrival at a foreign port, providing this rule is applied to all other countries.

I have the honor, etc.,

JAMES WILSON.

File No. 821/42-43.

Ambassador Francis to the Secretary of State.

No. 520.]

AMERICAN EMBASSY,
Vienna, May 12, 1908.

SIR: I have the honor to acknowledge receipt of your No. 217, dated April 29, relative to the subject of restrictions on American meats in Austria and Hungary, and inclosing copy of a letter from the Secretary of Agriculture calling attention to the efficient law and regulations which the American Government has regarding the inspection of meat and meat food products entering into interstate or foreign commerce.

Following the instructions of the department, I shall to-day bring this matter again to the notice of the Imperial and Royal Government in the sense of Secretary Wilson's letter (copy of note inclosed).

I am, etc.,

CHARLES S. FRANCIS.

[Inclosure.]

Ambassador Francis to the Minister for Foreign Affairs.

F. O. No. 174.]

AMERICAN EMBASSY,
Vienna, May 12, 1908.

YOUR EXCELLENCY: Supplementing my previous correspondence with your excellency on the subject of the restrictions now enforced on the introduction of American meats into Austria and Hungary, I have the honor to submit to your excellency copies of publications recently issued by the United States Department of Agriculture relative to the Federal Meat Inspection Service and Regulations Governing the Meat Inspection of the United States Department of Agriculture.

A perusal of the efficient law and regulations which the American Government now has regarding the inspection of meat and food products to be exported taken with the assurance that such law and regulations are strictly enforced, would indicate the absolute protection to foreign countries of the importation within their boundaries from the United States of meats and meat products which are not wholesome.

Trusting that, through the friendly offices of your excellency, this subject may be duly presented at an early date to the Governments of Austria and Hungary, I embrace this opportunity, etc.,

CHARLES S. FRANCIS.

ANNEXATION OF BOSNIA AND HERZEGOVINA.

File No. 15921/17-18.

Chargé Rives to the Secretary of State.

No. 650.]

[Extract.]

AMERICAN EMBASSY,
Vienna, October 7, 1908.

SIR: I have the honor to inclose a copy (with translation) of the official *Weiner Zeitung* containing the letters of the Emperor to the prime ministers of Austria and of Hungary, to the minister for foreign affairs, to the general minister of finance (who has until now managed the two Provinces), and finally a proclamation to the people of Bosnia and Herzegovina.

It will be noted that in the note addressed to Baron Aehrenthal, the minister for foreign affairs, the Emperor orders the evacuation of the Sandjak of Novi-bazar, which has been occupied by the imperial and royal troops since 1879.

The Sandjak of Novi-bazar is that narrow strip of Turkish territory lying between Servia and Montenegro and bounded on the north by Bosnia.

Quiet prevails in the Provinces of Bosnia and Herzegovina and the population in the majority accept their annexation to Austria-Hungary with enthusiasm.

I have, etc.,

GEORGE BARCLAY RIVES.

[Inclosure 1—Translation.]

BUDAPEST, *October 5, 1908.*

DEAR BARON VON AEHRENTHAL:

Moved by the firm conviction that the high cultural and political purposes, for the sake of which the Austro-Hungarian Monarchy undertook the occupation and administration of Bosnia and Herzegovina, and that the successes obtained by the hard sacrifices of this administration can only be continually assured by granting constitutional privileges answering to such needs, but for the proclamation of which the creation of a clear and ambiguous legal position forms the indispensable presupposition, I hereby extend the rights of my sovereignty to Bosnia and Herzegovina and also establish for these countries the order of hereditary succession for my house.

To manifest the pacific intentions which have directed me in the issuance of this unavoidable decree, I now order the evacuation of the Sandjak of Novibazar by the troops of my army now occupying that place.

FRANCIS JOSEPH, M. P.
AEHRENTHAL, M. P.

[Inclosure 2—Translation.]

BUDAPEST, *October 5, 1908.*

DEAR BARON VON BECK:

I have decided to extend the rights of my sovereignty to Bosnia and Herzegovina and to establish for these countries the order of hereditary succession for my house, as well as at the same time to grant constitutional privileges.

In sending at the same time copies of the autographic letters, which, on this occasion, I have addressed to the minister of my household and for foreign affairs, and to my general minister of finance, I call upon you in accordance with the provisions of section 5 of the law of February 22, 1880, to take the necessary steps to bring these matters before Parliament.

FRANCIS JOSEPH, M. P.
BECK, M. P.

[Inclosure 3—Translation.]

DEAR BARON BURIAN:

I have decided to establish for Bosnia and Herzegovina the rights of my sovereignty and the order of hereditary succession for my house.

At the same time I transmit to you a proclamation addressed to the people of these countries and charge you to attend to the necessary details for its publication.

It is my firm will that the civil rights be fully granted and assured to the people of Bosnia and Herzegovina.

Besides the liberty of the person and religion, the security of property, honor, the manners and customs, the guaranty of domestic authority and of the liberty of the press which are already guaranteed by the existing laws, the right of settlement as well as the safety of mail matter, which are already well guarded, also sentence by competent judges, the right of petition, the right of unions and meetings shall all be placed under express legal protection.

Being impressed with the conviction that the granting of constitutional regulations is urgently demanded by the cultural rank of the population, I order hereby that satisfaction shall be given to the wants of the people according to a proportional participation in the management of the affairs of the country by a national representation in a form indulgent to the religious conditions as well as to the old-inherited social division of the people.

The representative body to be created is to be formed on the principle of the policy dictated by self-interest and shall be a true copy of the national, religious, and political status existing in the two countries. Therefore, prominent officials, the inhabitants of cities according to their education and financial situation, and all the country parishes shall be represented in the special "curia" and the voters in each "curia" shall vote separately according to their religious beliefs in order to prevent the disturbance of good relations

between the different religious factions, and also to give each of them a proportionate number of representatives.

In order to give the people of the newly acquired lands a pledge of my earnest endeavors for the assurance of their legal rights, and to assure a peaceful solution of their local affairs, I hereby order you to cause to be made with all possible speed, the fundamental laws which are necessary for the creation of the new constitution.

FRANCIS JOSEPH, M. P.
BURIAN, M. P.

BUDAPEST, *October 5, 1908.*

[Inclosure 4—Translation.]

PROCLAMATION.

We, Francis Joseph, Emperor of Austria, King of Bohemia, and Apostolic King of Hungary, to the inhabitants of Bosnia and Herzegovina :

When, a generation since our troops crossed the borders of your lands, you were assured that they came not as foes, but as friends, with the firm will to remedy the evils from which your Fatherland had suffered so severely for many years.

This word, given at a grave moment, has been honestly kept. It has been the constant endeavor of our Government to lead the country in calm legality, by ceaseless activity, toward a happier future.

To our great joy we can say that the seed then scattered in the furrows of a troubled soil has richly thriven. You yourselves must feel it a boon that order and security have replaced violence and oppression, that trade and traffic are constantly extending, that the moralizing influence of increased education has been brought to bear, and that under the shield of an orderly administration every man may enjoy the fruits of his work.

It is the earnest duty of us all to march ceaselessly forward along this path.

With this goal before our eyes we deem the moment come to give the inhabitants of the two lands a new proof of our trust in their political maturity. In order to raise Bosnia and Herzegovina to a higher level of political life we have resolved to grant to both lands constitutional institutions that take account of prevailing conditions and general interests, so as to create a legal basis for the representation of their wishes and needs. You shall henceforth have a voice when decisions are taken concerning the affairs of your home, which, as hitherto, will have a separate administration.

But the indispensable premise for the introduction of this provincial constitution is the creation of a clear and unambiguous judicial position for the two lands.

For this reason, and also remembering the ties that existed of yore between our glorious ancestors on the Hungarian Throne these lands, we extend the rights of our suzerainty to Bosnia and Herzegovina, and it is our will that the order of succession of our house be applied to these lands also.

The inhabitants of the two lands thus share all the benefits which a lasting confirmation of the present connection can offer. The new order of things will be a pledge that civilization and welfare will find a sure place in your home.

Inhabitants of Bosnia and Herzegovina !

Among the many cares that surround our Throne, care for your material and spiritual weal shall in future also not be the last. The exalted idea of equal right for all before the law, a share in the legislation and administration of provincial creeds, for languages and racial idiosyncrasies—all these high possessions shall you enjoy in full measure. The freedom of the individual and the welfare of the whole will be the lodestar of our Government in the two lands. You will assuredly show yourselves worthy of the trust placed in you by attachment and loyalty to us and to our house. And thus we hope that the noble harmony between prince and people, that dearest pledge of all state progress, will ever accompany us upon our common path.

FRANCIS JOSEPH.

BELGIUM.

COMMERCIAL TREATY BETWEEN BELGIUM AND SERVIA.

File No. 11502/3-4.

Minister Wilson to the Secretary of State.

No. 283.]

AMERICAN LEGATION,
Brussels, January 20, 1908.

SIR: I have the honor to transmit herewith, for the information of the department, a triplicate copy, in the original texts,¹ of a treaty of commerce between Belgium and Servia.

I have, etc.,

HENRY LANE WILSON.

[SEE ALSO KONGO, P. 537.]

¹ Not printed.

BOLIVIA.

ELECTION OF SEÑOR FERNANDO E. GUACHALLA AS PRESIDENT OF BOLIVIA.

File No. 4885/6.

The Bolivian Minister to the Secretary of State.

[Translation.]

LEGATION OF BOLIVIA,
Washington, May 6, 1908.

SIR: I have the honor and pleasure of informing your excellency that I have received from my Government advising me that the elections provided by law for the renewal of the executive power were held on the 4th of this month and were conducted in perfect order, resulting in the election of the Hon. Fernando E. Guachalla, my worthy predecessor in this legation, for the term which is to begin on the 6th of August of this year.

The Hon. Eufronio Viscarra and the Hon. Fidel Valdes were also elected first and second vice presidents, respectively.

Your excellency, who takes such an earnest interest in the welfare and advancement of the American Republic, will, I am sure, receive this communication with pleasure.

With the most profound regard, I have, etc.,

I. CALDERON.

File No. 4885/6.

The Acting Secretary of State to the Bolivian Minister.

No. 16.]

DEPARTMENT OF STATE,
Washington, May 11, 1908.

SIR: I have the honor to acknowledge the receipt of your note of the 6th instant, by which you advise the department that the presidential election took place in Bolivia on that day and resulted in the choice of the Hon. Fernando Guachalla, your worthy predecessor as envoy extraordinary and minister plenipotentiary at this capital, for President, the Hon. Eufronio Viscarra for First Vice President, and the Hon. Fidel Valdes for Second Vice President.

In view of the department's former agreeable relations with Señor Guachalla and its consequent knowledge of his high qualifications for the eminent position to which he has been elevated, your announcement has been received with sincere pleasure.

Accept, etc.,

ROBERT BACON.

**DEATH OF SEÑOR FERNANDO E. GUACHALLA, PRESIDENT-ELECT
OF BOLIVIA.**

File No. 4885/7.

Chargé Monroe to the Secretary of State.

No. 389.]

AMERICAN LEGATION,
La Paz, August 5, 1908.

SIR: I have the honor to inform you that during Friday night, July 24, 1908, Dr. Fernando E. Guachalla, President-elect of Bolivia, died. The Government flags were at half-staff for three days, as was the flag of this legation. Dr. Claudio Pinilla, minister for foreign affairs of Bolivia, asks me to thank my Government for the sympathy expressed in its name on the occasion of the death of Dr. Guachalla.

I have, etc.,

G. L. MONROE, Jr.

BRAZIL.

MESSAGE OF THE PRESIDENT OF BRAZIL TO THE BRAZILIAN CONGRESS.

File No. 2372/13-15.

Ambassador Dudley to the Secretary of State.

[Extract.]

No. 180.]

AMERICAN EMBASSY,
Petropolis, May 14, 1908.

SIR: I have the honor to transmit herewith translation of the message presented by President Penna to the Brazilian Congress at its opening session on the 3d instant. Copies in the original Portuguese will be forwarded as soon as furnished the embassy in pamphlet form. I also inclose a copy and translation of an epitome of the message, published by the *Jornal do Commercio* on the 4th instant, which perhaps renders a review of the message unnecessary.

Comment has been made principally upon statement in the message that Brazil's relations are excellent "with nearly all nations" and upon its defense of the new military service law.

The showing of this country's foreign commerce in 1907, with a favorable balance stated at £13,649,295, and of the Government revenues and expenditures is regarded as very satisfactory.

I have, etc.,

IRVING B. DUDLEY.

[Inclosure 1.]

[From the Brazilian Review of May 12, 1908.—Extract.]

GENTLEMEN: It is with the liveliest satisfaction that I address myself to you for the second time, congratulating myself on your reunion, which is always a welcome event to the Brazilian people who so justly confide in your enlightened and fruitful labors.

Before explaining the position of the country to you and pointing out such measures and reforms as seem to be most urgent, in accordance with the dispositions of article 48, paragraph 9, of the Constitution, I must thank you for your valuable cooperation with Government during last session when you decreed several wise measures which the condition of the country demanded. As you will see from the official papers which will be laid before you, some of these measures have already been put into effect, whilst others are being studied and prepared so that they may be executed properly and at the most opportune moment.

FOREIGN AFFAIRS.

I continue to do all in my power to make our relations with foreign powers closer and more cordial. Whilst with nearly all nations our relations are ex-

cellent, from some governments and peoples we have lately received special proofs of the appreciation in which the Brazilian nation is held, an appreciation which both the nation and Government have recognized with the liveliest gratitude.

The visits which were paid by a Brazilian naval division to Hampton Roads, by another to Montevideo, and by single ships of our navy to Montevideo, Punta Arenas, Talcahuano, Valparaiso, and Callao de Lima, as well as those paid to the port of the capital by the American Atlantic Fleet, and by a Chilean and two German training ships, were made the occasions of many significant and cordial manifestations of esteem between the Government of Brazil and those of Germany, the United States, Chile, Peru, and Uruguay. In Brazil, Chile, and Uruguay the whole population spontaneously and enthusiastically associated themselves with the official demonstrations of good will.

I was much touched by the friendly terms in which the telegrams were couched which, on different occasions, I received from President Pedro Montt, His Majesty the Emperor William II, and President Theodore Roosevelt.

On November 15 last and on the 1st of the current month of May, I had the satisfaction of receiving special missions from the Republic of Uruguay and the Republic of Paraguay, respectively. The first was headed by Gen. Eduardo Vasquez, minister of war and marine, and the second by Dr. Cecilio Baez, minister of foreign affairs. These missions came to return the good wishes which were presented in my name and that of Brazil by our diplomatic representatives in Montevideo, and Assumption to President Claudio Williman of Uruguay, and President Benigno Ferreira of Paraguay, when these gentlemen assumed office as President, and to the people of the two Republics.

The welcome then extended by the Government and the people of Brazil to the Uruguayan and now to the Paraguayan mission (so recently arrived) are solid proofs of the sincere affection which Brazil feels for the two Republics which are our neighbors. Indeed we desire nothing better than that the bonds of ancient and loyal friendship which unite us to them and to the other nations of this Continent should ever grow stronger.

This is the year in which Brazil celebrates the first centenary of the opening of her ports to the world's trade and the end of the colonial period in Portuguese America, and we had invited His Majesty, King Dom Carlos I of Portugal, to join in that celebration as our guest. Unhappily a barbarous outrage deprived us of the great satisfaction we should have felt in giving a worthy welcome to a sovereign to whose impartial judgment we owe the amicable settlement of a grave international question in 1886, and who, amongst other proofs of friendship, had expressed his keen desire to visit this country. I forwarded to the royal family and the Portuguese nation the expression of the profound grief with which the Republic of Brazil heard the news of so sad an event and I appointed a special mission to represent Brazil at the funeral.

The ratifications of the frontier treaty between Brazil and Colombia were exchanged in the city of Rio de Janeiro on April 20 last. This treaty was signed in Bogota on April 24, 1907, approved by the National Congress on December 31, and promulgated by decree No. 6932 of 23d of April last.

The agreement for a *modus vivendi* on the Icaá or Putumayo between Brazil and Colombia, concluded at Bogota on April 24, 1907, and approved by you on December 31, was also ratified and promulgated by decree No. 1866 of January 9 last.

The treaty between Brazil and Holland which establishes our frontier with that of the colony of Surinam, arranged in this capital on May 5, 1906, submitted for your approval by message on September 20, 1906, approved on June 25, 1907, and ratified by decree No. 1659 of the same date, is now awaiting the examination and approval of the States General of Holland. I trust that the final exchange of ratifications may take place this year and that the question, now so long outstanding, may be finally settled.

The two protocols of November 9, 1905, signed in Caracas were ratified by decree No. 1768 of November 6, 1907. The first of these declares the approval of the demarcation of the frontier between Brazil and Venezuela from Pedro de Cucuy to Serro Cupy, as arranged in 1880; the second arranges for the appointment of a mixed commission to inquire into the work done by the Brazilian commission from 1880 to 1884 from Serro Cupy to a point on the Serro Roraima, where the three frontiers of Brazil, Venezuela, and British Guiana meet (special attention to be paid to the division of the rivers which flow into the Amazon, the Orinoco, and the Essequibo), and to mark out the

frontier in accordance with the dispositions of paragraphs 2 and 3 of article 2 of the treaty of May 5, 1859.

The note in which the British Government recognized the frontier as marked out by the Rome award, shows that the river Cotingo does not rise in Monte Yakontipu, but in Monte Roraima, farther west, as had been already proved by the Brazilian commission of 1884. The two Governments interested will now have to make a special arrangement for the demarcation of the frontier between the two said points.

The agreement of February 6, 1907, between Brazil and Bolivia regarding the Rio Verde and its sources received the approval of Congress on September 10, and was ratified by decree 1721 of the 16th of the same month and year.

The demarcation of the frontier between the two countries arranged by the treaty of Petropolis of November 17, 1903, has been suspended owing to the withdrawal, on account of disagreements amongst the members, of the Bolivian commission. The new Bolivian commission, of which Gen. Pando is the head, is expected to arrive shortly at Corumba, where the Brazilian commission is waiting under Admiral Guillobel.

A protocol will shortly be signed at Rio de Janeiro confirming the approval given by the Governments of Brazil and Argentina to the plans and other works executed by the mixed commission appointed for the demarcation of the common frontier along the rivers Uruguay, Pepiry-Guacu, Santo Antonio, and Iguacu from the confluence of the Quarahim to that of the last-mentioned river on the Alto Parana, in execution of the Washington decision of February 5, 1895, and of the treaty of Rio de Janeiro of October 6, 1898. So soon as this protocol has been signed the two countries will be at liberty to occupy administratively the islands allotted to each of them in the said rivers by the said demarcation.

The date for the diplomatic discussion proposed in view of a direct agreement between Brazil and Peru for the demarcation of the frontier from the source of the Javary to the eleventh parallel south, treated of in article 8 of our treaty with Bolivia of November 17, 1903, and in article 1 of the provisional agreement which we made with Peru on July 12, 1904, was postponed till the 30th of the current month. The Peruvian minister to Brazil went away on leave in April last year, and for reasons of a political nature which bear witness to the deservedly high esteem in which he is held by his fellow countrymen it appears that he will only be able to return to this country in July next. In view of this fact, a fresh postponement must be made till the end of the current year, and I still trust that the two friendly Governments will arrive at an honorable and satisfactory solution of the only outstanding disagreement between them without appealing to third parties.

The period for the duration of the Brazilian-Peruvian arbitration court created by the agreement of July 12, 1904, has been again extended by the two Governments. This court is working with great diligence, and we trust that all outstanding questions will be settled by the end of June of the current year.

The Brazilian-Bolivian court, established by article 2 of the treaty of Petropolis, which suspended its work on May 20, 1906, owing to the withdrawal of the Bolivian arbiter, should, in accordance with the agreement of February 6, 1907, have recommended its sittings within a period of one year; that is, by the 6th of February last. The Bolivian Government, however, was unable to manage this, and the reopening of the sessions was postponed until the 6th of September of the current year, by which date the new representative of the neighboring Republic, at present engaged in other work of great importance, is expected to be in Rio de Janeiro.

A treaty of commerce and navigation, signed in this city on May 10, 1907, between Brazil and Ecuador, will be submitted for your examination and approval, as also the agreement signed in Lima on April 6 last by the plenipotentiaries of Brazil and Peru for the navigation of the Japurá or Caquetá.

In accordance with the treaty of April 24, 1907, which we concluded with Colombia, merchant vessels and ships of war belonging to Colombia have the right to navigate the Brazilian reaches of the River Japurá, whilst our vessels may navigate those belonging to Colombia on the same river.

By decree No. 1775 of November 8, 1907, I ratified the international convention of radiotelegraphy, together with the additional agreement, the final protocol of the conference of Berlin, and the regulations of the service. These various acts were concluded in the city of Berlin on November 3, 1906, and have already received your approval. Brazil's ratification will now be deposited in Berlin.

By decree No. 1720 of September 16, 1907, there were sanctioned, and by decree No. 6987 of March 17 last were promulgated, the agreements of the Universal Postal Convention signed in Rome on May 23, 1906, together with the final protocol of the conference and the regulations and agreement for the exchange of packets containing valuables, the value of which has been declared, and the agreement for the service of postal orders. These were approved by you on September 10 last. The ratifications of the main convention and of the two agreements were deposited in Rome on March 11 of the current year.

By decree No. 1854 of January 9 last I ratified the resolution of the Third International American Conference held at Rio de Janeiro, adhering to the sanitary convention of Washington. This resolution was approved by you on December 31.

By decree No. 1834 of December 27, 1907, I also ratified the convention agreed upon at the said Third International American Conference on August 23, 1906, for the appointment of an international commission of jurists for the drawing up of a code of international public law, and another of international private law, approved at the last session of Congress on December 24, 1907.

The meeting of this commission of jurists was arranged for April 10 of this year at Rio de Janeiro; but owing to the fact that several of the American republics were unable to appoint their delegates in time, it was decided to postpone it until May 10, 1909.

In my message of June 13 of last year I submitted for your examination another convention, which was signed here on August 23, 1906, by the plenipotentiaries of the republics of our continent who took part in the Third International American Conference. This convention determined the standing of naturalized citizens who renewed their residence in their countries of origin.

With the same end in view a convention between the United States and Brazil was concluded in this capital on April 27 last, which will be shortly laid before you in another message.

I solicit your careful consideration of these two agreements, which I consider ought to be approved.

With your authorization, ratified by decree No. 1617, of May 28, 1907, Brazil, on June 14, adhered to the convention of The Hague, signed at that city on July 29, 1899, for the peaceful settlement of international differences, and in view of this I appointed as Brazilian arbiters at the permanent court at The Hague established by that convention Srs. Ruy Barbosa, Lafayette Rodrigues Pereira, Joaquim Nabuco, and Clovis Bevilacqua.

As I pointed out in my last message, the Republic of the United States of Brazil, having been unable to accept the invitation to the First International Peace Conference at The Hague extended to it by His Majesty the Emperor of Russia (an invitation received on that occasion by two other nations of our continent—the United States of America and Mexico), now accepted that sent to it by his Imperial Majesty for the second conference. The work of the conference commenced on June 15 of last year, and only ended on October 18 following, having thus lasted for more than four months.

All the Republics of America were invited to this conference, at which we were represented by a delegacy headed by the vice president of the Federal Senate, Sr. Ruy Barbosa, as ambassador extraordinary and plenipotentiary.

There is no need for me to remind you of the exceptional brilliancy and ability with which that eminent statesman, lawyer, and orator represented Brazil at that great assembly of the nations. He took the most assiduous part, not only in the labors of the full sessions, but also in those of the four grand committees into which the members of the conference were subdivided. You all know—indeed, the whole country knows—that our illustrious fellow countryman spared no effort to warrant the confidence which we all reposed in his wisdom and his patriotism.

A great honor fell to Brazil, for soon after the commencement of the conference her ambassador was chosen to be honorary president of the first committee.

The position which we were obliged to take up, wholly disinterestedly, in defense of the incontestable principle of the equality of sovereign States resulted in Brazil finding herself supported by almost all the Republics of America and by many of the States of both Europe and Asia.

In addition to the final act of the conference, 14 separate conventions were signed at The Hague on October 18. The second and twelfth of these conventions, the former referring to the collection of contractual debts and the latter establishing an international prize court, were opposed by the Brazilian am-

bassador and were left unsigned by the Brazilian delegacy. Our ambassador also opposed the creation of a second permanent arbitration court, and it was indeed only on October 9, in one of the most notable of his speeches, that he agreed to accept this first convention with certain reservations.

The following were the conventions signed by the Brazilian delegacy :

1. For the peaceful solution of international differences and the establishment of a new permanent arbitration court composed of paid judges; the organization of the court to be agreed upon by the various Governments after the close of the conference. Brazil made certain reservations with regard to the second paragraph of article 52 and articles 53 and 54, declaring that in future negotiations we could not accept any organizations which did not accept the principle of the equality of sovereign States, and, consequently, from which any system of election of judges and choosing of the same by foreign electors was not absolutely excluded.

3. Convention relating to the outbreak of hostilities.

4. Concerning the laws and usages of land warfare.

5. Concerning the rights and duties of neutral powers and persons in land warfare.

6. Relating to the position of merchant vessels belonging to the enemy at the commencement of hostilities.

7. Relating to the transformation of merchant vessels into ships of war.

8. Relating to the laying of automatic submarine contact mines.

9. Concerning bombardments by naval forces during war time.

10. For the adaptation of the principles of the Geneva convention to naval warfare.

11. Relating to certain restrictions as to the exercise of the right of capture in naval warfare.

13. Concerning the rights and duties of neutral powers in naval warfare.

14. Declaration referring to the prohibition from throwing projectiles and explosives from balloons.

15. The final act.

In a special message I shall lay before you all these international agreements in order that you may give your opinion on the same.

I can not bring this portion of my message to a close without reproducing verbatim the following extract from my message of May 3 of last year :

"I beg to call your attention to the urgent need for the reorganization of the foreign office and for the increase of its personnel. The number of the staff is the same as it was in the year 1859, when the minister still enjoyed the valuable assistance of the council of state, whose advice was available on all important subjects and to whom different departments, especially those of foreign affairs and of justice, frequently applied for enlightenment on important points and obtained invaluable assistance in their study and solution. During a period of almost half a century our foreign relations, both political and commercial, have greatly developed. In consequence the employees of this department have much more work, in view of the establishment of new services and the ever-increasing amount of both postal and telegraphic correspondence."

EXTRADITION OF CRIMINALS.

At this point it appears to me to be advisable to remind you that attention should be paid to the law regulating the extradition of criminals, so that uniform rules may be drawn up on which Government can act when attending to the requests made to it in this sense by friendly governments. Since the judicial authorities in more than one case have confirmed the doctrine that extradition should not be granted on a promise of reciprocity various doubts have arisen which ought to be decided.

WAR.

The regulations for the execution of law No. 1860 of January 4 last, which instituted military service by lot, are ready and will be published within a few days. This measure, which has been demanded for many years back in messages to Congress and in reports of various ministers of war, will establish our military organization on a sound and stable basis.

The constitution wisely abolished recruiting by force and determined that the army and the navy should be composed of unpaid volunteers, and, if these were insufficient, of men drawn by lot according to rules previously laid down.

The law of 1874 which regulated this had been found inadequate for the purpose intended, besides retaining recruiting by force in addition to the drawing by lot—a form of procedure which is contrary to the constitution.

It is quite clear that the ranks of the regular army will only be filled up by ballot when the number of volunteers forthcoming is insufficient. To wait, however, for this lack of volunteers, or for exceptional circumstance which may force us to put the army on a war footing, for the organization of the rules for ballot for military service, would be to show a lamentable lack of forethought, and would, indeed, amount to abandoning the defense of the country to the chances of measures taken in a hurry and without time for proper execution.

The constitution lays down that every Brazilian is obliged to serve in the army for the defense of the country and of the constitution, and to insure the carrying out of this principle the law provides for reserves for the regular army—an example which is followed by every civilized nation. Failure to understand the object and mechanism of the law has given rise to much undeserved censure.

There is no question of "militarizing" the country by dragging off to barracks the young men and the laborers, and thus depriving agriculture, trade, and industry of the strong arm, whose fruitful labor develops the wealth and greatness of the country. Reflection will show what a multitude of barracks we should need and what enormous sums of money would have to be expended on the upkeep of the men, and that indeed our resources would be insufficient to support even half such a burden.

The law of ballot exists in several South American countries, our neighbors, whose social, political, and economic conditions are similar to our own, and no one will go so far as to say that in those countries work has suffered such an enormous setback as has been predicted will be the case here.

The effective strength of the army will remain the same as in previous years, and it is absurd to suppose that the new organization will result in disturbance of labor amongst us.

It will be easy and practicable to establish battalions and give them some indispensable practical knowledge such as they can obtain in instruction camps and maneuvers, in rifle ranges, and in training schools. According to law, the national guard was always supposed to undergo this training. The new law makes the reservists subject to the same training, but it will be given at the places, seasons, and times when it will least prejudice the ordinary occupations of those drawn by lot.

A natural corollary of the law of military service is the reorganization of the army on a basis in accordance with the progress of military science and art, reorganization which has been demanded by successive war ministers. The small effective strength of our army (the same indeed as it has been for many years) shows clearly that we have not the slightest wish to make ourselves a military power, and that all we desire is to take ordinary precautions and measures to secure the nation against possible aggression.

I would ask you to consider the reform of the law regulating penal process in the army. Experience has shown that the omissions and ambiguities of the present law give rise to delays which are prejudicial, not only to the prisoners but also to the discipline of the army itself, as they postpone the punishment of offenders.

Maneuvers took place in the second, third, fourth, fifth, and sixth military districts with satisfactory results, both officers and men showing great keenness. Every year practical instruction is developing, and, in the opinion of experts, we are making marked progress in this direction.

The construction of the smokeless-powder factory will be completed this year, and so soon as we have installed the proper plant in the arsenals for the preparation of projectiles we shall cease to be dependent on foreign markets for the purchase of ammunition.

The military town of Deodora is in course of construction, and will, when finished, permit of the concentration of the forces stationed in the capital of the Republic in a healthy and open spot, which will be invaluable for the healthy training, discipline, and practical instruction of the men.

As I informed you in my first message, the condition of the barracks and other military buildings in the various States of the Republic is not at all satisfactory, but the construction of new ones and the rebuilding and repairing of those at present in use can only be done piecemeal (in order to avoid large and immediate expenditure) by the appropriation of a certain sum in each

succeeding budget for this purpose. With the money already voted important work has been done on the barracks at Manaus, Obidos, Belem, S. Luiz do Maranhao, Lorena, Corumba, and Caceres, and on the forts at Obidos and Coimbra.

AFFONSO AUGUSTO MOREIRA PENNA.

RIO DE JANEIRO, *May 3, 1908.*

PREFERENTIAL TARIFF CONCESSIONS IN FAVOR OF AMERICAN PRODUCTS.

(Continued from Foreign Relations, 1907, p. 90.)

File No. 836/86.

Ambassador Dudley to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Petropolis, January 3, 1908.

Brazilian Congress continues during 1908 existing 20 per cent tariff reduction favor United States.

DUDLEY.

File No. 836/86.

The Acting Secretary of State to Ambassador Dudley.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 15, 1908.

(Mr. Bacon states that the department assumes that the decree signed by President of Brazil on the 11th instant puts reduction of 20 per cent in force retroactively as from January 1, and asks if this is correct.)

File No. 836/94-100.

Ambassador Dudley to the Secretary of State.

[Extract.]

No. 126.]

AMERICAN EMBASSY,
Petropolis, January 28, 1908.

SIR: I have the honor to report that the budget law for 1908 continues in force by its article 13 the provisions of article 18 of law No. 1452, of December 30, 1905, which itself continues in force the provisions of article 6 of law No. 1144 of December 30, 1903, which refers to the 20 per cent differential tariff to be accorded to certain imports from countries which make concessions to commodities of Brazilian production, such as coffee.

On the 3d instant I telegraphed the department as follows:¹

On January 2, 1908, I addressed an official note to the foreign office, a copy of which is herewith inclosed, by which I requested

¹ *Supra.*

then an executive decree, putting the authorization into force, be promulgated at the earliest possible moment. On the 10th instant the foreign minister sent me a reply, a copy and translation of which are inclosed, stating that the matter had been referred to the finance department.

On the 11th instant the desired executive decree was signed by the President and was published in the *Diario Oficial* of the 14th instant. Duplicate copies and a translation of the decree are herewith inclosed.

On the 16th instant I received the department's telegraphic instruction of the 15th, which I have the honor to confirm as follows:¹

On receipt of which I sent the following telegram to the foreign office:

My Government cables me that it assumes that the decree signed by His Excellency the President of Brazil January 11 puts reduction of 20 per cent in force retroactively as from January 1, and instructs me to cable whether this is correct.

Failing to receive any reply, either official or unofficial to my telegram, I requested Secretary Lorillard to write to the director general of the ministry of foreign relations, on the 23d instant, for information in the premises. On the following day the director general replied, stating that the executive decree became operative on the 17th instant. A copy of Mr. Lorillard's letter and the director's reply are herewith inclosed.

In view of the fact that last year the executive decree was signed on the 10th of January and was in force retroactively from January 1, the surplus duties collected previous to the date of the decree being returned (see note from foreign office to Mr. Lorillard, chargé, of January 28, 1907, a copy and translation of which accompanied the embassy's No. 102 of January 30, 1907²), on the 25th instant I addressed a further note to the foreign office, inquiring whether the 20 per cent reduction is not in force from January 1, 1908. A copy of this note is also inclosed.

My last telegram to the department on the subject was as follows:

Unofficially informed executive decree January 11 not retroactive, but propose claim refund.

I have, etc.,

IRVING B. DUDLEY.

[Inclosure 1.]

Ambassador Dudley to the Minister for Foreign Affairs.

No. 83.]

AMERICAN EMBASSY,
Rio de Janeiro, January 2, 1908.

MONSIEUR LE MINISTRE: A part of article 13 of the budget law for the current year, which was promulgated in the *Diario Oficial* of yesterday's date, continues during the present year the provisions of article 18 of law No. 1452 of December 30, 1905, which grants a differential tariff scale of 20 per cent in favor of certain articles imported into Brazil from countries which make tariff concessions to Brazilian productions such as coffee.

Knowing that it is the intention of your excellency's Government to continue during the current year the same favor as was granted to certain articles imported from the United States of America during the whole of the past year

¹ Supra.

² See Foreign Relations, 1907, p. 93.

and in order that the same reduction, duly authorized by Congress, may be enjoyed during the entire year, I beg that your excellency will see fit to suggest that the executive decree, whereby the authorization is put into force, be promulgated at the earliest possible moment.

Be pleased to accept, etc.,

IRVING B. DUDLEY.

[Inclosure 2.—Translation.]

The Minister for Foreign Affairs to Ambassador Dudley.

FOREIGN OFFICE,
January 10, 1908.

MR. AMBASSADOR: I have the honor to acknowledge the receipt of your No. 83 which your excellency addressed to me on the 2d instant, requesting that the decree conceding a reduction of 20 per cent on certain articles of American origin under the law in force should be given publicity with the least possible delay.

Assuring your excellency that I have already transmitted your request to the ministry of fazenda, I approve the occasion to reiterate, etc.,

RIO-BRANCO.

[Inclosure 3.—Translation.]

Decree No. 6820, of January 11, 1908.

Orders that during the current year decree No. 6079, of June 30, 1906, be observed.

The President of the Republic of the United States of Brazil, making use of the authorization contained in article 18 of law No. 1452, of December 30, 1905, renewed by article 13 of law No. 1837, of December 31, 1907, decides that, during the actual year, decree No. 6079, of June 30, 1906, shall be observed.

Rio de Janeiro, January 11, 1908, 20th of the Republic.

AFFONSO AUGUSTO MOREIRA DENNA.
DAVIS CAMPISTA.

File No. 836/93.

Ambassador Dudley to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Petropolis, February 19, 1908.

Department's telegram 16th ultimo. Brazilian minister of finance agrees refund 20 per cent.

DUDLEY.

File No. 836/107-109.

Ambassador Dudley to the Secretary of State.

[Extract.]

No. 141.]

AMERICAN EMBASSY,
Petropolis, February 19, 1908.

SIR: Referring to my No. 123, of the 28th ultimo,¹ I have the honor to report that yesterday, in conversation with the Brazilian minister of finance, after referring to the refusal to give retroactive

¹ Not printed.

operation to the decree of the 11th instant, which puts into effect the legislative authorization to grant to certain imports of American origin a tariff reduction of 20 per cent during the calendar year 1908, I called his attention to the Government's course pursued last year. The minister assured me that upon direct petition to him by any importer for a refund of this 20 per cent, paid by him into a Brazilian customhouse, he would cause the amount to be returned.

I have, etc.,

IRVING B. DUDLEY.

**BOUNDARY AND NAVIGATION AGREEMENTS BETWEEN BRAZIL
AND COLOMBIA.**

File No. 7692/10.

Ambassador Dudley to the Secretary of State.

No. 117.]

AMERICAN EMBASSY,
Petropolis, January 23, 1908.

SIR: In continuation of my No. 105 of December 21, 1907,¹ with which I inclosed a translation of the boundary and navigation treaty between Brazil and Colombia, as well as a translation of the modus vivendi relative to navigation and commerce on the Iça or Putumayo River, and the supplementary protocol, all concluded and signed at Bogota on April 24, 1907, I have the honor to report that the above-mentioned agreements were approved by both houses of the Brazilian Congress without amendment during the closing sessions in December last, were sanctioned by the President on the 9th instant, and were promulgated in the *Diario Oficial* two days later.

I have, etc.,

IRVING B. DUDLEY.

**ARBITRATION TREATY BETWEEN BRAZIL AND THE ARGENTINE
REPUBLIC.**

File No. 16546/4-5.

Chargé Janes to the Secretary of State.

No. 288.]

AMERICAN EMBASSY,
Petropolis, November 11, 1908.

SIR: I have the honor to inclose herewith a clipping from the *Diario Oficial* with a translation of the general treaty of arbitration between Argentine and Brazil, the ratifications of which were exchanged on the 9th instant.

I have, etc.,

HENRY L. JANES.

[Inclosure—Translation.]

MINISTRY OF FOREIGN RELATIONS,
Rio de Janeiro, November 9, 1908.

The general treaty of arbitration between the Republic of the United States of Brazil and the Argentine Republic was to-day ratified by the President of

¹ See Foreign Relations 1907, p. 108.

the Republic, after due authorization by the National Congress, and is as follows:

The Government of the Republic of the United States of Brazil and the Government of the Argentine Republic, desiring to establish upon firm, permanent bases the relations of ancient friendship and neighborliness that happily exist between the two countries, have determined to celebrate a general treaty of arbitration, and, for this end, have nominated plenipotentiaries, to wit:

"His excellency Mr. Francisco de Paula Rodrigues Alves, President of the Republic of the United States of Brazil; Mr. José Maria da Silva Paranhos do Rio-Branco, minister of state for foreign relations of the same Republic; and

"His Excellency Mr. Manoel Quintana, President of the Argentine Republic; Mr. Manuel Gorostiagra, envoy extraordinary and minister plenipotentiary in Brazil;

"Who, duly authorized, have agreed upon the following articles:

"ARTICLE I.

"The high contracting parties bind themselves to submit to arbitration the controversies that may arise between them and that could not be settled by direct negotiations or by any other way of deciding amicable international disputes, insofar as such controversies do not turn upon questions involving constitutional rules of the one or the other of the two countries.

"ARTICLE II.

"The consideration of passed questions, that have been the subject of definite agreements between the two parties, will not by virtue of this treaty, be reopened, it being possible to submit to arbitration only the questions regarding the interpretation and execution of the same.

"ARTICLE III.

"The high contracting parties will sign a special agreement for each case that occurs.

"ARTICLE IV.

"The points agreed upon will be fixed with due clearness by the high contracting parties who should also determine the scope of the powers of the arbitrator or arbitrators and the procedure governing them.

"ARTICLE V.

"In the absence of special stipulations between the parties, it is the duty of the arbitrator or arbitrators to designate the time and the place of the sessions, outside of the territories of the contracting States, selecting the language that must be used, determining the manner of presentation of the case, the formalities and periods of time to which the parties should adhere, the procedure to follow, and, in general, take all the necessary steps to fulfill their duties and solve all the difficulties that may arise in the course of the discussion.

"The two Governments bind themselves to place at the disposition of the arbitrator or arbitrators all the sources of information at their disposal.

"ARTICLE VI.

"The designation of the arbitrator or arbitrators will be made in the special agreement or in a separate instrument, after the nominee or nominees declare that they accept the mission.

"ARTICLE VII.

"If it is agreed that the question shall be submitted to an arbitral tribunal, each of the high contracting parties will nominate an arbitrator and they will try to agree upon a third, who will be, by right, president of the tribunal. In the case of disagreement over the election of a third, the two Governments will request the President of the Swiss Confederation to nominate the president of the tribunal.

"ARTICLE VIII.

"Each one of the parties may appoint one or more representatives to defend their cause before the arbitrator or arbitrators.

"ARTICLE IX.

"The arbitrator, or the arbitral tribunal, is competent to decide as to the validity of the agreement and the interpretation of the same. Consequently it is also competent to decide the controversies between the parties as to whether certain questions that arise are or are not proper material to be submitted to the arbitral jurisdiction according to the terms of the agreement.

"The arbitral tribunal is competent to decide as to the regularity of its own formation.

"ARTICLE X.

"The arbitrator or the arbitral tribunal should decide according to the principles of international law, according to the special rules that the two parties may have established, or *ex æquo et bono* in accordance with the powers that may have been conferred upon them by the agreement.

"ARTICLE XI.

"The decisions of the tribunal will be taken with the presence of the three arbitrators and by unanimity or majority of votes.

"The concordant votes of the two arbitrators first chosen will solve the question or questions submitted to the tribunal. If there is a difference between the two, the president, or third arbitrator, will adopt one of the votes or will give his own, which will decide the question.

"In the absence of one of the arbitrators, the session will be postponed until his appearance or while he is absent for sufficient reason. If, however, after having been duly summoned, the absentee without just reason does not care to take part in the decisions or in other acts of the tribunal, the tribunal may continue with the two present, inserting upon the minutes that the absence of the other is voluntary and without justification.

"ARTICLE XII.

"The sentence must decide finally all the points in litigation and will be made in duplicate, signed by the single arbitrator or by the three members of the arbitral tribunal. If any of these refuse to sign, the other two will make mention of this in a special act signed by them.

"The decisions will or will not give the reasons therefor according to the provisions of each special agreement.

"ARTICLE XIII.

"The arbitrator or the arbitral tribunal must notify the representative of each of the two parties of the sentence.

"ARTICLE XIV.

"The sentence legally pronounced will decide, within the limits of its application, the litigation between the parties. It will indicate the time within which it must be executed.

"ARTICLE XV.

"Each one of the contracting States binds itself to observe and carry out loyally the arbitral decision.

"ARTICLE XVI.

"The questions that arise regarding the execution of the sentence will be decided by arbitration and, whenever it may be possible, by the same arbitrator which gave it.

"ARTICLE XVII.

"If, before the execution of the sentence, either of the two parties interested have knowledge of the falsity or forgery of any document upon which the sentence was based, or can prove that this, in whole or in part, is caused by an error as to fact, he may appeal for a rehearing to same arbitral tribunal.

"ARTICLE XVIII.

"Each one of the parties will pay the expenses of its representation and half of the general expenses of the arbitration.

"ARTICLE XIX.

"After the approval by the legislative power of each one of the two Republics, this treaty will be ratified by the respective Governments, and the ratifications will be exchanged in the city of Rio de Janeiro or in Buenos Aires in the shortest possible time.

"ARTICLE XX.

"The present treaty will be in force for ten years, counting from the day upon which the ratifications are exchanged. If it is not denounced six months before the end of this time, it will be continued for another period of ten years, and so on.

"In faith that, we, the plenipotentiaries above nominated, signed the present instrument in duplicate, one in the Portuguese and the other in the Castillian languages, we affix thereto our seals.

"Done in the City of Rio de Janeiro, on the seventh day of the month of September, in the year nineteen hundred and five."

[L. s.]

RIO-BRANCO.

[L. s.]

MANOEL GORASTIAGA.

**TREATY BETWEEN BRAZIL AND THE NETHERLANDS REGARDING
THE BOUNDARY BETWEEN SURINAM AND BRAZIL.**

File No. 15101/3-4.

Chargé Janes to the Secretary of State.

No. 260.]

AMERICAN EMBASSY,

Petropolis, September 25, 1908.

SIR: I have the honor to inclose herewith translation and copies of the original of a treaty, concluded on May 5, 1906, between Holland and Brazil, providing for the marking of the exact boundary between the territory of this Republic and Dutch Guiana. This treaty was promulgated as a law of the Republic on the 24th of this month, the ratifications having been exchanged at The Hague on the 15th.

The general boundary agreed upon in the treaty is that formed by the watershed separating the drainage basin of the Amazon on the south from the region to the north in which the rivers that empty into the Atlantic have their source. The task of making the final surveys for the exact boundary line is to be intrusted to commissioners who will at some future time be appointed by the Governments.

It is interesting to note that the two parties bind themselves to submit to the permanent court of arbitration at The Hague all questions as to the application or interpretation of the provisions of the treaty on which no agreement can be reached. Should other causes of conflict develop, the treaty provides that a special agreement shall be entered into for the arbitration of the matter.

This portion of the Brazilian frontier, previous to the present convention, was the only region that had not been the subject of a boundary treaty. With its promulgation, the entire national boundary of Brazil has been provided for through international agreements. Where the final line of demarcation has not already been run, commissioners are at work on the survey or are to begin their labors.

I have, etc.,

HENRY S. JANES.

[Inclosure.—Translation.]

Presidential decree No. 7133 of September 24, 1908, promulgating a treaty fixing the boundary between Brazil and Surinam.

The President of the Republic of the United States of Brazil:

Whereas the resolution of the National Congress of the 22nd of June, 1907, approving the treaty concluded in this capital on May 5, 1906, by the plenipotentiaries of the United States of Brazil and the Netherlands, establishing the boundary between Brazil and the colony of Surinam, has been sanctioned by decree No. 1659, of June 25 of the past year; and whereas the respective ratifications have been exchanged in the city of The Hague on the 15th of the current month:

Decrees that said treaty shall be executed and carried out in every part of its provisions.

Rio de Janeiro, September 24, 1908; 20th of the Republic.

AFFONSO AUGUSTO MOREIRA PENNA.
RIO-BRANCO.

TREATY.

The President of the United States of Brazil and Her Majesty the Queen of the Netherlands, led by the wish of drawing tighter the bonds of friendship which happily exist between the two nations and to avoid conflicts which may arise if the frontier between Brazil and the colony of Surinam was not determined by convention, have resolved to conclude a treaty and to this end have appointed their plenipotentiaries, that is to say:

The President of the United States of Brazil, Senor José Maria da Silva Paranhos do Rio-Branco, minister of state for foreign affairs; and

Her Majesty the Queen of the Netherlands, M. Frederic Palm, minister of the Netherlands in Brazil;

Who, having exchanged their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I.

The boundary between the United States of Brazil and the colony of Surinam is formed, starting from the French boundary towards the British boundary, by the watershed separating the Amazon basin, in the south, from the basin of water courses, that, running to the north, empty into the Atlantic Ocean.

ARTICLE II.

As soon as they deem it convenient, the two Governments will name commissioners to mark the boundary.

ARTICLE III.

The high contracting parties bind themselves to submit to the permanent court of arbitration at The Hague disagreements that may arise regarding the application or interpretation of the present convention.

In each particular case, the high contracting parties will sign a special agreement precisely determining the object of the litigation, the extent of the powers

of the arbiter or of the arbiter tribunal, the mode of the designation of this, as well as the rules to be observed regarding the formalities and delays of procedure.

ARTICLE IV.

The present treaty, after the fulfilment of the constitutional formalities in the two countries, will be ratified and the ratifications will be exchanged at Rio de Janeiro or at The Hague with the shortest possible delay.

Made in duplicate, at Rio de Janeiro, the fifth day of May, nineteen hundred and six.

[L. S.]

RIO-BRANCO.

[L. S.]

F. PALM.

BULGARIA.

PROCLAMATION OF INDEPENDENCE OF BULGARIA.

File No. 5072/14.

Minister Knowles to the Secretary of State.

[Telegram.—Extract.]

AMERICAN LEGATION,
Bucharest, October 5, 1908.

Bulgaria proclaimed her independence to-day.

KNOWLES.

File No. 5072/19-20.

Minister Knowles to the Secretary of State.

[Extract.]

No. 33—Bulgarian Series.]

AMERICAN LEGATION,
Bucharest, October 6, 1908.

SIR: I have the honor to confirm my telegram of yesterday announcing that Prince Ferdinand, at Tirnovo, proclaimed the independence of Bulgaria, and to transmit herewith a copy of the official note from the foreign minister.

I have, etc.,

HORACE G. KNOWLES.

[Inclosure.—Translation.]

The Minister for Foreign Affairs to Minister Knowles.

TIRNOVO, October 5, 1908.

I have the honor of informing you that to-day, Monday, September 22 (October 5) His Highness the Prince, my August Sovereign, guided by the irrevocable desire of the people of all Bulgaria to remove the obstacles which have until the present retarded its regular development, and to put an end to the causes which have produced, with the neighboring Empire, relations of a nature to constantly disturb the peace and tranquillity of the Balkans, has proclaimed Bulgaria of the north and of the south an independent monarchy.

By this act His Royal Highness and his Government, in realizing the unanimous desire of the people, are animated by the sole desire of seeing Bulgaria come into the family of independent States, so as to devote itself wholly to peaceful prosperity.

The Government of His Majesty the King of Bulgaria is pleased to hope that your high Government will appreciate these legitimate desires of the people of Bulgaria and give to the Royal Bulgarian Government support and approval of this act of the people.

Ministre PAPRIKOFF.

CHILE.

MESSAGE OF THE PRESIDENT OF CHILE TO THE CHILEAN CONGRESS.

File No. 180/20.

Minister Hicks to the Secretary of State.

No. 223.]

AMERICAN LEGATION,
Santiago, June 3, 1908.

SIR: According to law, the Congress of Chile began its regular session on Monday, June 1, and the opening was marked with the usual ceremonies. In the hall of honor of Congress, the members of the two houses, the supreme court, the cabinet officials, and the diplomatic corps attended in full dress, and the President, Don Pedro Montt, read to the assembly his third annual message. Outside the hall the streets were filled with a military guard, and on the conclusion of the official ceremonies those present attended in a body at the Moneda, the official residence of the President. At the Moneda the guests were given a glass of champagne in which to drink the health of the President. Afterwards, from the balconies of the palace, those present were permitted to witness a parade of the military guard, and then the function was ended.

The message was an able document filling 50 pages of a pamphlet. As the most of it was devoted to domestic affairs, I give herewith a translation of some of the most important features, and I am sending herewith inclosed two copies of the message.

Following are the extracts, beginning with one from the first page:

I.

The renewal of the diplomatic relations between Chile and Peru begins to give already beneficial results for both Republics. Conventions on several international services have been signed at Lima, and there have been begun in Santiago negotiations destined to the solution of the territorial problem still pending between the two nations.

I am confident in that a high idea of equity will indicate to the two peoples the most satisfactory solution.

I

At the end of the present year there will take place in Santiago, under the auspices of the Government of Chile, the reunion of the first Pan American Scientific Congress. Not only because it was recommended by the Chilean delegates to the third Latin-American Congress, but also because it will be celebrated in Santiago, we must respond worthily to the frank acceptance that idea has had in all the countries of America and in the great Republic of the north.

III.

The frequent visits with which we have been honored by distinguished North American professors, the demonstration of international courtesy made to us lately by a great fleet of the United States, the efforts of the Government of that

Republic to establish rapid lines of communication with our regions, are manifestations of sincere friendship which ought to inspire confidence in the Government and people of the great Republic.

IV.

Immigration has notably increased during the year, 8,810 immigrants having been received. In 1906 only 1,221 arrived. These people were formerly sent by private agencies of European nationality, but experience has taught us to change this system, and now, according to a new provision, the individuals sent by Chilean agents of immigration are the only ones that come to the country with passages paid by the Government.

V.

Universal sorrow was caused by the death of the most illustrious and most reverend Archbishop of Santiago, Dr. Mariano Casanova. He was a prelate who was distinguished by his talents, science, and virtues; who governed the archdiocese of Santiago for 20 years, maintaining in a perfect way the harmony of church and state and helping to form priests of which the Republic can be proud.

VI.

After having heard the opinion of the counsel of state, I will ask from the honorable Senate its constitutional consent in order to present to his holiness for the election of archbishop of Santiago the illustrious Bishop of Flaviades, Dr. Juan Ignacio Gonzalez Eyzaguirre, who is now the vicar general of the archdioceses, and who has distinguished himself through his merits in the priesthood and by his interest in the welfare of the suffering.

VII.

In 1907 the revenues collected by the Government were \$40,001,691.14 pesos gold and \$154,976,385.16 pesos paper, which, added to the \$6,406,725.60 gold and \$7,177,065.13 paper from 1906, made a total sum for 1907 of \$46,408,416.74 gold and \$162,153,450.29 paper.

The expenses of the same year amounted to \$31,134,445.97 gold and \$180,640,337.69 paper.

VIII.

Our international commerce reached in 1907 the sum of \$573,762,585 gold of 18d.

The importations amounted to \$293,681,855, according to tariff value, and the exportations \$280,080,730, according to the current market values.

If we compare these figures with those corresponding to 1906, we find an increase of importations of \$55,984,213 and a decrease of \$9,540,067 in exportations.

In closing he calls on Providence to assist the Congress and the Government in the great work which they have in hand.

Your obedient servant,

JOHN HICKS.

PROTECTION OF CHINESE IN CHILE AND ECUADOR.

File No. 15077.

The Chinese Minister to the Acting Secretary of State.

No. 9.]

IMPERIAL CHINESE LEGATION,
Washington, August 13, 1908.

SIR: You are no doubt aware that there are several South American Republics with which my country has not yet entered into treaty and diplomatic relations, but in which large numbers of my

countrymen have made their temporary homes or are engaged in commercial pursuits. While their presence has contributed much to the prosperity of their adopted countries, and is, generally speaking, welcomed, they are nevertheless placed in an anomalous position, in that there is no official representative recognized by the local government to watch over their interests and afford them protection in case of need. Pending the negotiation and conclusion of treaties with these countries, my Government is obliged to fall back on the good offices of the diplomatic and consular representatives of friendly powers accredited to the same countries, and you will recall that only recently I had the honor of communicating with your department regarding the protection of Chinese subjects in Nicaragua.

A dispatch from our chargé d'affaires at Lima, Peru, calls attention to the fact that my countrymen in Chile and Ecuador desire that some arrangement be made whereby their interests may be safeguarded and their grievances, should they unfortunately arise, may be brought officially to the notice of the Governments concerned. In former days the British minister and consular officials accredited to the two countries undertook, at the request of my Government, to represent my people, but with the lapse of time and change of officials their interest in and attention to the task intrusted to them have gradually waned and ceased. Moreover, as all communications with British ministers have to be sent through the foreign office in London by our minister near the Court of St. James, while complaints from my countrymen residing in the Americas naturally come to my legation, the arrangement formerly entered into for the protection of Chinese subjects in Chile and Ecuador was not the best possible nor the most practicable.

In view of the fact that your Government has already undertaken to look after the interests of my countrymen in Nicaragua, Guatemala, etc., and that your Government has always manifested a willingness to assist my Government in the promotion of justice and broader humanity, I venture to address you with the request that the task of protecting Chinese subjects in Chile and Ecuador, formerly intrusted to the British ministers and consuls, be assumed by the diplomatic and consular agents of your Government.

It seems to me that the leading position occupied by the United States of America in the sisterhood of American Republics also justifies that I approach your Government and not any other for assistance in the matter outlined above. I feel sure, therefore, that you will give my communication a very favorable consideration.

Accept, etc.,

WU TING FANG.

File No. 15077.

The Acting Secretary of State to the Chinese Minister.

No. 116.]

DEPARTMENT OF STATE,
Washington, August 22, 1908.

SIR: I have the honor to acknowledge the receipt of your note No. 9 of the 13th instant, in which you request, in consequence of the absence of treaty and diplomatic relations between China and the Republics of Chile and Ecuador, that the American diplomatic and

consular officers in those republics may be allowed to exercise good offices in behalf of the Chinese subjects resident therein.

In reply I have the honor to say that I have taken pleasure in instructing the American ministers at Santiago and Quito to take under the protection of their legations Chinese subjects and their interests in Chile and Ecuador and to issue appropriate instructions in the premises to each of the American consular officers in those countries.

Accept, etc.,

AJVEY A. ADEE.

File No. 15077.

*The Acting Secretary of State to Minister Hicks.*¹

No. 126.]

DEPARTMENT OF STATE,
Washington, August 22, 1908.

SIR: I inclose herewith a copy of a note from the Chinese minister at this Capital, in which he requests, in consequence of the absence of treaty and diplomatic relations between Chile and China, that the American diplomatic and consular officers in Chile may be allowed to exercise good offices in behalf of the Chinese subjects living in that country.

You will accordingly, with the consent of the Government of Chile, take under the protection of your legation Chinese subjects and their interests in Chile. Your good offices will be confined to friendly intervention in case of need for the protection of the Chinese in their persons and property, and should be exercised by you and the consular officers without the assumption of any representation function as agents of China.

It of course follows that American officers so acting can not officially certify to the fact of Chinese citizenship, original certification of which can be made only by a responsible agent of the Chinese Government. A form of certificate to be used by you and the consular officers should, therefore, be prepared in consultation with the Chilean minister for foreign affairs, in order that it may correctly express the character of the protection afforded and the degree in which it is recognized by Chile. It is suggested that the following form, or a similar one, may perhaps be satisfactory:

I, _____ of the United States of America, certify: That _____ claims to be a subject of the Emperor of China, resident in Chile, and that upon his proving his status as a Chinese subject he will, in case of need, be entitled to the protection of the Government of the United States and to the good offices of the diplomatic and consular officers thereof, while in Chile, in pursuance of an understanding between the Governments of Chile and China to that end.

All fees collected by American diplomatic or consular officers for services rendered in the interests of China may be retained by them. No official fee stamps should be affixed to documents issued in the interest of China or its subjects. All such papers should be signed by consular officers in their official capacity, their signatures being followed by the words "In charge of the interests of China." It is thought that the tariff of American consular fees should be followed in assessing such fees, unless you are advised otherwise by the Chinese Government.

¹ Mutatis mutandis to: Ecuador No. 61.

Should you require any further instructions as to when and how American diplomatic and consular officers may properly exercise their good offices in behalf of Chinese subjects residing in Chile, you may consult Foreign Relations for 1871, page 28; 1872, page 5; and 1887, page 1076. You will inform the American consuls in Chile of these facts and send a copy of this instruction to each of them.

I am, etc.,

ALVEY A. ADEE.

File No. 15077/1.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, September 25, 1908.

Government of Ecuador consents our protection resident Chinese.
Fox.

File No. 15077/1.

The Acting Secretary of State to the Chinese Minister.

No. 118.]

DEPARTMENT OF STATE,
Washington, September 28, 1908.

SIR: With further reference to your note of August 13 last, in which you were so good as to request that the task of protecting Chinese subjects in Chile and Ecuador, which formerly had been intrusted to the British ministers and consuls, should hereafter be intrusted to the representatives of this Government, I have the honor to inform you that the department is to-day in receipt of telegraphic information from the legation at Quito to the effect that the Government of Ecuador consents to the protection by the United States of resident Chinese.

Furthermore, it gives me pleasure to say that the diplomatic and consular representatives of the United States in Ecuador have been fully informed of their duties in this connection.

Accept, etc.,

ROBERT BACON.

File No. 15077/21-22.

The Acting Secretary of State to the Chinese Minister.

No. 129.]

DEPARTMENT OF STATE,
WASHINGTON, December 11, 1908.

SIR: Referring to your note of August 13 last, and to the department's note of the 22d of that month in reply, concerning the exercise of the good offices of the American diplomatic and consular officers in Chile and Ecuador in behalf of Chinese residents in those Repub-

lics, I have the honor to inclose herewith for your information a copy of a dispatch from the American consul general at Guayaquil on the subject.

You will perceive thereby that the form which the Government of Ecuador has accepted as a satisfactory certificate to be given to Chinese subjects in Ecuador, when applied for by them, has the effect of a passport. This concession on the part of the Government of Ecuador will, the department feels confident, be very gratifying to you and to your Government.

Accept, etc.,

ALVEY A. ADEE.

[Inclosure.]

Consul General Dietrich to the Secretary of State.

No. 235.]

AMERICAN CONSULATE GENERAL,
Guayaquil, November 14, 1908.

SIR: I have the honor, respectfully referring to copy of the department's instructions No. 61 of August 22, 1908, received from the legation at Quito, regarding the protection of Chinese subjects resident in Ecuador, to inclose herewith form of certificate which has been accepted by the Government of Ecuador as a satisfactory form of certificate to be given to the Chinese subjects, when applied for by them.

I have, etc.,

HERMAN R. DIETRICH.

[Subinclosure.]

Form of certificate.

No. ----

To all whom these presents shall come, greeting:

I, Herman R. Dietrich, consul general of the United States of America, certify: That ----- claims to be a subject of the Emperor of China, resident in Ecuador, and that, upon his proving his status as a Chinese subject, he will in case of need be entitled to the protection of the Government of the United States and to the good offices of the diplomatic and consular officers thereof, while in Ecuador, in pursuance of an understanding between the Governments of Ecuador and China to that end.

I, therefore, request all whom it may concern to permit safely and freely to pass Mr. -----, and that in case of need, to give him all lawful aid and protection.

Given under my hand and seal of the consulate general at Guayaquil, Ecuador, this ---- day of -----, nineteen hundred and eight.

-----,
*Consul General of the United States at Guayaquil, Ecuador,
and in charge of the interests of China.*

(Signature of the bearer.)

CHINA.

PAYMENT OF THE CHINESE INDEMNITY—RETURN BY THE UNITED STATES OF A PORTION OF ITS ALLOTMENT.

(Continued from Foreign Relations, 1907, p. 174 et seq.)

File No. 774/135A.

The Secretary of State to Minister Rockhill.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 25, 1908.

(Mr. Root informs Mr. Rockhill of the passage of the bill authorizing the President to modify the indemnity bond from \$24,440,000 to \$13,655,492.69 and interest at 4 per cent, and to remit the remainder of the indemnity as an act of friendship, such payments and remissions to be at such times and in such manner as the President shall deem just. Says that a further sum of \$2,000,000 is reserved from the indemnity paid to abide the result of the rehearing on private claims presented to the Court of Claims within one year. The balance remaining after such adjudications is also to be returned to the Chinese Government in such a manner as the Secretary of State shall decide. Mr. Root directs Mr. Rockhill to invite an expression of views of the Chinese Government as to times and manner of remission which would be just; and advise him, in conferring with the Chinese Government upon this subject, to keep in mind the conferences during his last visit to the United States.)

File No. 2413/138A.

The Secretary of State to Minister Rockhill.

No. 469.]

DEPARTMENT OF STATE,
Washington, May 27, 1908.

SIR: I inclose herewith copy of an act of Congress authorizing the return to the Government of China a portion of the indemnity exacted to repay losses sustained by reason of the Boxer disturbances of 1900.

The department would be glad of suggestions from the Government of China bearing upon the times and manner in which the remission shall be made. In conferences with the Chinese Government on this subject you will, of course, bear in mind the conversations which you had with the Secretary of State during your recent visit to the United States.

I confirm the department's telegram of the 25th instant on this subject.¹

I am, etc.,

E. Root.

¹ Supra.

[Inclosure.]

[PUBLIC RESOLUTION—No. 29.]

JOINT RESOLUTION To provide for the remission of a portion of the Chinese indemnity.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized to consent to a modification of the bond for twenty-four million four hundred and forty thousand seven hundred and seventy-eight dollars and eighty-one cents, dated December fifteenth, nineteen hundred and six, received from China pursuant to the protocol of September seventh, nineteen hundred and one, for indemnity against losses and expenses incurred by reason of the so-called Boxer disturbances in China during the year nineteen hundred, so that the total payment to be made by China under the said bond shall be limited to the sum of thirteen million six hundred and fifty-five thousand four hundred and ninety-two dollars and sixty-nine cents and interest at the stipulated rate of four per centum per annum, and that the remainder of the indemnity to which the United States is entitled under the said protocol and bond may be remitted as an act of friendship, such payments and remission to be at such times and in such manner as the President shall deem just: *Provided,* That within one year from the passage of this resolution any person whose claim upon the Chinese indemnity, nineteen hundred, was presented to the United States commissioners or to the Department of State and disallowed in whole or in part may present the same by petition to the Court of Claims, which court is hereby invested with jurisdiction to hear and adjudicate such claim, without appeal, and to render such judgments de novo, or in addition to any allowance or allowances heretofore made, as, in each case shall be fully and substantially compensatory for actual losses and expenses of the claimant caused by the antiforeign disturbances in China during the year nineteen hundred, excluding merely speculative claims or elements of damage: *And provided also,* That the sum of two million dollars be reserved from the Chinese indemnity, nineteen hundred, for the payment of such judgments, the same to be paid by the Treasurer of the United States as and when they shall be certified to the Secretary of the Treasury by the said court, and any balance remaining after all such claims have been adjudicated and paid shall be returned to the Chinese Government in such manner as the Secretary of State shall decide, and the Secretary of the Treasury is hereby authorized and directed to so return the same: *And provided further,* That all evidence furnished by the claimants, and statements made by them to the said commissioners or to the Department of State, shall be transmitted by the said Department to the said Court of Claims and considered together with such other additional testimony as may be presented by either side, and the Government of the United States shall defend the said claims in the said court by such attorney or attorneys as may be designated for such service by the Attorney-General of the United States: *Provided further,* That in no case shall the Court of Claims award a principal sum to any claimant which, together with the principal sums said claimant may have already received by decision of the United States commissioners and the Department of State, shall exceed the amount originally claimed by said claimant.

Approved, May 25, 1908.

File No. 2413/136-137.

The Acting Secretary of State to the Chinese Minister.

No. 113.]

DEPARTMENT OF STATE,
Washington, May 29, 1908.

SIR: I have the honor to inclose herewith copy of an act of Congress, approved May 25, 1908,¹ whereby the President is authorized to return to the Chinese Government a designated portion of the

¹ *Supra.*

indemnity paid by your Government in consideration of losses sustained by reason of the Boxer disturbances of 1900.

The Government of the United States would be glad to obtain from the Imperial Chinese Government an expression of opinion as to the times and manner in which the remission shall be made.

Accept, etc.,

ROBERT BACON.

File No. 2413/139.

The Chinese Minister to the Acting Secretary of State.

IMPERIAL CHINESE LEGATION,
Washington, June 4, 1908.

SIR: I have the honor to acknowledge the receipt of your note, Serial No. 113, inclosing therewith copy of an act of Congress, approved May 25, 1908, whereby His Excellency the President of the United States is authorized to return to my Government a designated portion of the indemnity paid by my Government in consideration of losses sustained by reason of the Boxer disturbances of 1900. In your note you intimated that your Government would be glad to obtain from my Government an expression of opinion as to the times and manner in which the remission shall be made.

In reply I beg to say that the contents of your note have been transmitted by cable to my Government, and as soon as the reply arrives I will do myself the honor of communicating it to you. I take this opportunity to reassure your Government of the grateful feelings of my Government for this signal act of friendship on your part.

Accept, etc.,

WU TING FANG.

File No. 2413/140.

Minister Rockhill to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, July 15, 1908.

(Mr. Rockhill reports having received to-day from the foreign office a reply to his note informing it of the act of Congress authorizing a refund of a portion of the indemnity, which, after acknowledging by subject his note, reads as follows:¹

Mr. Rockhill says that this plan appears to be very commendable and in accordance with department's instructions, and trusts it will commend itself sufficiently to urge immediate beginning of the refunds.)

¹ See inclosure to Mr. Rockhill's dispatch, No. 966, July 16, 1908.

File No. 2413/146-148.

Minister Rockhill to the Secretary of State.

[Extract.]

No. 966.]

AMERICAN LEGATION,
Peking, July 16, 1908.

SIR: In further reference to your telegraphic instruction of May 25, 1908, directing me to inform the Chinese Government that Congress had passed an act authorizing the President to modify the indemnity bond given the United States by China under the provisions of Article VI of the Peking final protocol of September 7, 1901, and remit to China, as an act of friendship, a portion of it, I have the honor to inclose copy of my note to the Prince of Ch'ing, his reply thereto and the supplementary note outlining the scheme of the Imperial Government for the creation of an educational mission in the United States.

I have, etc.,

W. W. ROCKHILL.

[Inclosure.]

*Minister Rockhill to the Prince of Ch'ing.*AMERICAN LEGATION,
Peking, July 11, 1908.

YOUR HIGHNESS: It is with great satisfaction that I have the honor to inform your highness, under direction of the Secretary of State of the United States, that a bill has passed the Congress of the United States authorizing the President to modify the indemnity bond given the United States by China under the provisions of Article VI of the final protocol of September 7, 1901, from \$24,440,000 United States gold currency to \$13,655,492.29, with interest at 4 per cent per annum. Of this amount \$2,000,000 are held pending the result of hearings on private claims presented to the Court of Claims of the United States within one year. Any balance remaining after such adjudication is also to be returned to the Chinese Government in such manner as the Secretary of State shall decide.

The President is further authorized under the bill to remit to China the remainder of the indemnity as an act of friendship, such payments and remissions to be made at such times and in such a manner as he may deem just.

I am also directed by the Secretary of State to request the Imperial Government kindly to favor him with its views as to the time and manner of the remissions.

Trusting that your imperial highness will favor me with an early reply to communicate to my Government, I avail, etc.

W. W. ROCKHILL.

[Inclosure 2.—Translation.]

*The Prince of Ch'ing to Minister Rockhill.*FOREIGN OFFICE,
Peking, July 14, 1908.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your dispatch of July 11, informing me that you had been directed by the Secretary of State to notify me that a bill has passed the Congress of the United States

authorizing the President to modify the indemnity bond given the United States by China under the provision of Article VI of the final protocol of September 7, 1901, from \$24,440,000 United States gold currency, to \$13,655,492.29, with interest at 4 per cent per annum. Of this amount \$2,000,000 are held pending the result of hearings on private claims presented to the Court of Claims of the United States within one year. Any balance remaining after such adjudication is also to be returned to the Chinese Government in such manner as the Secretary of State shall decide. The President is further authorized under the bill to remit to China the remainder of the indemnity as an act of friendship, such payments to be made at such times and in such a manner as he may deem just. As directed by the Secretary of State, your excellency requests the Imperial Government kindly to favor him with its views as to the time and manner of the remissions, and asks an early reply to communicate to your excellency's Government.

On reading this dispatch I was profoundly impressed with the justice and great friendliness of the American Government, and wish to express our sincerest thanks.

Concerning the time and manner of the return to China of the amounts to be remitted, the Imperial Government has no wishes to express in the matter. It relies implicitly on the friendly intentions of the United States Government, and is convinced that it will adopt such measures as are best calculated to attain the end it has in view.

The Imperial Government, wishing to give expression to the high value it places on the friendship of the United States, finds in its present action a favorable opportunity for doing so. Mindful of the desire recently expressed by the President of the United States to promote the coming of Chinese students to the United States to take courses in the schools and higher educational institutions of the country, and convinced by the happy results of past experience of the great value to China of education in American schools, the Imperial Government has the honor to state that it is its intention to send henceforth yearly to the United States a considerable number of students there to receive their education. The board of foreign affairs will confer with the American minister in Peking concerning the elaboration of plans for the carrying out of the intention of the Imperial Government.

A necessary dispatch.

[Seal of the Wai Wu Pu.]

[Inclosure 3.]

The Foreign Office to Minister Rockhill.

FOREIGN OFFICE,
Peking, July 14, 1908.

Referring to the dispatch just sent to your excellency regarding sending students to America, it has now been determined that from the year when the return of the indemnity begins 100 students shall be sent to America every year for four years, so that 400 students may be in America by the fourth year. From the fifth year and throughout the period of the indemnity payments a minimum of 50 students will be sent each year.

As the number of students will be very great there will be difficulty in making suitable arrangements for them. Therefore in the matter of choosing them, as well as in the matter of providing suitable homes for them in America and selecting the schools which they are to enter we hope to have your advice and assistance. The details of our scheme will have to be elaborated later, but we take this occasion to state the general features of our plan and ask you to inform the American Government of it. We sincerely hope that the American Government will render us assistance in the matter.

Wishing you all prosperity,

PRINCE OF CH'ING.
NA T'UNG.
YUAN SHIH-K'AI.
LIEN FANG.
LIANG TUN-YEN.

File No. 2413/140.

The Acting Secretary of State to Minister Rockhill.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 17, 1908.

(Mr. Bacon directs Mr. Rockhill to express to the Foreign Office this Government's sincere appreciation of the very friendly sentiments contained in the note of the Imperial Chinese Government of the 15th instant. Informs Mr. Rockhill that the United States is deeply gratified to learn of the intention of China to send annually numbers of students to this country for educational purposes, and states that China may count on the entire sympathy and hearty cooperation of the United States in this most commendable undertaking.)

File No. 2413/141.

Minister Rockhill to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Peking, July 20, 1908.

Edict to-day gives T'ang Shao-yi rank of president of a board and appoints him special envoy to the United States to express the thanks of China for the action of the United States in reference to the indemnity. Will probably leave early in November.

ROCKHILL.

File No. 2413/141.

The Acting Secretary of State to Minister Rockhill.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 22, 1908.

(Mr. Bacon directs Mr. Rockhill to express to the foreign office this Government's satisfaction on learning of the deputation of T'ang Shao-yi, who will be very welcome.)

File No. 2413/140.

The Secretary of State to Minister Rockhill.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 3, 1908.

(Mr. Root informs Mr. Rockhill that the United States has experienced great satisfaction in the expression of the Imperial Govern-

ment of China concerning the act of Congress authorizing the remission of the indemnity, and is especially gratified by the intention of China in regard to the sending of students each year from the year in which remission begins, in which intention the United States finds a renewed expression of the confidence and friendship of China, which it prizes very highly. Mr. Root advises Mr. Rockhill that the department has called upon the Treasury for a recalculation of the indemnity payments on a basis which will accord with the intent of the act authorizing a remission and with the intentions of China in regard to the sending of students to the United States, which calculation will be transmitted to Mr. Rockhill to form the basis for the elaboration of the general scheme in regard to which China has consulted him.)

File No. 2413/208-209.

Minister Rockhill to the Secretary of State.

No. 1034.]

AMERICAN LEGATION,
Peking, October 31, 1908.

SIR: I have the honor to inclose herewith, for your information, translation of a draft of the steps which the Chinese Government deem it advisable to take to give effect to the declaration made in its note to me of July 14 last concerning the sending of students to the United States.

This draft was submitted to me by the Wai-wu Pu and was prepared by His Excellency Yuan Shih-k'ai. It embodies also the outlines of the regulations to govern the selection of students, their management before their departure to the United States and during their stay there. It complies with the assurances given us by the Imperial Government, and, subject to some slight amendments which I have already submitted to the Wai-wu Pa, I think it will insure success to the mission.

The details of the plan, which remain to be worked out, are sufficiently indicated in the draft inclosed; they can all be disposed of before the end of the current year.

Considering the perfectly satisfactory nature of the draft now submitted, and of the fact that no details still to be agreed upon can impair it in any way, I deemed it proper to cable you to-day recommending that the remission of the indemnity should begin from January 1 next. If this recommendation meets with your approval, it will enable the Chinese Government to begin at once carrying out the present project, hold its first examinations, establish the preparatory school here, and it seems reasonable to suppose that a first lot of students can be sent to the United States to begin their studies not later than next autumn.

I have, etc.,

W. W. ROCKHILL.

[Inclosure—Translation.]

Proposed regulations for the students to be sent to America.

I.—GENERAL STATEMENT.

The students to be sent to America are to be supported out of the indemnity fund remitted by the United States. It is proposed to memorialize the Throne fixing the number of students to be sent abroad, with a statement of the general arrangements made for them, and at the same time to notify the American minister.

The board of foreign affairs will be responsible for the establishment of the training schools and the appointment of the superintendent of students.

The board of education will be responsible for the examination of the students after their graduation, as the board of foreign affairs may invite the board of education.

The officials appointed by the board of foreign affairs and the American legation will be jointly responsible for the selection of the students who are to be sent to America and for their distribution in American educational institutions.

II.—THE GENERAL PURPOSE.

The aim in sending students abroad at this time is to obtain results in solid learning. Eighty per cent of those sent will specialize in industrial arts, agriculture, mechanical engineering, mining, physics and chemistry, railway engineering, architecture, banking, railway administration, and similar branches, and 20 per cent will specialize in law and the science of government.

III.—QUALIFICATIONS OF STUDENTS.

The requirements will be—

- (a) General intelligence.
- (b) Good character.
- (c) Good health.
- (d) Respectable social position.
- (e) Suitable age.
- (f) Knowledge of Chinese sufficient to write an essay of several hundred characters.
- (g) General knowledge of Chinese classical literature and history.
- (h) Knowledge of English sufficient to enable the student to enter an American university or technical school.
- (i) The completion of a preparatory course in general studies.

IV.—THE METHOD OF NOMINATION OF CANDIDATES.

The board of education will choose the most promising students from all the schools and present them for examination. The board of foreign affairs will also call for applications. Students of both these classes must be fully up to the required standard or they will not be accepted as candidates. (Detailed regulations will be drawn up later.)

V.—THE EXAMINATION AND CHOICE OF STUDENTS.

Officials appointed by the board of foreign affairs and one official appointed by the American legation will consult together and report to the board the detailed method of procedure. There shall be three tests:

- (a) Candidates must be inspected as to their physical condition by western trained physicians.
- (b) They must pass in Chinese.
- (c) They must pass in English and general branches. (Detailed regulations will be issued later.)

VI.—THE TRAINING SCHOOL.

The board of foreign affairs will establish a training school for students going to America (or branch schools will be established at Tientsin, Hankow, and Canton for the convenience of students from the different Provinces). All the accepted candidates will enter this school, or schools. Those sent out the first year will be trained for six months and those sent thereafter will be trained for one year. During this time the character and ability of the students will be closely inspected and only those found satisfactory will be sent abroad. Those found unsuitable will be rejected. (Detailed regulations will be issued later.)

VII.—THE SUPERINTENDENCE OF THE STUDENTS ABROAD.

At Washington, Chicago, or some other suitable place centrally located the office of the general superintendent will be established. Some one who has graduated from an American university and who has a reputation for ability will be appointed superintendent of students and four or five assistants will be appointed to attend to the placing of the students, to their finances, and to inspect their studies. These will make regular reports. (Detailed regulations will be issued later.)

VIII.

After the students have completed their courses of study and obtained their diplomas they will be presented by the board of foreign affairs to the board of education to be examined according to the regulations, and they will receive rank as may be determined by the board of education.

File No. 2413/208-209.

The Secretary of State to the Chinese Minister.

DEPARTMENT OF STATE,
Washington, December 31, 1908.

SIR: I have the honor to transmit herewith a copy of an Executive order, dated December 28, 1908, providing, under the joint resolution or congress of May 25, 1908, for the remission of a portion of the indemnity against the losses and expenses incurred by reason of the so-called Boxer disturbances in Peking during the year 1900.

It affords me great pleasure to inform you that such remission will begin upon the 1st day of January, 1909.

Accept, etc.,

ELIHU ROOT.

[Inclosure.]

Executive order.

Pursuant to the authority of the joint resolution of Congress to provide for the remission of a portion of the Chinese indemnity, approved May 25, 1908, I hereby consent to a modification of the bond for \$24,440,778.81, dated December 15, 1906, received from China pursuant to the protocol of September 7, 1901, for indemnity against losses and expenses incurred by reason of the so-called Boxer disturbances in China during the year 1900, so that the total payment to be made by China under the said bond shall be limited to the sum of \$13,655,492.69 and interest at the stipulated rate of 4 per cent per annum, and that the remainder of the indemnity to which the United States is entitled under the said protocol and bond be remitted as an act of friendship, such payment and remission to be made at the time and in the manner hereinafter provided, which I deem to be just, that is to say:

In accordance with the plan of amortization annexed to the original indemnity bond, the amounts payable hereafter by China to the United States would be as set forth in the schedule annexed hereto marked "Schedule A," and identified by the signature of the Secretary of State.

I have caused an account to be made by the Treasury Department in which the payments already made under the original bond are credited as against a debt of \$13,655,492.69 with interest at 4 per cent per annum beginning July 1, 1901, in lieu of the original sum specified in the bond and I find that after such credits, and including in such credits the sum of \$85,223.04, which it is assumed will be paid on the 1st day of January, 1909, there will remain on that day to be paid and retained by the United States in satisfaction of the sum of \$13,655,492.69 and interest thereon, the sum of \$9,644,367.60.

It also appears by the said new account that the payment to and retention by the United States of the sums specified in the paper hereto attached, marked "Schedule B" and identified by the signature of the Secretary of State, will satisfy the principal and interest of the said sum of \$9,644,367.60 by the end of the period contemplated in the original plan of amortization. And I direct that after the said 1st day of January, 1909, from the several payments made under the said bond of December 15, 1906, in accordance with Schedule A, there be retained and paid into the Treasury of the United States only the sums specified in Schedule B; and that the remainder of the said several payments so made by China in accordance with Schedule A over and above the sums specified by Schedule B be returned by indorsing back the drafts therefor, or otherwise, and thus remitted to the Government of China. The sums to be so returned in each year will be as stated in the paper hereto attached marked "Schedule C," identified by the signature of the Secretary of State.

The provision contained in the original bond for an adjustment of interest because payments are made monthly instead of semiannually will continue to be applicable to the payments of the sums specified in Schedule B.

In witness whereof, I have caused the seal of the United States to be hereunto affixed.

Done at Washington, this twenty-eighth day of December, one thousand nine hundred and eight.

[SEAL.]

THEODORE ROOSEVELT.

By the President:

ELIHU ROOT,

Secretary of State.

SCHEDULE A

Years.	Amount due yearly, payable half yearly.	Monthly installments.	Years.	Amount due yearly, payable half yearly.	Monthly installments.
1909.....	\$1,022,683.66	\$85,223.64	1926.....	\$1,329,784.76	\$110,815.40
1910.....	1,022,683.66	85,223.64	1927.....	1,329,784.75	110,815.40
1911.....	1,080,787.54	90,065.63	1928.....	1,329,784.76	110,815.40
1912.....	1,080,787.54	90,065.63	1929.....	1,329,784.75	110,815.40
1913.....	1,080,787.53	90,065.63	1930.....	1,329,784.76	110,815.40
1914.....	1,080,787.53	90,065.63	1931.....	1,329,784.75	110,815.40
1915.....	1,264,582.18	105,381.85	1932.....	1,919,967.11	159,997.26
1916.....	1,329,784.76	110,815.40	1933.....	1,919,967.10	159,997.26
1917.....	1,329,784.76	110,815.40	1934.....	1,919,967.10	159,997.26
1918.....	1,329,784.76	110,815.40	1935.....	1,919,967.11	159,997.26
1919.....	1,329,784.75	110,815.40	1936.....	1,919,967.09	159,997.26
1920.....	1,329,784.76	110,815.40	1937.....	1,919,967.09	159,997.26
1921.....	1,329,784.75	110,815.40	1938.....	1,919,967.11	159,997.26
1922.....	1,329,784.75	110,815.40	1939.....	1,919,967.10	159,997.26
1923.....	1,329,784.75	110,815.40	1940.....	1,923,374.12	160,281.18
1924.....	1,329,784.76	110,815.40	Deficit.....	3,407.02	.....
1925.....	1,329,784.75	110,815.40			

Schedule A referred to in the Executive order of the President, dated December 28, 1908.

ELIHU ROOT,
Secretary of State.

FOREIGN RELATIONS.

SCHEDULE B.

Years.	Principal to be retained.	Interest to be retained.	Total payment to be retained.	Years.	Principal to be retained.	Interest to be retained.	Total payment to be retained.
1909.....	\$153,814.06	\$385,774.70	\$539,588.76	1925.....	\$288,090.85	\$251,497.91	\$539,588.76
1910.....	159,966.62	379,622.14	539,588.76	1926.....	299,614.49	239,974.27	539,588.76
1911.....	166,365.29	373,233.47	539,588.76	1927.....	311,599.07	227,989.69	539,588.76
1912.....	173,019.90	366,568.86	539,588.76	1928.....	324,063.03	215,525.73	539,588.76
1913.....	179,940.70	359,648.06	539,588.76	1929.....	337,025.56	202,563.20	539,588.76
1914.....	187,138.32	352,450.44	539,588.76	1930.....	350,506.57	189,082.19	539,588.76
1915.....	194,623.86	344,964.90	539,588.76	1931.....	364,526.84	175,061.92	539,588.76
1916.....	202,408.81	337,179.95	539,588.76	1932.....	379,107.92	160,480.84	539,588.76
1917.....	210,505.16	329,083.60	539,588.76	1933.....	394,272.22	145,316.54	539,588.76
1918.....	218,925.37	320,663.39	539,588.76	1934.....	410,043.11	129,545.65	539,588.76
1919.....	227,682.38	311,906.38	539,588.76	1935.....	426,444.84	113,143.92	539,588.76
1920.....	236,789.68	302,799.08	539,588.76	1936.....	443,502.64	96,086.12	539,588.76
1921.....	246,261.27	293,327.49	539,588.76	1937.....	461,242.74	78,346.02	539,588.76
1922.....	256,111.72	283,477.04	539,588.76	1938.....	479,692.45	59,896.31	539,588.76
1923.....	266,356.19	273,232.57	539,588.76	1939.....	498,880.14	40,708.62	539,588.76
1924.....	277,010.44	262,578.32	539,588.76	1940.....	518,835.36	20,753.40	539,588.76

Schedule B referred to in the Executive order of the President, dated December 28, 1908.

ELIHU ROOT,
Secretary of State.

SCHEDULE C.

Years.	Amount remitted yearly.	Years.	Amount remitted yearly.	Years.	Amount remitted yearly.
1909.....	\$483,094.90	1920.....	\$790,196.00	1931.....	\$790,195.99
1910.....	483,094.90	1921.....	790,195.99	1932.....	1,380,378.35
1911.....	541,198.78	1922.....	790,195.99	1933.....	1,380,378.34
1912.....	541,198.78	1923.....	790,195.99	1934.....	1,380,378.34
1913.....	541,198.78	1924.....	790,196.00	1935.....	1,380,378.35
1914.....	541,198.78	1925.....	790,195.99	1936.....	1,380,378.43
1915.....	724,993.42	1926.....	790,196.00	1937.....	1,380,378.43
1916.....	790,196.00	1927.....	790,195.99	1938.....	1,380,378.35
1917.....	790,196.00	1928.....	790,196.00	1939.....	1,380,378.34
1918.....	790,196.00	1929.....	790,195.99	1940.....	1,380,378.36
1919.....	790,195.99	1930.....	790,196.00		

Schedule C, referred to in the Executive order of the President dated December 28, 1908.

ELIHU ROOT, Secretary of State.

File No. 2413/208-209.

The Secretary of State to Minister Rockhill.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 31, 1908.

(Mr. Root informs Mr. Rockhill that the President, in an Executive order dated December 28, 1908, has directed that the remission of the indemnity commence January 1, 1909. Payments already made under original bond are credited as against debt of \$13,655,492.69, with interest at 4 per cent beginning July 1, 1901, in lieu of original sum specified in bond. Says that after such credits and including therein the sum of \$85,223.04, which it is assumed will be paid on January 1, 1909, there will remain on that day to be paid

to and retained by the United States \$9,644,367.60, and that such indebtedness would be satisfied with interest by annual payments of \$539,588.76 for a period ending in 1940. Accordingly, after January 1, 1909, from the several payments made under the bond of December 15, 1906, Mr. Root states that there will be retained and paid into the Treasury only sums aggregating \$539,588.76 in each year, and the remainder of the regular payments by China under the bond of December 15, 1906, will be returned by indorsing back the drafts therefor or otherwise and thus remitted to the Government of China. Says the provision contained in the original bond for an adjustment of interest because payments made monthly instead of semiannually will continue to be applicable to the payments under the new arrangement.

Mr. Root states that the draft regulations for the education of Chinese students in the United States is acceptable to this Government, subject to the slight amendments to which he refers in his No. 1034, and directs him to communicate the foregoing to the Wai-wu-Pu, expressing the hope of department that the method of remission will prove satisfactory to the Imperial Government of China.)

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

(Continuation of correspondence printed in Foreign Relations, 1907, p. 140 et seq.)

File No. 774/155.

Ambassador O'Brien to the Secretary of State.

No. 156.]

AMERICAN EMBASSY,
Tokyo, January 22, 1908.

SIR: In acknowledging the department's instructions Nos. 16¹ and 17¹ of October 14 and 16, 1907, respectively, on the subject of the proposal of the United States to conduct a joint opium investigation, I have the honor to report that on November 13 following I wrote to the Japanese minister for foreign affairs, expressing the gratification of my Government at the acceptance in principle by Japan of the joint commission, and their appreciation of its friendly interest in the contemplated effort to suppress the opium evil, and inquiring whether the Japanese Government found it convenient to suggest a place and time of meeting of the proposed commission.

One December 28 last I received a note from Count Hayashi informing me that my own communication was then "under consultation with the authorities concerned," and that he would write me further on the subject. I am to-day, accordingly, in receipt of a note from him reading, in part, as follows:

In reply to your excellency's, relative to suggesting the place and time of meeting of a joint commission for the investigation of the opium trade and habit in the Far East, I have the honor to state that the Imperial Government is desirous to leave the matter entirely to the decision of the United States Government. I therefore beg leave to request that your excellency will be so good as to take due steps in connection with the subject.

I have, etc.,

S. J. O'BRIEN.

¹ See Foreign Relations, 1907, p. 169.

File No. 774/169-173.

Chargé Fletcher to the Secretary of State.

No. 845.]

AMERICAN LEGATION,
Peking, February 14, 1908.

SIR: I have the honor to report that an agreement has been reached by the British and Chinese Governments for the obliteration of the opium trade between India and China in 10 years.

As will be seen from the inclosures, which I am able to send through the courtesy of Sir John Jordan, it has been arranged that, beginning with 1908, the annual exportation of opium from India shall be reduced by 5,100 chests annually. India's total yearly exports of opium to Chinese treaty ports and Hongkong amount to 51,000 chests, so that by the reduction mentioned it is calculated that the opium trade between China and India will cease in the next 10 years. The customs returns show that China's total imports of opium last year amounted to about 43,000 chests.

It is understood also that efficient measures shall be taken at the same time by the Chinese Government to limit the production of opium in China, so that the production of Chinese opium will decrease *pari passu* with the exportation from India. If at the end of three years it is found that such measures have not been taken by China, the arrangement now made will become inoperative.

It was deemed more practicable to limit the export from India than the import into China, as the traffic can and will be more effectively controlled there than at the various treaty ports in China. It has also been arranged, I understand, that the government of Hongkong will prohibit the export of prepared opium to China and, vice versa, China will prohibit its export to Hongkong. These arrangements, coinciding with sincere and effective measures on the part of China, should exterminate the opium evil in the Empire.

An interesting report prepared by Mr. Stephen Leech, of the British legation, showing the result of the action taken by China to restrict the production and consumption of opium, has been forwarded to the foreign office and will no doubt soon appear in print. I would suggest that the embassy in London be requested to furnish copies to the department when available.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure 1.]

Sir John Jordan to the Prince of Ch'ing.

PEKING, February 3, 1908.

SIR: With reference to my dispatch, No. 23, of January 8 last, and in confirmation of my telegram, No. 26, of the 27th ultimo, I have the honor to transmit to you copy of a memorandum which I received from the Wai-wu Pu on the 24th of January, in which the Chinese Government at length, after considerable hesitation, signify their willingness to accept the proposal of the Indian Government to decrease the total annual export of Indian opium, taken on the basis of 51,000 chests, by 5,100 chests per annum, to commence from 1908.

The board at the same time renew their expression of gratitude for the assistance afforded China by His Majesty's Government.

Prior to this I had received, on the 10th of January, a memorandum, copy of which I have the honor to inclose, in reply to my memorandum, forming inclo-

sure in my dispatch, No. 23, of January 8, in which, while admitting the greater feasibility from the point of view of convenience of the Indian plan, the Chinese Government betray a complete misunderstanding of the whole question by reiterating their previously expressed view that the annual reduction should be based upon the total import of 42,320 chests, on the erroneous assumption that an export of 51,000 chests from India would necessarily mean a corresponding increase by 8,680 chests, the difference between 42,320 and 51,000, of the annual import of China. As a compromise they were willing to halve the difference and they therefore requested that the annual decrease should be 4,660 chests, based upon a fictitious average of 46,660 chests formed by the addition of 4,340 chests to the annual import of 42,320 chests shown in the customs returns.

In a memorandum of January 17 I pointed out the advantages of the Indian scheme over the plan proposed by the Chinese Government, and eventually on the 24th ultimo I received the memorandum referred to in my telegram, No. 26, in which the Chinese Government at length accepts the Indian proposal without any modification.

I have, etc.,

J. N. JORDAN.

[Inclosure 2.—Translation.]

The Prince of Ch'ing to Sir John Jordan.

[Memorandum.]

FOREIGN OFFICE,
Peking, January 24, 1908.

The board have had under earnest consideration Sir John Jordan's memorandum of the 17th instant, on the subject of the measures to be taken for the restriction of opium, stating that, in Sir John Jordan's opinion, the limitation of the total export of Indian opium to all countries would be the more advantageous to China, and asking the board to reconsider the matter before coming to a final decision.

The board have come to the conclusion that the direct restriction by China herself of the import into the treaty ports would be impracticable, and they fully recognize that the proposal of His Majesty's Government taking as a basis the total export of Indian opium to all countries to decrease the amount annually is the result of an earnest desire on the part of His Majesty's Government to suppress the use of opium. The board have the honor, therefore, to request that the total export of Indian opium taken on the basis of 51,000 chests may be decreased annually by 5,100 chests, thus affecting the total abolition of the trade in 10 years from 1908.

The board have also the honor to request Sir John Jordan to convey to His Majesty's Government the expression of their deep gratitude.

[Inclosure 3.—Translation.]

[Memorandum from the Wai-wu Pu.]

OPIMUM PROHIBITION.

FOREIGN OFFICE,
Peking, January 10, 1908.

The board have received Sir John Jordan's memorandum of the 7th instant pointing out that the figure 51,000 chests include all the consignments made from India to Hongkong and the treaty ports of China, and that it would be more advantageous to China that India should reduce her total export by 5,100 chests than by 4,232 chests per annum.

In reply the board would observe that the figure they gave as the average had reference to the quantity of opium imported. That quoted by His Majesty's Government had reference to the quantity of opium exported.

To limit the export is, naturally, more convenient than to limit the import. Only for the first two years would the figure be comparatively high, while after 10 years' time the export would finally cease altogether.

The board are sensible of the efforts which His Majesty's Government are making to afford assistance, and are most grateful. But, they would point out,

the underlying motive in this case is to eradicate opium, and if to the existing import figure an addition of 8,680 chests were made, they consider that the result would be in direct opposition to the principle they have in view.

They propose, therefore, to reduce the excess figure by one-half, thus making a fixed total import of 46,660 chests. This figure would be annually reduced by 4,666 chests, and by this means a middle course affecting both parts equally would be arrived at, while there would be greater security if the limitation of the export to China and Hongkong were to be undertaken at the Indian end.

The Chinese Government rely wholly upon the support of His Majesty's Government in this matter. The board therefore request Sir John Jordan to transmit their proposal and obtain its acceptance so that it may be put into effect.

With regard to precautions against transshipment or alteration of destination, these can be postponed for further discussion.

[Inclosure 4.]

[Draft of memorandum.]

OPIUM.

JANUARY 17, 1908.

Sir John Jordan has had under consideration the board's memorandum of January 10 proposing that the total import of opium from India into China be fixed at 46,660 chests, which figure would be annually reduced by 4,666 chests.

Sir John Jordan sees great difficulty in this proposal. The board seems to think that the limitation of the export to China and Hongkong might be undertaken at the Indian end, but, as Sir John Jordan pointed out in his memorandum of January 7, "Any restriction which might be imposed in India on the quantity of opium shipped for any given destination would always be liable to evasion by transshipment or an alteration of the ship's destination." The board says, in reference to this, that precautions could be taken after further discussion. But such discussion would have to be undertaken with all the treaty powers and would occupy considerable time. Under such an arrangement of directly restricting import at the treaty ports India would, moreover, be free to regulate export as demanded by the market.

It should be clearly understood by the Imperial Government that the choice lies between the limitation by India of the total export to all countries and direct limitation by China herself of the import into the treaty ports. The latter plan, as already stated, could not be put into operation until it had received the assent of all the treaty powers.

Of the two alternatives there is no doubt in Sir John Jordan's mind that the proposal of the Government of India is more advantageous to China, and he would earnestly ask the board to reconsider the matter before coming to a final decision.

[Inclosure 5.]

Sir John Jordan to the Prince of Ch'ing.

PEKING, January 30, 1908.

YOUR HIGHNESS: I have the honor to refer your highness to my note of September 21 and to your reply of December 2 last, by which it was mutually agreed, with reference to the prohibition of the trade in prepared opium between China and Hongkong, that each Government should take steps to prohibit the import into its own territory.

I am now informed by his excellency the governor of Hongkong that he is only awaiting notice from me that the Chinese Government has taken the necessary steps, in order to prepare an ordinance prohibiting the export of prepared opium from Hongkong to China.

In order that the steps taken by the Chinese Government may be equally binding upon Chinese subjects, I have the honor to suggest for your highness's consideration that the export of prepared opium from China to Hongkong may be prohibited by imperial decree.

I avail, etc.,

J. N. JORDAN.

File No. 774/164.

The Acting Secretary of State to Minister Bryan.

No. 160.]

DEPARTMENT OF STATE,
Washington, March 10, 1908.

SIR: The Government of the United States at different times within the past 12 months has instructed its diplomatic representatives at London, Paris, Berlin, Tokyo, The Hague, and Peking to bring to the notice of the Government to which each is accredited the proposal of the United States to conduct a joint and impartial investigation of the scientific and material conditions of the opium trade and opium habit in the Far East which affect the possessions and direct interests of those Governments in that part of the world.

The initial inquiry made having elicited favorable responses, further instructions were then issued to the several named diplomatic representatives expressing the desire of the United States to be informed whether the Governments concerned preferred to investigate the opium question by means of a conference or through a joint commission.

In their replies all the various Governments accepted the proposal in principle and expressed a preference for a joint commission. In one instance the reservation was made that the inquiry cover the production of opium in China as well as its importation; while several of the Governments concerned accepted the proposal only on condition of being assured of the cooperation of China. Assurances of the cooperation of China are given in her reply to this Government, while her general policy in the matter is evidenced by the fact that regulations for the gradual suppression of the production and consumption of opium in China and orders for their enforcement have been promulgated by the Chinese Government.

Now that a majority of the Governments in a position to share in practical interest in the opium question in the Far East have signified their willingness to participate in an investigation of that question by a joint commission, and it has thus become assured that such investigation will take place, the Government of the United States entertains the hope that this decision will become unanimous by the acceptance of the suggestion by all the powers concerned.

You are therefore instructed to take the earliest opportunity to express to the minister for foreign affairs the sincere gratification with which the Government of the United States would learn that the Government of Portugal viewed with satisfaction the contemplated effort to suppress the opium vice in the Far East, and that it would find it convenient to join the Governments of the United States, China, France, Germany, Great Britain, Japan, and the Netherlands in the proposed joint opium commission. If the hoped-for acceptance is forthcoming, you will also inquire whether the Portuguese Government cares to suggest a place and time of meeting for the commission. It is suggested in this connection that the several Governments may prefer to await the selection of the place and date of meeting before proceeding to name commissioners.

The cooperation of Portugal is desirable, for it will make the movement unanimous. Since the next step to be taken by the United

States may await the reply of Portugal, you will endeavor to obtain that reply at an early date, and upon its receipt you will inform the department of its tenor by telegraph.

For the information of the legation a transcript of the pertinent previous correspondence is inclosed.

I am, etc.,

ROBERT BACON.

File No. 774/190-193.

Chargé Fletcher to the Secretary of State.

No. 878.]

AMERICAN LEGATION,
Peking, March 25, 1908.

SIR: In continuation of my Nos. 795¹ of December 14, 1907, and 820 of January 22, 1908,² on the subject of the joint opium commission, I have the honor to inclose copies of notes exchanged with the Wai-wu Pu in an endeavor to comply with the department's instruction No. 354 of October 14, 1907.³ As appears from the last note received, Mr. Liu Yu-lin, who, as heretofore reported, has been charged with this matter, may be expected in Peking during the first 10 days of April. The legation will then endeavor to secure a satisfactory reply from the Chinese Government.

In this connection, I inclose translation of a very interesting and important memorial and edict recently issued, in which the proper boards are ordered to draw up regulations and to take effective measures to reduce the production and consumption of opium, in accordance with the Anglo-Chinese agreement reported in my No. 845 of February 14 last. As the memorial states this agreement in more detail than previously reported, I quote its provisions:

1. The entire export of opium from India to any country whatsoever is limited to 51,000 chests annually and, beginning with 1908, this amount shall be reduced annually by 5,100 chests, so that at the end of 10 years the entire export shall be terminated.

2. China shall dispatch officials to Calcutta to keep watch over the packing and export of opium, but who shall meddle with no other matters.

3. The duty on foreign opium shall be doubled; but further consideration shall be given to the subject before the tax on native opium is increased.

4. Opium prepared in Hongkong shall not be exported to China. Each nation shall take measures to prevent the smuggling of opium into its own territory, and the importation of prepared opium into China from Hongkong and vice versa shall be publicly prohibited.

5. The sale and smoking of opium in the foreign concessions of China are to be stopped. If the Chinese authorities begin to put these rules into operation without the concessions, then the municipal councils shall without further notification put them into effect within the concessions.

6. The restriction of the importation of morphia and hypodermic needles must wait until all the treaty powers consent thereto.

The memorial and edict show that the Chinese Government, while appreciating the difficulties, realizes its opportunity, and is making a serious effort to effect this great reform.

I have, etc.,

HENRY P. FLETCHER.

¹ See Foreign Relations, 1907, p. 172.

² Not printed.

³ See Foreign Relations, 1907, p. 169.

[Inclosure 1.]

*Chargé Fletcher to the Prince of Ch'ing.*AMERICAN LEGATION,
Peking, March 7, 1908.

YOUR HIGHNESS: On December 13, 1907, in a reply to my note asking whether or not the Chinese Government desired to name a date and place for the meeting of the proposed opium commission, your highness informed me that Mr. Liu Yü-lin had been appointed to deal with the matter, and the question of date and place of meeting would be referred to him upon his return to Peking.

I am now informed that Mr. Liu recently obtained 100 days' leave of absence on account of the death of his father, and, as this question is one in which my Government is very deeply interested, I feel it my duty to inquire whether it might not be possible for your highness's Government to suggest a time and place for the meeting of the proposed opium commission without waiting until Mr. Liu arrives in Peking.

Trusting that I may receive a favorable reply at an early date, I avail myself of this opportunity to renew to your highness the assurance of my highest consideration.

HENRY P. FLETCHER.

[Inclosure 2.—Translation.]

*The Foreign Office to Chargé Fletcher.*FOREIGN OFFICE,
Peking, March 24, 1908.

YOUR EXCELLENCY: We have the honor to acknowledge the receipt of your note of March 7, 1908, stating that you had been informed that Mr. Liu Yü-lin had recently been given 100 days' leave of absence on account of the death of his father, and would consequently not come at once to Peking in connection with the opium question. You felt it your duty, therefore, inasmuch as the question is one in which your Government is very deeply interested, to inquire whether it might not be possible for the Chinese Government to suggest a time and place for the meeting of the proposed opium commission without awaiting the arrival of Mr. Liu in Peking.

In reply we have the honor to state that upon receipt of your note a telegram was immediately dispatched to the viceroy at Canton instructing him to direct Liu Yü-lin to hasten to Peking as soon as his 100 days of mourning should be finished, and a reply was subsequently received from the viceroy saying that Mr. Liu would leave for Peking in the first part of the third moon (April 1 to 10).

Inasmuch, therefore, as Mr. Liu will arrive in the capital before many days, it seems that this matter in connection with the opium question should be allowed to rest until he comes, when it will be possible to consult with him personally.

In the meantime it becomes our duty to send this reply for your information, and in doing so we avail ourselves of the opportunity to renew to your excellency the assurance of our highest consideration.

PRINCE OF CH'ING,
MA-T'UNG,
YUAN SHIH-K'AI,
LIEN-FANG,
LIANG TUN-YEN.

[Subinclosure 3.—Translation.]

Imperial edict of March 23, 1908—Opium.

We have received a memorial from the board of foreign affairs with regard to measures for the suppression of the opium evil, negotiations with other powers in this connection, and plans to provide for revenues to take the place of those supplied by the tax on the drug in question.

Since the use of opium has become so prevalent, a poison of cruelest power and virulence has circulated among the people, and those who have become infected by it have exhausted their wealth and shortened their lives. Once the habit is acquired the user of opium becomes listless and lazy, he is no longer responsible, and his livelihood is soon taken away. No one knows the number of suicides committed by means of opium in the Provinces each year, and robbery and crime increase with the use of the drug. It is, indeed, a grievous thing thus to abuse nature, the creator of life.

If the sons of ancient China are becoming weaker day by day and their strength of character is diminishing, what hope is there for the awaking of our country?

All classes of Chinese people—officials, gentry, literati, and others—now know that this reform is necessary, and they are assisting each other in the formation of societies to encourage people to give up opium. Slaves to the habit are sick in mind and heart, hating and reviling themselves on account of it.

Many benevolent foreigners of various nationalities have established societies to encourage the suppression of the culture and sale of opium. They have also founded numerous dispensaries. These people all declare that it will be a cause of the greatest regret if China does not crush out the opium evil. But how are the victims to rid themselves of the evil and root out every vestige of the habit from their systems?

Regulations for the suppression of opium have already been promulgated by imperial edict, and according to which both foreign and native opium are to be excluded in 10 years' time. Now, moreover, Great Britain has agreed to diminish each year the amount of opium she will ship to China, and various other friendly countries have signified their willingness to assist us in this movement, all of which is most gratifying. England has already put her restrictive measures into force, and it has been mutually agreed between us that the plan shall be operated experimentally for three years and if it is ascertained at the end of that time that the cultivation and use of opium in China are really being reduced, restrictive measures will be pushed further. If, then, we do not suppress and investigate this evil at regular intervals, the three years will be passed before we shall have taken in the situation, and then how shall we be able to reply to the benevolent sentiments expressed by friendly governments? How shall we be able to calm the troubled hearts of our foreign benefactors? This opportunity once lost will not return. If we are to be forever bound by this curse then it must be that there is no hope for us as a nation. When we, our princes, and our ministers, think on this, can we help being ashamed and terrified at the sickness we feel in our hearts?

Let the boards of home affairs and of finance immediately devise regulations for the investigation of this matter and let strict rules be adopted, requiring proof that the regulations are being carried out. Let the said boards then seek permission of the Throne for the promulgation of the regulations.

At the same time the various viceroys and governors are charged to direct their subordinates carefully to carry out the plan laid down in the memorial presented by the government council. They are charged also thoroughly to investigate the state of affairs in their respective Provinces and to report to the Throne the actual steps being taken to reduce the production and consumption of opium. Let them report the amount of the reduction made each year at the close thereof.

As to the revenues which shall take the place of those now received from opium, the board of finance is hereby directed to devise a plan whereby this loss may be made good.

This is a matter which affects the strength of the nation and the lives of our people. Metropolitan and provincial officials are therefore directed to use earnest efforts to devise means and to carry them out. No matter how difficult it may be the evil must be suppressed within the time allowed. Let there be no dilatoriness in connection with this matter on pain of severe punishment. Let the plan be carried out as proposed by the memorialists.

Respect this.

[Inclosure 3.]

Memorial submitted by the board of foreign affairs, March 22, 1908.

The board of foreign affairs reverently submits to the Throne this memorial outlining the method devised by the said board and foreign nations to suppress the opium evil.

On November 21, 1906, this board received from the grand council the copy of a memorial submitted by the government council. This memorial elaborated a scheme for the suppression of the opium evil and received imperial sanction. In the tenth clause was the statement that the importation of opium from abroad was an international question, and it devolved upon the board of foreign affairs to arrange some *modus operandi* with the British minister whereby the consumption of both foreign and domestic opium might gradually be reduced in the same proportion. The memorial went on as follows:

"In addition to the Indian opium there is the product from Persia, Annam, and the Dutch possessions, which is also of considerable quantity. In the case of treaty powers agreements may be arrived at with their ministers whereby joint action may be taken looking to the suppression of the use of opium, and in the case of countries with which China has no treaties she is at liberty to act on her own initiative in forbidding the importation of their opium. The Tartar generals, viceroys, and governors also must be ordered to have all customs officials keep the strictest watch on the frontiers to prevent smuggling of opium, morphia, and hypodermic needles, which latter manner of taking opium is the more harmful by far. The customs officials everywhere, therefore, should be instructed to comply with the eleventh article of the supplementary commercial treaty with Great Britain and with the sixteenth article of the commercial treaty with the United States, in absolutely forbidding the entry of all morphia not imported for medicinal purposes. The manufacture of morphia and hypodermic needles, either by Chinese or foreigners in China, should be absolutely prohibited. In this way may this evil be coped with."

At that time this board devised a set of suggestions for suppressing the use of opium. One was that the importation of foreign opium be so restricted each year, beginning with 1907, that after five years the importations would be reduced by one-half and entirely terminated at the end of 10 years. It was suggested also that as Calcutta was the place of largest export of opium, China should send officials to keep watch of the number of chests shipped each year. Domestic opium is now taxed as high as 115 taels per picul, while foreign opium, though of twice the strength, is subject to taxes amounting to only 110 taels per picul. The rate on foreign opium should be doubled. Such a course would not only bring in more revenue, but would also diminish the amount of opium imported.

Hongkong is the principal place where opium is prepared for consumption, and the aid of the governor of Hongkong should accordingly be sought in preventing the entry of prepared opium into Chinese territory. The opium shops in the concessions would be closed up and preventive measures taken after the example of the local officials.

Appropriate measures against morphia and the needle are clearly enumerated in the British-Chinese and the American-Chinese commercial treaties. The treaty powers must yield their assent, for only then can these measures be put into effect.

The ideas detailed above were written out and discussed with the British minister, who was requested at the same time to transmit the same to the British Government. After considerable negotiation, last year, the following was agreed upon:

(1) The entire export of opium from India to any country whatsoever is limited to 51,000 chests, and beginning with 1908 this amount shall be reduced annually by 5,100 chests, so that at the end of 10 years the entire export shall be terminated.

(2) China shall dispatch officials to Calcutta to keep watch over the packing and the export of opium, but who shall meddle with no other matters.

(3) The duty on foreign opium shall be doubled; but further consideration shall be given to the subject before the tax on native opium is increased.

(4) Opium prepared in Hongkong shall not be exported to China. Each nation shall take measures to prevent the smuggling of opium into its own territory, and the importation of prepared opium into China from Hongkong, and vice versa, shall be publicly prohibited.

(5) The sale and smoking of opium in the foreign concessions in China are to be stopped. If the Chinese authorities begin to put these rules into operation without the concessions, then the municipal councils shall without further notification put them into effect inside the concessions.

(6) The restriction of the importation of morphia and hypodermic needles must wait until all the treaty powers consent thereto.

The British Government has already assented to the last clause above, a note to that effect from the British minister to the officials of this board being on record.

But foreign opium is also imported from Annam and the Dutch possessions, so this board has asked the French and Dutch ministers to assist in the suppression of the opium habit. It appears, also, that opium is imported from Macao, where it is also prepared in some quantities, so this board has communicated with the Portuguese minister to the same end. All this is on record.

Persia has no treaties with China and the opium from that country can accordingly be excluded by China with no further thought.

This board has already instructed the revenue council to order the inspector general of customs to devise means of putting all this into effect. The restriction of the free importation of morphia and hypodermic needles was the subject of correspondence between this board and the foreign nations in the third moon of the 32d year of Kwang Hsu (March 25-April 24, 1906) and we received assenting answers from most of the ministers. No reply has as yet been received from Japan, but considering the laudable end China has in view it is unlikely that Japan will refuse her aid. The above is the method devised by this board in conjunction with foreign nations to suppress the use of opium.

The restriction of the use of opium is a commendable object and must of necessity enlist the cooperation of other nations. India is a place from which opium is exported, yet when this board communicated through the British minister with the Government of Great Britain it received from that Government its whole-souled cooperation in the project, consenting to gradually reduce year by year the amount of opium exported from India, beginning with the first month of the year 1908. The cordiality of the relations existing between the two nations is evidenced by the aid thus extended to China by Great Britain in the matter of opium suppression. England has promised that if China decreases the production and consumption of opium in her own territory during the next three years the reduction of the export from India to China will be continued. The decrease in the amount of native opium produced is a matter in which China must act independently. Careful consideration must be given to the closing of opium shops and the stopping of the sale of opium-smoking utensils. Only by decreasing the number of opium smokers can we look foreigners in the face.

The month of January, 1908 (twelfth moon Kwang Hsu, thirty-third year), was the date from which the importation of Indian opium into China began to diminish. The three years will pass in the turning of an eye and then it will be clearly demonstrated whether China can come up to England's demands or not. The opportunity must not be lost, nor must the matter be delayed. The ministers of this board unanimously request the Throne to issue commands to the board of home affairs and the board of finance to jointly draw up laws for all the Provinces and transmit them to the provincial viceroys and governors for observance and promulgation to the prefectures, subprefectures, departments, and districts, with the sternest warnings regarding procrastination, belittling the importance of the matter, and vapid talk. For thus may we hope to eliminate this great evil, elevate our countrymen, and prove ourselves worthy of the benevolent intentions of other nations toward us.

We, the ministers of this board, reverently submit to Their Majesties, the Empress Dowager and the Emperor, this account of our negotiations with foreign powers regarding the suppression of the use of opium.

[Inclosure 4.]

Memorial submitted by the board of foreign affairs March 22, 1908.

The imperial maritime customs levy an import duty on opium imported from abroad, and this opium also pays likin. The sums thus realized amount yearly to over 6,000,000 taels. The domestic opium, in the days before the single payment scheme was inaugurated used to yield to the customs in good years 1,200,000 taels, making a total of over 7,000,000 taels. This revenue has been pledged as security for foreign loans.

Now a policy leading to the gradual suppression of the use of opium has been definitely inaugurated and thus this source of revenue will inevitably suffer the same gradual diminution. But inasmuch as the revenues in question are pledged for the repayment of obligations, preparations must be made in advance to obviate the embarrassment caused by their stoppage.

In order to replace this yearly revenue of say 8,000,000 taels, which will gradually diminish until its total cessation in 10 years, it will be necessary to devise a new source of income which will increase in like proportion, that is, at the rate of 80,000 taels per annum. Thus at the end of 10 years the loss due to the stoppage of the opium revenue will be made good. This board accordingly requests the Throne to order the board of finance to devise means of raising the above sum, in addition to the ordinary revenue.

File No. 774/198-199.

Chargé Fletcher to the Secretary of State.

No. 900.]

AMERICAN LEGATION,
Peking, April 8, 1908.

SIR: Referring to my No. 891, of March 31, 1908,¹ on the subject of the steps being taken by the Chinese Government for the extermination of the opium evil, I have the honor to inclose translation of an imperial edict of the 7th instant, appointing Prince Kung; Lu Ch'uan-lin, assistant grand secretary; and Ching-hsing and Ting Chen-to, members of the board for the organization of the deliberative assembly, a commission for the suppression of opium. The commissioners are directed to select native and foreign physicians of ability and establish sanatoria for the compulsory treatment of those addicted to the habit, including officials. They are allowed \$30,000 for initial expenses and \$60,000 annually.

The commission is composed of men of particularly high rank and is ordered to carry out the work fearlessly.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure 1.—Translation.]

Imperial edict, April 7, 1908.—Opium.

The harm wrought by the use of opium is very serious and we have in the past issued many edicts particularly forbidding it. Metropolitan and provincial officials should in their respective offices reverently put these prohibitions into effect. Yet it is reported that even among the officials themselves there are not lacking enslaved victims of the opium habit. These men profess to be cured of the vice, or never to have had it, while in reality they yield to the cravings in secret, or with effrontery they openly continue to indulge in the use of opium. In view of all this it is to be feared that if officials of adequate rank are not appointed to make the enforcement of these edicts their especial task they will not produce actual effect on the date set. Let the following officials be commissioners for the suppression of opium: Prince Kung, the Assistant Grand Secretary Lu Ch'uan-lin, and Ching-hsing and Ting Chen-to, appointed to assist in the organization of the deliberative assembly.

Let the above opium commission select native and foreign physicians of ability and immediately establish opium sanatoria, which shall be devoted to the exclusive purpose of aiding those who use opium to break themselves of the habit. Those officials of any of the boards who unmistakably use opium shall be dealt with by their superiors in the manner directed and the Throne shall be informed of the action taken; those whom appearances seem to convict shall be committed to a sanatorium and there subjected to an examination that shall determine the facts in the case.

Three months will be allowed for the drawing up of the needful regulations and the establishment of the sanatoria. When all is in readiness the Throne shall be apprised of the fact.

¹ Not printed.

Any metropolitan official who has not entirely cured himself of the use of opium shall be subjected by the commissioners to a thorough test in a sanatorium. In the case of the president or the vice president of a board the Throne shall be memorialized for authority to make this examination. The same shall be the case in regard to any provincial official of or above the rank of taot'ai. When the suspected one shall be declared to have been free of the habit or to have been entirely cured the sanatorium shall issue a certificate to that effect and the suspected official shall resume his former status. If, however, it is not possible to issue such a certificate the commissioners shall report to the Throne the state of affairs. Subordinate officials in the Provinces are left to the responsibility of their superiors. If the commissioners discover any case in Peking or the Provinces where a guilty subordinate has not been reported by his superior, said superior shall be referred to the board (of civil office) for punishment.

The above commissioners have been appointed to their positions after careful selection and they must be no respecters of persons, nor must they avoid the enmity of any man, but they must with all sincerity and with energy fearlessly carry out our commands. Let no indolence nor cowardice hinder them in the performance of their high duties. If in the future their labors appear to have been futile the commissioners will be held culpable.

Let K'e Feng-shih, controller of native opium taxation, hand over to the commission for initial expenses 30,000 taels, said sum to be taken out of the revenue derived from the taxation of native opium, and 60,000 taels annually hereafter, for the necessary running expenses.

Respect this.

File No. 774/169-173.

The Secretary of State to Minister Rockhill.

DEPARTMENT OF STATE,
Washington, April 14, 1908.

SIR: The department received in due course, and read with gratification, Mr. Fletcher's dispatch No. 845, of February 14 last, in which he reported that an agreement had been reached between the Governments of Great Britain and China for the suppression of the opium trade between India and China, this desirable end to be obtained within 10 years.

I am, etc.,

ELIHU ROOT.

File No. 774/197A.

The Secretary of State to Ambassador Reid.¹

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 7, 1908.

(Mr. Root directs Mr. Reid to inform the Government to which he is accredited that the Governments concerned have agreed to an investigation of the opium question in the Far East by a joint commission.

States that in answer to our inquiries no Government has expressed any preference as to the date or place of meeting of the commissioners, although Shanghai has been mentioned as appropriate, and the United States finds itself invited to suggest the date and place of meeting, and it therefore names Shanghai and January 1, 1909, be-

¹ Repeated to Paris, Berlin, The Hague, Tokyo, Peking, and Lisbon.

lieving that this will be found agreeable and convenient to the other powers concerned. Mr. Root says that the President will appoint as commissioners not more than three persons, familiar with the subject, Congress to be asked for an appropriation not to exceed \$20,000.

Mr. Root informs Mr. Reid that our idea is that each Government's commission should proceed immediately with the investigation of the opium question on behalf of its respective country, with a view (1) to devise means to limit the use of opium in the possessions of that country; (2) to ascertain the best means of suppressing the opium traffic if such now exists among the nationals of that Government in the Far East; (3) to be in a position so that when the commission meets in Shanghai, the representatives of the various powers may be prepared to cooperate and to offer jointly or severally definite suggestions of measures which their respective Governments may adopt for the gradual suppression of opium cultivation, traffic, and use within their eastern possessions, thus assisting China in her purpose of eradicating the evil from her Empire.

Adds that the Government of Portugal has also accepted in principle participation in the investigation.)

File No. 774/225B.

The Acting Secretary of State to the Chinese Minister.

No. 112.]

DEPARTMENT OF STATE,
Washington, May 29, 1908.

SIR: I have the honor to inclose herewith, for your information, copy of a message from the President to the Congress of the United States, recommending an appropriation for the participation of the United States in the proposed investigation of the opium question in the Far East by a joint international commission, to which is attached a copy of a letter, dated May 7, 1908, addressed to the President by the Secretary of State, advocating the participation of the United States in the investigation.

Accept, etc.,

ROBERT BACON.

[Inclosure.]

Message from the President of the United States, transmitting a letter from the Secretary of State recommending an appropriation for the participation of the United States in the coming investigation of the opium question in the Far East by a joint international commission.

To the Senate and House of Representatives:

In laying before the Congress the accompanying letter from the Secretary of State, I heartily recommend that appropriation be made as therein requested for the participation of the United States in the coming investigation of the opium question in the Far East by a joint international commission.

The cordial reception of this proposal by the Governments concerned is a cause of gratification to the American Government and people. The high aim of this international project, placing, as it does, considerations of human welfare above all others, is a fine example of what is best in modern civilization and international good will and cooperation. Such an undertaking can not but appeal most strongly to the American people, and I am happy to lay before the Congress this opportunity to enable the United States to do its full share in the work.

THEODORE ROOSEVELT.

THE WHITE HOUSE, May 11, 1908.

The President :

In September, 1906, in view of indications that the Imperial Chinese Government was ready to make serious efforts to eradicate the opium evil, the Department of State, by your direction, entered upon correspondence with the Governments of Great Britain, France, Germany, Japan, the Netherlands, and China to learn whether they would favor a joint investigation of this subject so important to humanity, particularly to all nations having any direct or indirect responsibility for the welfare of those oriental peoples among whom opium is used.

As the result of a full exchange of views with the Governments interested I am happy now to have the honor to report that the proposal of the United States has been accepted by all the above-mentioned Governments and also in principle by the Government of Portugal. It has been deemed wise that the investigation be by joint commission; that each Government shall in the first instance prosecute an investigation in its own territories, and that attention shall be given to the commercial and agricultural as well as the other scientific aspects of the subject.

No Government having expressed a particular preference as to the date and place of meeting of the commissioners, and the Government of the United States having found itself invited to determine this point, our diplomatic representatives at the capitals concerned have been instructed to request the Governments to which they are accredited to send their commissioners to meet together at Shanghai, China, on January 1, 1909, the idea being that it will be found convenient for the commissioners of the various Governments to make their investigations during the intervening months, and then to confer together at Shanghai for an exchange of views, which, it is hoped, will result in valuable reports and joint recommendations to the Governments with a view to general and effective action.

The action thus inaugurated by the United States is in conformity to the established policy of our Government, expressed in the treaty which China concluded November 17, 1880, by which the Governments of China and the United States mutually agreed that "citizens of the United States shall not be permitted to import opium into any of the open ports of China, to transport it from one open port to any other open port, or to buy and sell opium in any of the open ports of China."

This treaty was followed by the act of Congress of February 23, 1887, prohibiting citizens of the United States from engaging in the opium trade with China under heavy penalties.

In 1903 a commission was appointed by the civil government of the Philippines to investigate the opium traffic in those islands and the methods of prevention. After an exhaustive inquiry this commission reported on the 15th of June, 1904, and on the basis of their report a law was enacted providing for a progressive restriction of the importation and sale of opium under special authority of the following provision of the act of Congress "To revise and amend the tariff laws of the Philippine Islands," approved March 3, 1905.

"*Provided, however,* That the Philippine Commission or any subsequent Philippine Legislature shall have the power to enact legislation to prohibit absolutely the importation or sale of opium, or to limit or restrict its importation and sale, or adopt such other measures as may be required for the suppression of the evils resulting from the sale and use of the drug: *And provided further,* That after March first, nineteen hundred and eight, it shall be unlawful to import into the Philippine Islands opium, in whatever form, except by the Government, and for medicinal purposes only, and at no time shall it be lawful to sell opium to any native of the Philippine Islands except for medicinal purposes."

The report of this commission offers an excellent groundwork for the further investigation to be made by this Government.

While the policy of the United States has been clear and positive, to prevent American citizens from having any part in imposing the evils that follow the use of opium upon the people of China and in using all possible means to prevent the use of opium in the Philippines, there is reason to believe that sufficient attention has not been given to prevent the importation of the drug into the United States. The importation of opium into the United States in the year ending June 30, 1907, amounted to 728,530 pounds. While the international investigation now proposed relates to opium in the Far East, an incidental advantage of the investigation may be to point out the necessity, and the best method, of restricting the use of opium in the United States.

The commercial aspect of the subject involves such complicated and widespread trade relations that an effective treatment of it seems impossible unless it be by the concurrent action of the great commercial nations, together with those peoples of the Orient among whom the abuse is most prevalent.

To enable this Government to appoint not more than three commissioners and a secretary and disbursing officer, and to include traveling expenses, stationery, printing, and other incidental expenses connected with the investigation and the meeting of the commissioners, I have the honor to recommend that the Congress be asked to appropriate the sum of \$20,000, or so much thereof as may be necessary.

Since the investigation should begin at once and the commissioners are to meet January 1, 1909, it is very important that such appropriation be made immediately available.

Respectfully submitted.

ELIHU ROOT.

DEPARTMENT OF STATE,
Washington, May 7, 1908.

File No. 774/239-240.

Minister Rockhill to the Secretary of State.

No. 937.]

AMERICAN LEGATION,
Peking, June 8, 1908.

SIR: Referring to my No. 900 of April 8, 1908, I have the honor to inclose herewith additional regulations for the suppression of the cultivation and consumption in the Chinese empire, approved by the Throne on May 25 last.

I have, etc.,

W. W. ROCKHILL.

[Inclosure.]

Regulations for opium suppression.

Submitted to the Throne for approval by the boards of home affairs and finance. Imperial rescript, "Let it be done as recommended." Received May 23, 1908.

I.—RESTRICTION OF THE AMOUNT OF OPIUM RAISED.

1. The provincial authorities shall issue instructions to the local officials accurately to ascertain the acreage given over to opium cultivation within the territory under their jurisdiction, also the names of the cultivators and the amount produced, which information must be embodied in a tabulated statement and transmitted through the provincial authorities to the boards of finance and home affairs for examination and retention.

2. That period of 10 years at the end of which opium shall be prescribed shall be held to begin with the thirty-sixth year of Kwang-hsi (1906). The Provinces shall in this matter of diminishing the amount of opium produced observe the regulations drawn up by the Government council and approved by the Throne. In addition to strictly forbidding such land as has not heretofore been under opium cultivation to be used for that purpose hereafter, it is also ordered that all land producing opium in the thirty-fourth year of Kwang-hsi shall annually be reduced in acreage by one-eighth of the area reported that year. With the forty-first year of Kwang-hsi (1915) the raising of opium shall cease absolutely. Moreover, when land previously devoted to the growing of opium is put under other cultivation particular report of the change shall be made to the boards.

3. The provincial authorities shall make out certificates which shall be distributed through the local officials to all growers of opium, each certificate containing a statement of the area of the holders' land devoted to the raising of opium. Every year an amended copy shall replace the one of the year before,

and anyone found growing opium without one of these certificates shall be strictly enjoined therefrom. At the time of issuing the certificates a tax of 15 cash shall be collected on each mu represented, but no other tax shall be levied.

II.—MONOPOLIES.

4. After the placing of the single tax on domestic opium the Provinces of Anhui, Honan, and Shansi set up public associations (or monopolies) acting under permits from the local authorities and the branches of the bureau of native opium taxation. The above permits were issued free of charge. Upon these monopolies devolved the responsibility of guaranteeing the payment of the tax on domestic opium. The opium growers disposed of their product through the monopolies and the dealers bought their supply from the same agencies. All opium not passing through the monopolies was regarded as illicit. All purchases of opium, therefore, had to be made at these offices and could not be arranged at will in those localities where it was grown. Account of all sales and purchases was kept and forwarded at intervals to the tax-collecting offices. As the opium was sold, the tax was paid, strict Government supervision being at all times maintained. In the future each Province shall establish similar monopolies which shall keep careful record of their transactions in opium in books provided for the purpose by the bureau of native opium taxation. Daily record shall be kept not only of all sales and purchases, but also of the names of the sellers and buyers. These reports shall be tabulated and at the end of each year sent to the controller general of native opium taxation. That official shall annually draw up and send to the boards a statement showing the diminution in the business transacted by the said monopolies in comparison with the year before Ssu-ch'uan, Yunnan, Kweichow, the New Dominion, and Manchuria are not under the direction of the controller general of native opium taxation, and it shall be the duty of their viceroys and governors to conform to these regulations in the same manner prescribed for the other Provinces.

Dealers in opium shall obtain permits from the branches of the bureau of native opium taxation and from the local officials and shall present them when making purchases at the monopoly offices. There shall be no charge made for these permits. No one without a permit shall purchase opium from either of the monopolies or of the growers. Transgressors of this regulation shall be punished.

III.—DEALERS IN OPIUM.

5. Each Province shall instruct all its local officials to make a careful list of opium-dealing firms, ascertaining their number, their firm names, their location, capitalization, and the names of the proprietors. This information shall be tabulated and sent to the provincial viceroy or governor, who shall, in turn, transmit it to the boards for examination. No more firms dealing in opium may be established.

6. Each Province shall issue permits to deal in opium and these permits shall be given through the local officials to all those firms now engaged in this line of commerce. New permits shall be issued annually and no concern not thus licensed shall be permitted to transact business.

At the time of issuing these permits the firms shall be assigned to one of the three grades, according to the amount of their capital. A capital of \$10,000 or more will place a firm in the first class and make it liable to the payment of a yearly license fee of \$6. A capital of over \$5,000 but under \$10,000 will place a firm in the second class and make it liable to an annual fee of \$4, while a capital of less than \$5,000 places a firm in the third class and makes it liable to an annual registration fee of \$2. There shall no more minute distinctions be made.

7. Monthly account of sales made shall be rendered to the yamens concerned by each firm dealing in opium. These accounts must be accurate and no sales may be made to any person not the holder of a permit. The yamens concerned must collect these accounts and transmit them through the provincial viceroy or governor to the boards for examination.

8. Every firm dealing in opium shall also engage in some other line of business, effecting a gradual transition, so that the entire change may be accomplished in the time set.

IV.—OPIUM-SMOKING RESORTS.

9. The opium-smoking resorts throughout the Empire were, by the regulations drawn up by the government council and sanctioned by the Throne in the thirty-second year of Kwang-hsü (1906), given a period of six months within which to close their doors. At the time set the doors of all such resorts were to be closed. These regulations were promulgated in all the Provinces and this is all matter of record. If any tea shops, wine shops, or brothels, are also running opium-smoking establishments they must be dealt with in the same way and enjoined from doing so. Failure to cease conducting such a business must be severely punished.

V.—OPIUM-SMOKING APPARATUS.

10. In the thirty-second year of Kwang-hsü (1906) the government council drew up regulations which received Imperial sanction, forbidding, after the termination of a period of six months, all dealings in opium-smoking apparatus. This date is now long past and it is the duty of all provincial viceroys and governors to instruct the local officials of the Province to ascertain by thorough investigation, whether those firms formerly dealing in such goods have or have not ceased to do so. If any have not they shall be immediately forced to and adequate punishment shall be meted out to them.

VI. OPIUM TAKERS.

11. Each Province shall instruct the local officials therein to prepare lists of all the users of opium in their respective districts, giving their names, residence, and age, and these lists shall be sent at the end of each year to the boards for examination.

12. Each Province shall issue permits through the local officials to all users of opium, which permits shall be renewed each year. No one not the possessor of a permit shall be allowed to buy opium. When the opium taker applies for his permit he shall state what quantity he uses daily. This shall be written on his permit and he shall not thereafter buy on any one day any more than the amount named, although he may buy less at will. At the time set he must discontinue the use of opium altogether.

VII. SUPPRESSION OF THE USE OF OPIUM.

13. Each Province must establish bureaus for the suppression of the use of opium. These bureaus shall prepare medicines after prescriptions procured by the board of home affairs and send them to the medicine shops and charitable institutions with orders that they be sold at cost. Destitute people shall be provided with medicines free of charge. If any physician of repute devises a prescription not included in those prepared by the board, he shall forward it through the viceroy or governor to the board of home affairs for examination.

14. Each local official shall instruct upright men in his jurisdiction to establish opium cures and publish broadcast a paper containing directions as to the curing of this habit. This paper must be published in colloquial language and must not contain any discussion relative to present-day governmental matters.

15. Local officials must make a careful inspection of the medicine shops and of those shops selling opium cures, and if shops of either of these classes are selling cures containing morphia or similar drugs, or if they are secretly selling morphia, they must immediately be stopped.

VIII. SUPERVISION.

16. If the local officials are faithful in sending in the reports called for in these regulations it will be permissible for the viceroy or governor to report them to the board (of civil office) for suitable reward.

17. If the local officials are faithful in enforcing at the time mentioned the prohibitory clauses contained in these regulations it shall be permissible for the viceroy or governor to mention them to the board (of civil office) for suitable reward.

18. If any local official shall within one year diminish by one-third the acreage given over to poppy cultivation in his jurisdiction, and also the amount of opium sold in the shops and the amount consumed, and this diminution shall

be clearly established, it shall be permissible for the viceroy or governor to report him to the board (of civil office) for especial reward.

19. If any local official shall fail to send in the reports called for in these regulations, his case shall be taken under consideration by the board (of civil office) and his guilt determined; if the reports sent in are discovered to be false, he shall be judged by the board with great severity.

20. If any local official shall fail to put in force at the time designated those prohibitory clauses contained in these regulations, his case shall be judged by the board (of civil office); if, having failed to put these prohibitions into effect, he nevertheless claims to have done so, his delinquencies shall be most sternly scrutinized by the board. If the official superiors of the guilty party have knowingly failed to report these lapses, they shall be dealt with in the same fashion.

21. If any local official shall in the course of one year fail to reduce by an eighth the acreage devoted to poppy cultivation, the amount of the opium sold, and the amount consumed, within his jurisdiction, his case shall go before the board (of civil office) for stern judgment.

IX. ADDENDA.

22. These regulations shall be put into force coordinately with those drawn up by the government council and approved by the Throne. If other and more specific regulations are needed, the viceroy or governor of the Province concerned may draw them up and submit them to the Throne for approval.

23. The receipt of the fees demanded by these regulations in connection with opium cultivation, buying, or selling shall be reported periodically to the boards, that these funds may be the more available for use in the suppression of the use of opium. No fees in addition to those mentioned herein and authorized by the Throne may be required of anyone. Any increase in the fees must be recommended to the Throne by the boards of finance and of home affairs acting jointly.

File No. 774/225D.

*The Acting Secretary of State to Ambassador O'Brien.*¹

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 20, 1908.

(Mr. Adee directs Mr. O'Brien to inform the minister for foreign affairs that the President has appointed Hon. Thomas Burke, Dr. Hamilton Wright, and Dr. Charles D. Tenney American commissioners, joint international commission, to investigate opium in the Far East.)

Filed No. 774/245B.

*The Acting Secretary of State to Ambassador Reid.*²

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 11, 1908.

(Mr. Adee directs Mr. Reid to inform the foreign office that the United States opium commission is now at work on the question with a view to limiting the use and transportation of the drug in the

¹ Repeated to France, Germany, Great Britain, The Netherlands, Portugal, and China.
² Repeated to France, Germany, The Netherlands, Portugal, and China.

United States, which has already been restricted in the Philippine Islands, and that investigation to date demonstrates the opium question to be of highest importance to the United States quite apart from its possessions. Informs Mr. Reid that the subject is being considered as follows: Imports of crude opium, its derivatives, and chandu; internal consumption of crude opium, licit and illicit; internal manufacture of chandu; manufacture of morphia and other derivatives; use of crude drug and preparations; use of morphine and other derivatives, licit and illicit; extent of poppy cultivation in America; possibilities of poppy cultivation; Federal laws regarding importation; municipal laws governing the use of opium and derivatives.

Mr. Adee says the United States therefore suggests that for the ultimate success of the joint commission it would be advantageous if each commission could, before the joint meeting on January 1, at Shanghai, study the opium question as it affects its respective country, as well as its possessions, in the same manner as the United States commission is now carrying on its investigations.)

File No. 774/250C.

The Acting Secretary of State to Ambassador Reid.¹

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,

Washington, July 21, 1908.

(Mr. Bacon, referring to department's telegrams of May 7, June 20, and 11th instant, states that the department would be gratified to learn whether the time and place of meeting of the opium commission named by the United States are agreeable to Great Britain, and directs Mr. Reid to report the names and rank of the commissioners whom the foreign office proposes to appoint, and what action, if any, particularly with reference to the scope and method of treatment of investigation, will be made before the general meeting in Shanghai.)

File No. 772/251.

Chargé Jay to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,

Tokyo, July 23, 1908.

(Mr. Jay reports that he has been informed by the vice minister for foreign affairs that the time and place of meeting of the opium commission are agreeable to the Japanese Government, and that the appointment of commissioners is awaiting action by the new cabinet. States that as the method of investigation must be referred to the Government of Formosa, some delay is unavoidable.)

¹ Repeated to France, Germany, Japan, the Netherlands, Portugal, and China.

File No. 774/273A.

*The Acting Secretary of State to Ambassador O'Brien.*¹

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 1, 1908.

(Mr. Adee directs Mr. O'Brien to inform the minister for foreign affairs that Charles D. Brent replaces Thomas Burke as senior American commissioner on Joint International Opium Commission.)

File No. 774/272.

Minister Bryan to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lisbon, August 3, 1908.

The King of Portugal proposes naming a commission to study opium question. Later on the joint high commissioners will be named.

BRYAN.

File No. 774/275.

Minister Rockhill to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Peking, August 6, 1908.

In reply to your telegram of the 21st ultimo, Chinese Government formally accept date and place opium commission. Will reply very shortly as to program.

ROCKHILL.

File No. 774/281.

Chargé Jay to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Tokyo, August 10, 1908.

Your telegram July 21: Tsunejiro Miyaoka, councilor of embassy; Dr. Yoshizumi Tahara, expert, home department; Tomoye Takagi, expert, government of Formosa, have to-day been appointed commissioners.

JAY.

¹ Repeated to Great Britain, France, Germany, Netherlands, Portugal, China.

File No. 774/328-330.

Minister Rockhill to the Secretary of State.

No. 979.]

AMERICAN LEGATION,
Peking, August 12, 1908.

SIR: In further confirmation of my telegram of to-day informing you that the Chinese Government has accepted the program of preliminary inquiries of the American delegates to the joint opium commission, I have the honor to inclose herewith copy in translation of the note which I received yesterday from the Prince of Ch'ing informing me of the said acceptance, and transmitting a copy of the memorial and imperial edict of May 23 last, which lays down the line of investigation to be pursued by the Chinese delegates. This memorial was sent you in my No. 937, of June 8, 1908. I inclose it, however, for convenient reference.

I have, etc.,

W. W. ROCKHILL.

[Inclosure 1.—Translation.]

*The Prince of Ch'ing to Minister Rockhill.*FOREIGN OFFICE,
Peking, August 11, 1908.

I have the honor to acknowledge the receipt of your excellency's dispatch of July 25, in which inquiry is made as to whether the time, place, and program of the Joint International Opium Convention proposed by the American Government are acceptable to the Chinese Government.

I have the honor to reply in the affirmative. In regard to the scope and method of treatment of the opium investigation, I formerly received your excellency's dispatch of the 14th of July, in which was detailed the line of investigation which would be followed by the American commissioners. This corresponds closely with the line of investigation arranged by memorial and imperial edict of May 23, 1908. The memorial was made by the boards of the interior and finance jointly, and embodied the rules for the investigation and suppression of the use of opium in 23 articles, which have been sent to all the Provinces to act thereon. The Chinese commissioners appointed to attend the opium convention will carry on their investigation in the general line of these regulations. A copy of these regulations is inclosed herewith in the hope that you will transmit the same to the American Government.

File No. 774/292.

Ambassador Hill to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
Berlin, August 16, 1908.

(Mr. Hill informs Mr. Root that Germany agrees with our proposals relative to the organization of the opium conference, and as to Shanghai, January 1, as place and time of meeting. Mr. Hill states that Dr. Rosseler, German consul at Canton, and Mr. Pernitzsch, interpreter at the German consulate general at Shanghai, have been named commissioners on the part of Germany.)

File No. 774/310-313.

Ambassador Reid to the Secretary of State.

No. 689.]

AMERICAN EMBASSY,
London, August 25, 1908.

SIR: A reply has now been received from the foreign office to my notes of May 8 and July 12, written under your cable instructions of May 7 and July 11, and communicating your proposals about the approaching opium conference.

I hasten to inclose herewith a copy of this reply. It will be seen that while the British Government accepts your proposal for a meeting of the joint commission at Shanghai on January 1 next, and will nominate three British delegates, whose names are to be hereafter communicated, it thinks certain modifications in the scope and procedure of the commission desirable.

(1) The inquiry into the production, commerce, use, and disadvantages of opium in the Far East, named by you as one of the objects of the commission, should be, in its judgment, made prominent in the instructions.

(2) It believes the work would be hastened if the representatives were expected to study in advance the opium question in their respective countries, and come prepared to inform the commission at the outset as to regulations and restrictions in force there.

(3) This would require modifications of the instructions, which at present, in the view of the British Government, look to fuller investigation after the joint commission meets than time permits, and to proposals for changes in the administrative regulations of different countries before the commission has made these investigations or ascertained the precise present needs.

Finally, the British Government points out that it has itself already made such investigations concerning India and other British territories, and does not consider a fresh investigation necessary. When the representatives of other countries have done similar work it will be ready to meet them.

I have, etc.,

WHITELAW REID.

[Inclosure 1.]

Ambassador Reid to the Minister for Foreign Affairs.

AMERICAN EMBASSY,
London, May 8, 1908.

SIR: With reference to Mr. Carter's note of the 26th of February last and to previous correspondence on the subject of the opium trade in China, I am happy now to be able to state, on behalf of my Government, that the Governments concerned have agreed to an investigation of this question by a joint commission.

In answer to my Government's inquiries, no Government has expressed any preference as to the date or place of the meeting of the commissioners, although Shanghai has been mentioned as appropriate. Thus the Government of the United States find themselves invited to suggest such date and place, and believing that Shanghai will be found agreeable and convenient to the other powers concerned, venture to name that city as the place of meeting and January 1, 1909, as the date.

The President will appoint as commissioners not more than three persons familiar with the subject, and Congress will be asked to appropriate a sum of money not to exceed \$20,000 for the expenses of the commission.

It is the idea of my Government that each commission should proceed independently and immediately with the investigation of the opium question on behalf of their respective countries with a view—

(1) To devise means to limit the use of opium in the possessions of that country.

(2) To ascertain the best means of suppressing the opium traffic, if such now exists, among their own nationals in the Far East.

(3) To be in a position when the various commissions meet in Shanghai to cooperate and offer jointly or severally definite suggestions of measures which their respective Governments may adopt for the gradual suppression of opium cultivation, traffic, and use within their eastern possessions, and thus to assist China in her purpose of eradicating the evil from that Empire.

I may add, for your information, that the Government of Portugal have also accepted, in principle, participation in the investigation.

I have, etc.,

WHITELAW REID.

[Inclosure 2.]

Ambassador Reid to the Minister for Foreign Affairs.

AMERICAN EMBASSY,
London, July 12, 1908.

SIR: With reference to my note of the 8th of May last relative to the subject of the opium trade in China, I have the honor to inform you, under instructions from my Government, that the United States opium commission is now at work on the question with a view to limiting the use and transportation of the drug in the United States, such use and transportation having already been restricted in the Philippine Islands.

The investigations to date show clearly the opium question to be of the highest importance to the United States, and the commission are therefore also considering the question of opium derivatives; also internal consumption of crude opium, licit and illicit; internal manufacture and use of chandu morphia and other derivatives, licit and illicit; extent of poppy cultivation in America; possibilities of poppy cultivation; Federal laws regarding importation and municipal laws governing use of opium and derivatives.

My Government, therefore, ventures to suggest that, for the ultimate success of the joint commission, it would be advantageous if each commission could, before the joint meeting on January 1 next at Shanghai, study the opium question as it affects its possessions, in the same manner as the United States commission is now carrying on its investigations.

I have, etc.,

WHITELAW REID.

[Inclosure 3.]

The Minister for Foreign Affairs to Ambassador Reid.

No. 27558.]

FOREIGN OFFICE,
London, August 19, 1908.

YOUR EXCELLENCY: With reference to your excellency's notes of May 8 and July 12 last, communicating to me the suggestions of the United States Government as to the constitution, scope, procedure, and time and place of meeting of the proposed opium commission, I have the honor to state that His Majesty's Government accept with pleasure the proposal that the joint commission shall meet at Shanghai on January 1 next, and that they propose to nominate three British delegates.

The names of the delegates will be communicated to your excellency as soon as they have been selected.

While His Majesty's Government have every desire to further the general objects which the United States Government have in view, they can not but think, after consultation with their expert advisers, that the attainment of these objects would be facilitated were the proposed scope and procedure amended in certain respects.

In proposing a commission the American Government, it is understood, had in view the investigation of the opium trade and the opium habit in the Far East, with the object of arriving at a decision as to whether the consequences

were not such that civilized powers should do what they could to put a stop to it. A preliminary investigation of the facts by means of a commission before the subject of restrictive and repressive measures could be profitably considered was also pronounced to be necessary by the French foreign office in their note of the 3d of July, 1907, which you were good enough to communicate to me on October 30 last.

In the opinion of His Majesty's Government a commission sitting at Shanghai would be well placed for making the detailed inquiry advocated in that note, into "the production, commerce, use, and disadvantages of opium" in the Far East, and its findings on the facts would be in the highest degree valuable and important. I therefore venture to suggest that this aspect of the commission's duties should be brought out in the instructions to be framed for its guidance. The findings of the commission on the facts would naturally govern the nature of its recommendations.

His Majesty's Government consider that its labors would be expedited if the representatives of the several Governments were first to acquaint themselves fully with the opium question as it presents itself in their respective countries, and were thus in a position to inform the commission, when it assembles, as to the regulations and restrictions there in force, and to formulate and discuss proposals for amending them in points in which they may be found in the course of the joint inquiry to affect the opium trade and the opium habit in the Far East. If this view of the procedure to be followed commends itself to the American Government and to the other powers, the instructions outlined in your excellency's note of the 8th of May will perhaps be reconsidered. As these instructions at present are worded they would require the delegates of the several Governments to undertake a more responsible and extensive investigation than time permits, and to make proposals for altering the administrative regulations of their respective countries before the commission had entered upon its inquiry or had ascertained the precise nature of the remedies which the present circumstances of the opium trade and the opium habit in the Far East may require.

As regards India and the other British territories concerned, the opium question has already formed the subject of investigation by commission or of instructions from His Majesty's Government, and it is therefore unnecessary, as far as this country is concerned, that a fresh investigation should be conducted for the investigation of facts which are already well known. The British representatives would be ready to meet the other commissioners when the latter had concluded their inquiries and to place the result at their disposal.

I shall be grateful if your excellency will submit these suggestions to the consideration of the American Government and will communicate to me in due course their final wishes as to the scope of the joint commission and the procedure to be followed by it.

I have, etc.,

W. LANGLEY
(In the absence of Sir E. Grey).

File No. 774/309 A.

*The Acting Secretary of State to Minister Jackson.*¹

No. 29.]

DEPARTMENT OF STATE,
Washington, August 26, 1908.

SIR: The Government of the United States has, at different times during the past year, instructed its diplomatic representatives at London, Paris, Berlin, Tokyo, The Hague, Peking, and Lisbon to bring to the notice of the Government to which each is accredited the proposal of the United States to conduct a joint and impartial investigation of the scientific and material conditions of the opium trade and opium habit in the Far East which affect the possessions and direct interests of those Governments in that part of the world.

¹ Mutatis mutandis to the American embassies at Constantinople, No. 415, and St. Petersburg, No. 172.

The initial inquiries made having elicited favorable responses, further instructions were then issued to the several-named diplomatic representatives expressing the desire of the United States to be informed whether the Governments concerned preferred to investigate the opium question by means of a conference or through a joint commission.

In their replies all the Governments accepted the proposal in principle and expressed a preference for a joint commission.

No Government having expressed any preference as to the date or place of the meeting of the commission, the Government of the United States found itself invited to make such suggestion, and it thereupon named January 1, 1909, and Shanghai. This time and place were found agreeable and convenient to the other powers concerned.

Our idea, which has been conveyed to all the Governments thus far approached, and which has already been concurred in by several of them, is that each Government's commission should proceed independently and immediately with the investigation of the opium question on behalf of its respective country, with a view, first, to devising means to limit the use of opium in the possessions of that country; secondly, to ascertain the best means of suppressing the opium traffic, if such now exists among the nationals of that Government in the Far East; and thirdly, to be in a position so that when the commission meets in Shanghai the representatives of the various powers may be prepared to cooperate and to offer jointly or severally definite suggestions of measures which their respective Governments may adopt for the gradual suppression of opium cultivation, traffic, and use within their eastern possessions, thus assisting China in her purpose of eradicating the evil from her Empire. It may also be of interest to the Government of Persia to learn that the President has appointed as commissioners on the part of the United States the Right Rev. Charles H. Brent, missionary bishop to the Philippine Islands; Dr. Charles D. Tenney, Chinese secretary of the American legation at Peking; and Dr. Hamilton Wright, eminent in medical and scientific research, and Congress has made ample appropriation for the purpose.

Now that all the Governments approached have signified their willingness to participate in this investigation, the Government of the United States entertains the hope that this decision will become unanimous by the acceptance of the suggestion by all the powers concerned. Accordingly our representatives at St. Petersburg and Constantinople have this day also been similarly instructed to invite the Governments to which they are respectively accredited to take part in this investigation, and if the cooperation of these powers, as well as that of Persia, is obtained, the movement, it is believed, will be unanimous.

You are therefore instructed to take the earliest opportunity to express to the minister for foreign affairs the sincere gratification with which the Government of the United States would learn that the Government of Persia viewed with satisfaction the contemplated effort to suppress the opium vice in the Far East, and that it would find it convenient to join the Governments of the United States, China, France, Germany, Great Britain, Japan, the Netherlands, and Portugal in the proposed joint opium commission.

As the date of the meeting is but four months hence, you will see the necessity of endeavoring to obtain a reply from the Persian Government at an early date, and upon its receipt you will inform the department of the tenor by telegraph.

I am, etc.,

ALVEY A. ADEE.

File No. 774/358-359.

Minister Rockhill to the Secretary of State.

[Extract.]

No. 993.]

AMERICAN LEGATION,
Peking, September 2, 1908.

SIR: I have the honor to transmit herewith a copy in translation of a memorial presented on the 16th of July to the Throne by the board of law, submitting certain regulations penalizing the sale of morphia and of instruments for its injection. The imperial sanction has been given to the memorial, which, it would appear, is to be put into force at once.

I assume, although I have not as yet been so advised, that these regulations are those which the Chinese Government bound itself, under the provisions of Article XVI of our treaty of October 8, 1903, and of Article XI of the British treaty of September 5, 1902, to issue "at once" to prevent the manufacture and sale of morphia and instruments for its injection.

The importation of morphia and instruments for its injection can not as yet be stopped, as Japan still holds back from agreeing to this measure.

I have, etc.,

W. W. ROCKHILL.

[Inclosure 1.]

The board of law memorializes in reply to the memorial of the governor of Kiangsu.

A memorial in response to imperial orders to deliberate.

On the 10th day of the eleventh moon of the thirty-third year of Kuanghsu—December 14, 1907—the grand secretariat copied the memorial of Ch'en Ch'i-t'ai, the governor of Kiangsu, in regard to fixing the punishment for the sale of morphia and the manufacture of hypodermic needles, and the rescript was received that it should be referred to the proper board. Therefore it was referred to this board of law where it has been carefully considered. The original memorial reads as follows:

"Morphia contains a poison capable of causing a man's death. In foreign countries it is produced by chemical methods and classified as a drug for medicinal uses. It comes into China along with a hollow needle and is used to satisfy the opium craving. Its qualities are the same as those of opium. Men use it in hopes of curing the opium habit, but if morphia is used once hypodermically its use can not be discontinued. Every time it is used a puncture is made, and these punctures increase in number day by day and month by month until the whole body is corrupted and death follows. Morphia is more poisonous than opium. In the supplementary English and American treaties it is stipulated that except for medicinal uses, and covered by a special customs permit, morphia shall not be imported. Last year when the Govern-

ment council memorialized in regard to the regulations for the suppression of opium the tenth article provided that the treaty regulations should be studied and instructions issued to the customshouses to notify the public. Shops, both Chinese and foreign, were forbidden to deal in hypodermic needles. But scoundrels greedy of gain delude men with morphia. Those who use it imagine it to be a means of breaking off the use of opium. The opium shops have been closed. The poor are unable to provide opium, and morphia, with hypodermic needles, can be used to satisfy the opium craving. Moreover, the cost of an injection is less than 10 cash, and it will satisfy a craving which would require several tens of cash of opium. The stupid people do not know its harmfulness and many are deceived by it.

"If the case is so in Kiangsu it must be the same in other Provinces. Regulations should be promptly drawn up so that the punishment of one may be a warning to many. It is provided in the code that those who secretly concoct poison with intent to take life, as well as those who order others to do so, are to be punished by decapitation. If a man causes the death of another by administering poison, or knowingly sells poison, he is to be punished as a criminal. Now, those who concoct the poisonous morphia and make hypodermic needles and sell them to people to cure them of the opium craving, thereby causing them to become enslaved to the needle and ultimately to die, are in the class of those who 'concoct poison with intent to take life.' Formerly the opium prohibitions had a clause inflicting the death penalty. As morphia is worse than opium, if the death penalty were inflicted under the law of 'concocting poison' it would not be too severe. But, as the original intention is to make gain and not cause death, arising from the fact that those with the opium craving are willing to bring death on themselves, a small distinction may be made. As to how the special regulations should be drawn up it is requested that the board of law in conference with the commissioner for law revision may decide and announce."

To the above memorial the imperial rescript was that the ministers of the board of law should consult and memorialize. The ministers of the board aforesaid observe that the essence of morphia is the same as that of opium. Foreigners use chemical methods to prepare morphia and class it among the medicines, using it in the treatment of disease. It causes artificial sleep, whence its name, which means the "god of dreams." Its strength is greater than that of opium. Last year the imperial order was received to eradicate the opium curse, and clear away entirely the chronic evil habit.

Among the regulations of the Government council it is stated that the importation of opium ought to be stopped, to eradicate the source of the evil, and it is remarked that morphia, called "ma-fei" or "mo-fei-ya," and the morphia needles used for puncturing men's flesh, are more injurious than opium. The contents of the eleventh article of the British commercial treaty of 1902 and the sixteenth article of the American commercial treaty of 1903 ought to be widely published and the customs officials should be notified that morphia not intended for medicinal use should be prohibited from entry. Shops in China, whether Chinese or foreign, should be strictly prohibited from preparing morphia or manufacturing hypodermic needles, so that there may be hope of removing the evil. The imperial sanction is on record for all this.

Now, although the prohibition is very strict, yet fellows greedy of gain are still deluding the people into the use of the morphia needle, and there has been no effectual restriction. From this it may be seen that at present the prohibition of opium ought to be carried out with thoroughness. The opium dives have been already closed, and the poor have no other means of satisfying the opium craving, and so they try the morphia needle. They are first attracted by the cheapness of it. They use it more and more and when the poison has got hold of them they are obliged to go on with the needle. Their bodies are covered with the festering holes until there is no place left for the needle. There is nothing worse than this. If the opium is not broken off, it will be hard to escape the evil of morphia; and if opium is abandoned, the injury of the morphia poison will be still greater. This is to avoid "Yang" to fall under "Mo" (two ancient heretical leaders). How can calamity cease?

Therefore the governor asks that a special law may be drawn up on the lines of the law for "concoction of poisons with intention to take life" to remove effectively the evil and save lives. We observe that the law regarding "concocting poisons with intent to take life" fixed the penalty at beheading without regard to whether life had actually been taken or not. This class of mis-

creants had murder as their business, and so their crime was reckoned as that of those men scheming to take life. Now, those who prepare morphia and hypodermic needles sell them to satisfy the opium craving, in this not differing from those who "concoct poisons;" but, studying the motive, it is to make gain, not to take life. Moreover, those who have the craving risk their own lives, but do not plan death by this means. If this be ranked as identical with the crime of "concocting poison to take life," there is really a small distinction between the facts and the statements of the original memorial, and deliberation is required. Unless the law is carefully considered, justice will not be displayed. In regard to the sale of morphia by dealers, the English and American treaties have the provision that unless the morphia is required for medicinal purposes and covered by a special permit, it may not be imported. The commissioners of customs ought to be cautioned to act according to the treaty provisions. Tricky people in the interior who scheme to sell morphia secretly against the law have no name by which their crime may be called, but there is punishment provided for such. They may be dealt with by the law regarding "those who know the poisonous nature of a drug, but sell it as medicine." So those who know the poisonous nature of morphia, but carelessly sell it, should be ranked as criminals under the above law.

The old opium law, which was repealed, condemned to death by strangling all those who prepared opium or who dealt in opium for gain. No distinction was made between those two classes. So those who prepare morphia and needles, and those who sell them, although they may not be punished with death, yet their crime is essentially the same.

The memorialists have come to the conclusion that all dealers in morphia needles who may be apprehended hereafter, without regard to whether or not they have caused death, shall be dealt with according to the law of "concocting poisons, etc.," with the penalty of decapitation lightened to that of banishment to remote and unhealthy regions. Shops which deal in morphia, if found to be without the customs permits, shall be treated according to the law of "knowingly dealing in poisons" and given the same punishment as the others, and the shops closed. Also the customs officials must be ordered to make public the treaty regulations and stop the smuggling to remove the root of the evil.

By this openly published law tricky people will be terrorized, and it may be hoped that opium restriction can be thoroughly carried out. If the imperial sanction is obtained, the boards of the memorialists will notify the governor (of Kiangsu) and the various officials concerned, that the regulations may be respected.

This memorial was specially drawn up by the board of law in consultation with the commissioner for the revision of the laws, and has been delayed by the amount of correspondence required, and is now respectfully presented in obedience to the imperial order.

Kuang-hsu, thirty-fourth year, sixth moon, eighteenth day (July 16, 1908).
Approved.

File No. 774/336.

Minister Beaupré to the Secretary of State.

No. 51.]

AMERICAN LEGATION,
The Hague, September 7, 1908.

SIR: Supplementing my dispatch No. 36 of the 7th ultimo,¹ in regard to the International Commission to inquire into the opium question in the Far East, I have the honor herewith to report that Mr. A. A. de Jongh, inspector in chief, and Mr. W. G. van Wettum, substitute inspector of the administration of opium duties in the Netherlands Indies, have been appointed delegates of this country to take part in said commission.

I am, etc.,

A. M. BEAUPRÉ.

¹ Not printed.

File No. 774/350.

Minister Rockhill to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Peking, September 29, 1908.

Was informed yesterday by foreign office all treaty powers having signified their assent prohibition of importation of morphia and instruments for injection, prohibition will be enforced from 1st next January.

ROCKHILL.

File No. 774/349.

The Secretary of State to Minister King.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 2, 1908.

(Mr. Root informs Mr. King that the United States has brought to the attention of China, France, Germany, Great Britain, Japan, Netherlands, Portugal, and Russia the proposal to conduct a joint and impartial investigation of the scientific and material conditions of the opium trade and habit in the Far East, which affect the possessions and direct interests of those Governments in that part of the world. Says that the above Governments have signified a willingness to participate in the investigation, and expressed preference for a joint commission, and also have agreed to meet in Shanghai January 1, 1909.

Mr. Root states that each Government's commission is proceeding independently on behalf of its respective Government, so when the commission meets, the representatives of the various powers may be prepared to cooperate and offer jointly or severally suggestions of measures which their respective Governments may adopt for the gradual suppression of opium cultivation, traffic, and use within their eastern possessions, thus assisting China in her purpose of eradicating the evil from her Empire. Adds that the President has appointed three United States commissioners.

Mr. King is instructed to express to the minister for foreign affairs the sincere gratification with which the United States would learn that the Government of Siam viewed with satisfaction the contemplated effort to suppress the opium vice in the Far East, and would join the aforesaid Governments in the proposed joint opium commission.)

Minister Rockhill to the Secretary of State.

No. 1027.]

AMERICAN LEGATION,
Peking, October 15, 1908.

SIR: Referring to my telegram of September 29 last, I have the honor to inclose herewith a copy in translation of a note addressed, under date of September 28, 1908, by the Wai-wu Pu to all the

foreign representatives in Peking, announcing that all the treaty powers having now signified their assent to the enforcement of regulations prohibiting the importation of morphia and instruments for its injection, such prohibitory regulations will become operative from January 1, 1909.

I have sent, for their information and guidance, copies of this note to all of our consulates general and consulates in China.

I have, etc.,

W. W. ROCKHILL.

[Inclosure.—Translation.]

The Prince of Ch'ing to Mr. Rockhill.

No. 477.]

FOREIGN OFFICE,
Peking, September 28, 1908.

YOUR EXCELLENCY: In regard to the prohibition of the importation of morphia the board of foreign affairs has already communicated several times with the ministers of the different foreign nations, and all have now signified their assent to the prohibition. This prohibition should now be made operative.

It is now determined that from January 1, 1909, morphia and hypodermic needles for injecting morphia shall be prohibited from import at all Chinese ports. That which is necessary for medicinal uses will be treated as follows:

Any foreign physician who wishes to import morphia must file a formal declaration at the consulate of his own nationality, stating that the morphia is for his own use or for the use of some specified hospital.

Dealers in drugs who wish to import morphia must file a formal declaration at the consulate of their own nationality binding themselves not to sell morphia except on a prescription of a foreign physician and even on a prescription only in very small quantities. The consul shall notify the customs authorities of the filing of these declarations, with the exact amounts to be imported, and the goods may not be landed without a special permit issued by the customs authorities. If it shall be discovered that anyone has acted contrary to the terms of his formal declaration, he shall be forever barred from importing morphia.

Duty on imported morphia shall be collected at the reduced rate of 5 per cent ad valorem. Morphia imported without special permit of the customs authorities shall be confiscated.

If the goods have been shipped prior to January 1, 1909, the Chinese customs authorities will determine limits of time, according to the distances from the points of shipment within which the goods may be admitted to import; and duty will be collected according to the present tariffs without reduction.

China engages to prohibit her own people from manufacturing morphia or hypodermic needles. China also undertakes to prohibit foreigners of all nationalities from manufacturing morphia or hypodermic needles in Chinese territory.

The above are the regulations relative to the prohibition of the importation of morphia which China has enacted after consultation with the foreign powers. They are communicated to your excellency so that your excellency may make them fully known to all the trading people of your excellency's nationality.

A reply is expected.

A necessary dispatch.

File No. 774/362.

Chargé MacMurray to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bangkok, October 20, 1908.

Siamese Government accepts invitation to participate Shanghai opium conference.

MACMURRAY.

File No. 774/362.

*The Secretary of State to Minister King.*DEPARTMENT OF STATE,
Washington, October 22, 1908.

SIR: The department acknowledges the legation's telegram, dated October 20, reporting that the Siamese Government has accepted the invitation of this Government to participate in the International Opium Commission, which is to meet at Shanghai on January 1, 1909.

You will express to the minister for foreign affairs the gratification of the Government of the United States that the proposal for joint action regarding opium in the Far East has met with a favorable response from the Government of Siam. You may also inform the minister for foreign affairs that the President has appointed as commissioners on the part of the United States the Right Rev. Charles H. Brent, missionary bishop of the Philippine Islands; Dr. Hamilton Wright, eminent in medical and scientific research; and Dr. Charles H. Tenney, Chinese secretary of the American legation at Peking, and that Congress has made ample appropriation for the purpose; also that the commissioners of the United States are investigating in this country the subjects of the imports of crude opium, its derivatives, and chandu; the international consumption of crude opium, licit and illicit; the internal manufacture and use of chandu; the manufacture of morphia and other opium derivatives; the use of the crude drug and preparations of the same; the use of morphine and other derivatives, licit and illicit; the extent of poppy cultivation; and the Federal statutes regarding importation and municipal laws and ordinances governing the use of opium and its derivatives.

You will report the names and ranks of the commissioners whom the Government of Siam proposes to appoint, and at the earliest possible date their proposed plan of investigation in preparation for the general meeting at Shanghai.

I am, etc.,

ELIHU ROOT.

File No. 774/371.

Chargé de Billier to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Teheran, October 29, 1908.

The Persian Government will participate opium international conference.

DE BILLIER.

File No. 774/362.

The Acting Secretary of State to Chargé de Billier.

No. 33.]

DEPARTMENT OF STATE,
Washington, October 29, 1908.

SIR: The department acknowledges the legation's telegram of even date reporting that the Persian Government has accepted the invita-

tion of this Government to participate in the International Opium Commission, which is to meet at Shanghai on January 1, 1909.

You will express to the minister for foreign affairs the gratification of the Government of the United States that the proposal for joint action regarding opium in the Far East has met with a favorable response from the Government of Persia. You may also inform the minister for foreign affairs that the Congress has made ample appropriation for this Government's participation in the commission, and that the commissioners of the United States have investigated in this country the subject of the imports of crude opium, its derivatives, and chandu; the international consumption of crude opium, licit and illicit; the internal manufacture and use of chandu; the manufacture of morphia and other opium derivatives; the use of the crude drug and preparations of the same; the use of morphine and other derivatives, licit and illicit; the extent of poppy cultivation; and the Federal statutes regarding importation and municipal laws and ordinances governing the use of opium and its derivatives.

You will report the names and ranks of the commissioners whom the Government of Persia proposes to appoint, and at the earliest possible date their proposed plan of investigation in preparation for the general meeting at Shanghai.

I am, etc.,

ALVEY A. ADEE.

File No. 774/400-401.

Chargé Lorillard to the Secretary of State.

No. 446.]

AMERICAN LEGATION,
Lisbon, October 30, 1908.

SIR: Referring to the department's instruction No. 160 of March 10, 1908, inviting the Government of Portugal to take part in a joint investigation of the opium trade and the opium habit in the Far East, and in continuation of Mr. Bryan's No. 422 of August 4, 1908, on the same subject, I have the honor to inclose herewith a copy and a translation of a note from the foreign office, dated the 22d instant, whereby the Portuguese Government officially accepts the invitation of the American Government, states its intention to be represented on the international commission which is to meet at Shanghai in January next, and adds that the subject to be discussed has been the object of investigation by a committee sitting at Macau since August last.

I have, etc.,

GEORGE LORILLARD.

[Inclosure.—Translation.]

The Minister for Foreign Affairs to Chargé Lorillard.

MINISTRY OF FOREIGN AFFAIRS, GENERAL DIVISION OF
COMMERCIAL AND CONSULAR AFFAIRS, FIRST BUREAU,
Lisbon, October 22, 1908.

In reply to His Excellency Mr. Charles Page Bryan's note of the 18th of last July, I have the honor to communicate to you that His Majesty's Government, accepting the invitation of the Government of the United States of America, has decided to be represented on the international commission which is to

meet at Shanghai, in January, 1909, to study and propose means to combat the use of opium in the regions of the Far East, and it is a subject which is the object of investigation by a commission sitting in the colony of Macau since August of the current year.

I avail, etc.,

WENCESLAU DE LIMA.

File No. 774/379.

The Counselor of the Japanese Embassy to the Third Assistant Secretary of State.

IMPERIAL JAPANESE EMBASSY,
Washington, October 31, 1908.

DEAR MR. PHILLIPS: Some time ago I told you that my Government would officially communicate to the Chinese Government their assent to the prohibition of morphia and its instruments to China.

I have now learned that the communication was made by our chargé d'affaires at Peking to the Wauwupu on the 15th instant. The State Department have probably already heard from your minister in China to the same effect. But I take pleasure to let you know the above for the information of the department.

Yours, very truly,

K. MATSUI.

File No. 774/379.

The Third Assistant Secretary of State to the Counselor of the Japanese Embassy.

DEPARTMENT OF STATE,
Washington, November 4, 1908.

MY DEAR MR. MATSUI: I have received your letter of October 31 and I thank you for so kindly conveying to the department the interesting information that your Government has officially communicated to the Chinese Government its assent to the prohibition of morphia into China.

Believe me, etc.,

WILLIAM PHILLIPS.

File No. 774/433.

Minister Jackson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Teheran, November 4, 1908.

Government of Persia has no objection to postponement. Local merchant Shanghai will be named the delegate. No one will be sent from Persia and no preliminary investigation will be made.

JACKSON.

File No. 774/393.

Chargé Vignaud to the Secretary of State.

No. 528.]

AMERICAN EMBASSY,
Paris, November 4, 1908.

SIR: I have the honor to report that Mr. Pichon has just notified this embassy of the appointment of the three French delegates to the opium conference. They are: M. L. O. Ratard, consul general of France at Shanghai; Mr. Brenier, under director of the department of agriculture, forests, and commerce of Indo-China; and M. Cronillon, inspector of first grade of the customhouse service of Indo-China.

I have, etc.,

HENRY VIGNAUD.

File No. 774/383B.

The Secretary of State to Ambassador O'Brien.¹

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 6, 1908.

(Mr. Root informs Mr. O'Brien that China, France, Great Britain, Germany, Japan, Netherlands, Persia, Portugal, Russia, Siam, and the United States compose the International Opium Commission, and that Turkey has also been invited. States that as modifying somewhat the suggestions regarding the scope of the present investigation, the Government of the United States further suggests that each commission should be able to inform the whole commission when it assembles in Shanghai, January 1, as to the regulations and restrictions in force at present in its respective country, and to formulate and discuss proposals for amending such regulations in points in which they may be found in the course of the joint inquiry to effect the production, commerce, use, and disadvantages of opium in the Far East.)

File No. 774/438-439.

*Chargé de Billier to the Secretary of State.*AMERICAN LEGATION,
Teheran, November 11, 1908.

SIR: I have the honor to inclose a copy of the Persian Government's acceptance of the American Government's invitation to send delegates to the joint commission on the opium question at Shanghai January 1, 1909.

I have, etc.,

FREDERIC DE BILLIER.

[Inclosure.—Translation.]

*The Minister for Foreign Affairs to Chargé de Billier.*MINISTRY OF FOREIGN AFFAIRS,
Teheran, November 10, 1908.

SIR: I have the honor to acknowledge the receipt of your respected communication dated the 28th of Ramazan, 1326 (24th of October, 1908), with reference

¹ Repeated to Great Britain, France, Germany, Russia, Netherlands, Portugal, Siam, China, and Persia.

to the congress on the subject of the cultivation of opium, and the invitation of the Government of the United States to the Government of Persia to participate in the deliberations of the congress. I have given the matter my serious consideration, and in reply beg to state that the reason why an answer was not sent sooner to your previous note was in the fact that immediately on the receipt of it I laid it before His Imperial Majesty the Shah, and explained the contents in order that instructions might be given and measures taken to comply with the same.

I have now to inform you that, in accordance with the conversation which took place in the presence of His Majesty, the Persian Government is pleased to accept the invitation, and that a representative will be appointed to attend the congress at Shanghai.

I avail, etc.,

ALA-ES-SUTTANEH.

File No. 774/380A.

*The Acting Secretary of State to Ambassador Reid.*¹

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 11, 1908.

(Mr. Bacon informs Mr. Reid that the United States gives the delegates simple designation as commissioners, and it is hoped that the Chinese Government will grant them personal standing with, but before, consuls general.)

File No. 774/408.

Ambassador Reid to the Secretary of State.

No. 756.]

AMERICAN EMBASSY,
London, November 13, 1908.

SIR: With reference to various instructions of the department regarding the International Opium Commission, which is to meet at Shanghai on the 1st of January next, I have the honor to inform you that the following gentlemen will represent the British Government on the commission: The Right Hon. Sir Cecil Clementi Smith, G. C. M. G., late governor of Straits Settlements, representing the Crown colonies; Sir Alexander Hosie, acting commercial attaché to His Majesty's legation at Peking, representing the foreign office; Mr. Mackenzie King, minister of labor, representing Canada; Mr. James Bennett Brunyate, acting financial secretary to the Government of India, representing India; Mr. Laidlaw, M. P., nonofficial delegate; and an assessor from Hongkong and the Straits Settlements, respectively.

I have, etc.,

WHITELAW REID.

¹ Repeated to France, Germany, Japan, Russia, Netherlands, Portugal, Persia, China, and Siam.

File No. 774/404.

Minister Rockhill to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Peking, November 19, 1908.

Foreign office asks if it is possible to postpone the meeting of the joint opium commission to 1st next February. My opinion is that under the circumstances this is very advisable. Chinese delegation certainly will not be ready.

ROCKHILL.

File No. 774/406.

Ambassador Leishman to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Constantinople, November 19, 1908.

Referring to your telegram of October 29, the embassy has received the following reply from the Sublime Porte:

[Translation.]

The Sublime Porte, appreciating the advantages which the reunion of such a commission will offer for humanity, has learned with great satisfaction of the initiative taken in this respect by the United States Government.

As the Ottoman Government, however, has no representative in China, and as it would be difficult to send there a special delegate, it finds itself, to its keenest regret, in the impossibility of participating in the labors of the commission referred to.

LEISHMAN.

File No. 774/404.

The Acting Secretary of State to Ambassador Reid.¹

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 19, 1908.

(Mr. Bacon states that owing to the death of the Empress Dowager and the Emperor of China² the Wai-wu Pu has requested that the sitting of the opium commission be postponed to the 1st of February next. Says that while the United States regrets the necessity of interfering with the program laid down it sympathizes with the Chinese Government in its bereavement and considers such postponement would be desirable if acceptable to participating powers. Mr. Reid is instructed to communicate this suggestion to the foreign office and deport telegraphically the attitude of the British Government.)

¹ Repeated to France, Germany, Russia, Japan, Persia, The Netherlands, Portugal, and Siam.

² See p. 116.

File No. 774/407.

Ambassador Reid to the Secretary of State.

[Telegram.]

No. 319.]

AMERICAN EMBASSY,
London, November 19, 1908.

With reference to your telegram of the 6th instant re opium commission, Sir Edward Grey asks to be informed whether modifications therein suggested may be interpreted as superseding draft instructions numbered 1, 2, and 3 in your cipher telegram May 7, it not being clear to him how instructions to British delegates should now be worded.

It appears to him that the new proposals are intended to take the place of clause 3 in your cipher telegram May 7. Wording now proposed would seem to accept principle that the commission should first investigate the facts regarding production, commerce, use, and disadvantages of opium in China and the Far East, and that findings of these facts and actual remedies required must precede useful discussion of amendments needed in the opium regulations of countries other than those in the Far East, and, therefore, that clauses 1 and 2 of the original instructions mentioned are no longer required.

Sir Edward Grey requests reply at your earliest convenience.

REID.

File No. 774/407.

The Acting Secretary of State to Ambassador Reid.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 20, 1908.

(Mr. Bacon, acknowledging telegram 319, says that there has apparently been some misunderstanding on the part of the British foreign office, and that reference to department's telegram of November 6 will show that proposal embodied therein is addition rather than substitute for clause 3 in department's telegram of May 7. No clause has been superseded. Says that lest there be doubt regarding the matter, he may inform Sir Edward Grey that opium commissioners have been instructed (1) to devise means to limit the use of opium in possessions of United States; (2) to ascertain best means of suppressing opium traffic, if such now exists among the nationals of this Government in the Far East; (3) to be in position so that when commission meets in Shanghai representatives may be prepared to cooperate with the representatives of participating powers and with them to offer definite suggestions of measures which these Governments may adopt for the gradual suppression of opium cultivation, traffic, and use within their eastern possessions, thus assisting China in her purpose of eradicating the evil from her Empire; (4) to be able to inform the whole commission, when it assembles, regarding regulations and restrictions in force at present in the United States and to formulate and discuss proposals for amending such regulations in points in which they may be found in the course of the joint investigation to affect the production, commerce, use, and disadvantages of opium in the Far East.)

File No. 774/411.

Minister King to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bangkok, November 23, 1908.

Siamese Government entirely indorse the Government of the United States's sympathy with Chinese Government in bereavement. Would not object postponement Opium International Conference to 1st next February.

KING.

File No. 774/414.

Ambassador Riddle to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
St. Petersburg, November 26, 1908.

Postponement of International Opium Commission to February 1 is entirely acceptable to the Russian Government.

RIDDLE.

File No. 774/416.

Minister Beaupré to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
The Hague, November 27, 1908.

The Government of the Netherlands agrees to the postponement to February 1 of International Opium Conference, but desires to be informed when new date is fixed.

BEAUPRÉ.

File No. 774/415.

Ambassador O'Brien to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Tokyo, November 27, 1908.

Your telegram of the 20th. There is no objection on the part of the Government of Japan to the proposed postponement.

O'BRIEN.

File No. 774/406.

The Acting Secretary of State to Ambassador Leishman.

No. 447.]

DEPARTMENT OF STATE,
Washington, November 27, 1908.

SIR: The department acknowledges the receipt of your telegram of the 19th instant, in which the department is informed that you have been advised by the Sublime Porte that since the Ottoman Government has no representative in China it has found it impossible to be represented on the International Opium Commission.

You will inform the foreign office that the department regrets that the conference has lost the benefit of Turkish participation, and express the hope that although unable to share in the proposed deliberations the Sublime Porte will sympathetically consider measures which may be adopted by the international commission for the general suppression of the opium evil.

I am, etc.,

ROBERT BACON.

File No. 774/417.

Ambassador Hill to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, November 28, 1908.

German Government agrees to postponement of the opium conference to February 1 next.

Herr Roessler, consul at Canton and first German commissioner, has been given rank and character of consul general for the period of the conference.

HILL.

File No. 774/426.

Ambassador White to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Paris, November 30, 1908.

French Government have no objection to the substitution of the date of February 1 to January 1 for the meeting of the opium commission at Shanghai.

WHITE.

File No. 774/407.

The Acting Secretary of State to Ambassador Reid.¹

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 1, 1908.

Referring to department's telegram 20th, you will inform foreign office majority powers participating opium conference have agreed deference to China's wishes to postpone meeting until February 1. Also state that this Government would appreciate early reply of Government to which you are accredited.

ADEE.

File No. 774/516-517.

Ambassador O'Brien to the Secretary of State.

No. 514.]

AMERICAN EMBASSY,
Tokio, December 2, 1908.

SIR: In reference to this embassy's telegram of August 10, 1908, and to its dispatch No. 406, of August 23 last,² respectively transmitting the names of the Japanese members of the joint opium commis-

¹ Repeated to Persia.

² Not printed.

sion, I now have the honor to inform you that I am in receipt of a communication from the foreign office stating that—

These commissioners have since been engaged in, and completed to a large extent, the investigation of the opium question in Japan on lines generally similar to the items of investigation by the United States commissioners, and requesting that I communicate the above fact to my Government.

I have, etc.,

T. J. O'BRIEN.

[Inclosure.—Translation.]

The Minister for Foreign Affairs to Ambassador O'Brien.

DEPARTMENT OF FOREIGN AFFAIRS,
Tokio, November 30, 1908.

MONSIEUR LE MINISTRE: In reference to Mr. Jay's note of the 23d of July last relative to the names and rank of the commissioners of the Imperial Government to the international commission for the investigation of the opium trade and habit in the Far East, as well as the scope and method of treatment of the investigation to be made before the meeting at Shanghai, I had the honor to inform him of the names and rank of the Japanese commissioners on the 10th of August last when the appointment was made. These commissioners have since been engaged in, and completed to a large extent, the investigation of the opium question in Japan on lines generally similar to the items of investigation by the United States commissioners, as communicated by Mr. Jay's note of the 14th July last. I have, therefore, the honor to request that your excellency will be good enough to communicate the above to the Government of the United States.

I avail, etc.

COUNT KOMURA.

File No. 774/429.

Ambassador Reid to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, December 2, 1908.

Number 334. December 2, 4 p. m. With reference to Department's cable 2nd instant re Opium Conference. British Government approves postponement. Delay caused by the Foreign Office awaiting official assent of other Departments.

REID.

File No. 774/429.

The Secretary of State to Ambassador Reid.¹

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 3, 1908.

(Mr. Root instructs Mr. Reid to inform the British Government that since the Powers participating in the coming Opium Conference at Shanghai, in deference to China's wishes, have consented to postpone the meeting, that body will convene February first instead of January first, 1909. Asks Mr. Reid to express to the Foreign Office appreciation and gratification at the concurrence in the Chinese suggestion.)

¹ Mutatis mutandis to Berlin, St. Petersburg, Paris, Tokyo, The Hague, Lisbon, Peking, Bangkok, and Teheran.

File No. 774/438-439.

The Acting Secretary of State to Chargé de Billier.

No. 34.]

DEPARTMENT OF STATE,
Washington, December 8, 1908.

SIR: The department acknowledges the receipt of your unnumbered dispatch of the 11th ultimo, with which was inclosed a copy of the Persian Government's acceptance of the invitation of this Government to send delegates to the joint commission on the opium question at Shanghai.

You are instructed to express anew to the foreign office the gratification of this Government that Persia will participate in a conference which, it is hoped, will be instrumental in contributing toward the suppression of the opium evil.

I am, etc.,

ALVEY A. ADEE.

File No. 774/513-514.

Chargé Lorillard to the Secretary of State.

No. 468.]

AMERICAN LEGATION,
Lisbon, December 19, 1908.

SIR: Referring to previous correspondence relative to the International Opium Conference, which is to meet at Shanghai on February 1, 1909, I have the honor to inclose herewith a copy and a translation of a note from the foreign office, dated the 16th instant, informing me that the Portuguese Government has appointed its consul general at Shanghai, Mr. Oscar George Potier, as its delegate to the conference, and that he will be assisted by the deputy delegate, Mr. Carlos Assumpção.

I have, etc.,

GEORGE LORILLARD.

[Inclosure.—Translation.]

*The Minister for Foreign Affairs to Chargé Lorillard.*FOREIGN OFFICE,
Lisbon, December 16, 1908.

Concerning the subject of your legation's note of the 12th instant, I have the honor to inform you that His Majesty's Government has appointed to represent it on the international commission which, on February 1, 1909, is to meet at Shanghai to investigate and propose means to restrict the consumption of opium in the Far East, the consul general of Portugal in that city, Oscar George Potier, who, in the functions of this duty, will be assisted by a deputy delegate, Carlos Assumpção, the chief clerk of the district attorney's office of Macau.

I avail, etc.,

WENCESLAU DE LIMA.

File No. 774/534.

Minister Jackson to the Secretary of State.

[Extract.]

No. 129.]

AMERICAN LEGATION,
Teheran, December 25, 1908.

SIR: Referring to my recent dispatches, Nos. 119¹ and 124¹, I have now the honor to report the receipt of a notification from the Persian minister of foreign affairs to the effect that Hadji Mirza

¹ Not printed.

Djafar, the manager of the firm of Rezaïoff at Shanghai, has been appointed "commercial representative" of Persia for the International Opium Commission, which is to meet on February 1. This gentleman has been notified of his appointment by telegraph, and has been requested to attend the opening meeting of the commission. The necessary instructions have been sent by post, so that he may be able to take an intelligent part in the business of the commission and report results to the Persian Government, which, after full consideration, will give such effect to them as it may consider desirable.

I have been requested to communicate this information to you in order that there may be no difficulty about the acceptance of Persia's representative in the event (which is probable) of his credentials failing to arrive before the sessions begin. As it is probable that this dispatch will reach Washington before the end of January, I have not thought it necessary to telegraph.

I have, etc.,

JOHN B. JACKSON.

**DEATH OF THE EMPEROR AND EMPRESS DOWAGER OF CHINA,
AND THE SUCCESSION OF EMPEROR PU-YI TO THE THRONE.**

File No. 14911/5.

Minister Rockhill to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, November 15, 1908.

(Mr. Rockhill reports that he has been informed by the Foreign Office of the death of the Emperor at 5 o'clock yesterday afternoon, and that an edict has been issued by the Empress Dowager announcing the accession of Pu-yi to the throne and assumption of the regency by Prince Ch'un. Mr. Rockhill says perfect order reigns.)

File No. 14911/6.

The Chinese Minister to the Secretary of State.

No. 12.]

IMPERIAL CHINESE LEGATION,
Washington, November 15, 1908.

SIR: It is my very sad duty to announce to you the demise of His Imperial Majesty Kuanghsu, the Emperor of China, which occurred in Peking at 5 o'clock yesterday afternoon (November 14).

Accept, etc.,

WU TING FANG.

File No. 1518/176.

The Chinese Minister to the Secretary of State.

No. 13.]

IMPERIAL CHINESE LEGATION,
Washington, November 15, 1908.

SIR: I have the honor to inform you that by an Imperial edict, issued by Her Imperial Majesty the Empress Dowager, P'u-yi, the eldest son of His Imperial Highness Prince Ch'un, has been appointed on the demise of His Imperial Majesty the Emperor Kuanghsu, to

succeed to the throne as the August Sovereign of China, and His Highness Prince Ch'un as Regent of the Empire.

Accept, etc.,

WU TING FANG.

File No. 14911/8.

Minister Rockhill to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Peking, November 16, 1908.

It is officially stated that the Empress Dowager died yesterday afternoon, 2.45.

ROCKHILL.

File No. 14911/8.

The Secretary of State to Minister Rockhill.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 16, 1908.

(Mr. Root directs Mr. Rockhill to convey to His Imperial Majesty the Emperor and His Imperial Highness the Regent the deep regret and sincere sympathy of the President, the Secretary of State, and the American people upon the death of His Imperial Majesty the late Emperor and Her Imperial Majesty the late Empress Dowager.)

File No. 14911/6.

The Secretary of State to the Chinese Minister.

No. 121.]

DEPARTMENT OF STATE,
Washington, November 16, 1908.

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, in which you announce the demise of His Imperial Majesty Kuanghsu, the Emperor of China.

The sad news has been received by the Government and people of the United States with deep regret, and sincere sympathy is expressed at the great bereavement your country has sustained.

Accept, etc.,

ELIHU ROOT.

File No. 14911/7.

The Chinese Minister to the Secretary of State.

No. 14.]

IMPERIAL CHINESE LEGATION,
Washington, November 16, 1908.

SIR: It is with very great sorrow that I have further to announce to you the demise of Her Imperial Majesty the Empress Dowager, which occurred in Peking at 2 o'clock yesterday afternoon (November 14).

Accept, etc.,

WU TING FANG.

File No. 14911/7.

The Secretary of State to the Chinese Minister.

No. 123.]

DEPARTMENT OF STATE,
Washington, November 16, 1908.

SIR: I have the honor to acknowledge the receipt of your note of to-day's date formally conveying to me the sad intelligence of the demise of Her Imperial Majesty the Empress Dowager.

Upon the receipt of the news of this additional national bereavement I desire to express the profound sorrow of the Government and the people of the United States.

A telegram has been sent to the American legation at Peking instructing Minister Rockhill to convey to His Imperial Majesty the Emperor and His Imperial Highness Prince Ch'un, the Regent, the deep regret and sincere sympathy of the Government and people of the United States at the great affliction sustained by the people of the Chinese Empire.

Accept, etc.,

ELIHU ROOT.

File No. 14911/9-10.

The Chinese Minister to the Secretary of State.

No. 15.]

IMPERIAL CHINESE LEGATION,
Washington, November 17, 1908.

SIR: I have the honor to inform you that I am in receipt to-day, through the Wai-wu Pu (Ministry of Foreign Affairs), Peking, of the inclosed Imperial message, forwarded by cable, from His Majesty the Emperor of China to His Excellency the President of the United States of America. I thank you to transmit the message to its high destination.

Accept, etc.,

WU TING FANG.

[Inclosure.—Translation.]

The Emperor of China, newly succeeding to the Imperial Throne, to His Excellency the President of the United States of America, greeting:

Heaven, inexorable and pitiless in its decrees, has overwhelmed us with deep sorrow by depriving us of our imperial parent, the departed Emperor of China, whose demise occurred on the 21st day of the tenth moon (November 14). By an imperial edict of Her Imperial Majesty, the Grand Empress Dowager, we have been appointed to succeed to the Throne. It is difficult, nay, impossible, for us, in our minority, to realize the depth of our affliction and to sustain ourselves under the very great bereavement. It is our sad duty, nevertheless, to announce His Majesty's demise to all friendly nations. In view of the very cordial relations that always subsisted between Your Excellency and our late Emperor, we can assure ourselves that the news will call forth your sympathy. We therefore respectfully transmit this intelligence to Your Excellency by cable.

PEKING, November, 17, 1908.

File No. 14911/11-12.

The Chinese Minister to the Secretary of State.

No. 16.]

IMPERIAL CHINESE LEGATION,
Washington, November 17, 1908.

SIR: I have the honor to inform you that I have received to-day, through the Wai-wu Pu (Ministry of Foreign Affairs), Peking, the

inclosed imperial message, forwarded by cable, from His Majesty the Emperor of China to His Excellency the President of the United States of America, announcing the demise of Her Majesty, the late Grand Empress Dowager. I thank you to transmit the message to its high destination.

Accept, etc.,

WU TING FANG.

[Inclosure.—Translation.]

The Emperor of China, newly succeeding to the Imperial Throne, to His Excellency the President of the United States of America, greeting:

Unhappy is our lot that heaven should visit us with a second affliction in the demise of Her Imperial Majesty the Grand Empress Dowager, which occurred on the 22d day of the tenth moon (November 15). Our sorrow, indeed, knows no bounds. In view of the fact that the enlightened policies and virtuous accomplishments of Her Majesty have won the admiration and respect of all nations, we find it our sad duty to announce Her Majesty's demise to all friendly powers. Cordial relations have always existed between China and the United States of America, and we feel assured that Your Excellency, upon receipt of this sad news, will sympathize with us. We hereby respectfully transmit the sorrowful tidings by cable.

PEKING, November 17, 1908.

File No. 14911/11-12.

The Acting Secretary of State to the Chinese Minister.

No. 124.]

DEPARTMENT OF STATE,
Washington, November 21, 1908.

SIR: I have the honor to acknowledge the receipt of your note of the 17th instant, with which was inclosed a copy of a cablegram forwarded to you by the Wai-wu Pu from His Imperial Majesty, the Emperor of China, to the President, announcing the demise of Her Imperial Majesty, the Grand Empress Dowager.

In reply I have the honor to inform you that the message inclosed in your communication has been transmitted to the President, and that the American Minister at Peking has been instructed to present a telegram of condolence and sympathy from the President to His Imperial Majesty.

Accept, etc.,

ROBERT BACON.

File No. 14911/9-10.

The Acting Secretary of State to the Chinese Minister.

No. 125.]

DEPARTMENT OF STATE,
Washington, November 21, 1908.

SIR: I have the honor to acknowledge the receipt of your note of the 17th instant, with which was inclosed a copy of a cablegram forwarded to you by the Wai-wu Pu from His Imperial Majesty, the Emperor of China, to the President, announcing the demise of His Imperial Majesty, the late Emperor of China.

In reply I have the honor to inform you that the message inclosed in your communication has been transmitted to the President and that the American minister at Peking has been instructed to present a telegram of condolence and sympathy from the President to His Imperial Majesty.

Accept, etc.,

ROBERT BACON.

File No. 14911/21-22.

The Chinese Minister to the Secretary of State.

No. 17.]

IMPERIAL CHINESE LEGATION,
Washington, November 25, 1908.

SIR: I have the honor to inclose a translation of an imperial message, addressed to His Excellency the President, and acknowledging the receipt of a message of condolence transmitted to His Majesty in the name of His Excellency. I thank you to transmit the inclosure to its high destination.

Accept, etc.,

WU TING FANG.

[Inclosure.—Translation.]

The Emperor of China in reply to His Excellency the President of the United States of America, greeting:

We thankfully acknowledge the receipt of the message of condolence, transmitted to us by cable in the name of the President of the United States, and expressing His Excellency's deep sympathy and regrets in the demise of our Grand Empress Dowager and our imperial parent, the late Emperor.

After a careful perusal of the message, we feel ourselves greatly indebted to His Excellency for the sincere friendly feeling represented therein.

We hope that His Excellency will accept our thanks, tendered to him by this special cabled acknowledgment of ours.

PEKING, *November 24, 1908.*

File No. 14911/21-22.

*The Acting Secretary of State to the Chinese Minister.*DEPARTMENT OF STATE,
Washington, November 27, 1908.

SIR: I have the honor to acknowledge the receipt of your note of the 25th instant, with which was inclosed a translation of an imperial message addressed to the President in acknowledgment of the message of condolence from the President upon the demise of Their Imperial Majesties, the Emperor and the Empress Dowager of China.

The translation of the imperial message has been transmitted to its high destination.

Accept, etc.,

ROBERT BACON.

File No. 1518/191.

The Chinese Minister to the Secretary of State.

No. 19.]

IMPERIAL CHINESE LEGATION,
Washington, November 30, 1908.

SIR: I have the honor to inform you that by an imperial edict published on the 28th instant, it has been decided to designate, beginning with the first noon of next year, the title of reign of His Imperial Majesty, the new Emperor of China as Hsüant'ung, and by the same edict the 9th day of the present moon (Dec. 2) has been appointed as the auspicious day on which His Majesty will formally ascend the Imperial Throne.

Accept, etc.,

WU TING FANG.

File No. 1518/191.

The Secretary of State to Minister Rockhill.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 3, 1908.

(Mr. Root directs Mr. Rockhill, in expressing the felicitations of the President and Government on the celebration of the accession to the Throne, to say that it was particularly agreeable to the President to receive His Excellency T'ang Shao-yi, His Imperial Majesty's ambassador on the same auspicious day.)

REGULATIONS FOR THE INTERNATIONAL SETTLEMENT AT WUHU.

File No. 16576/-2.

Minister Rockhill to the Secretary of State.

No. 1022.]

AMERICAN LEGATION,
Peking, October 8, 1908.

SIR: I have the honor to transmit herewith copy of a dispatch, together with its inclosure, from the American consul at Nanking, on the subject of two proposed amendments to the regulations for the international settlement of Wuhu, the first reserving to foreign merchants exclusively the land within the settlements, the second restricting the right of foreign owners of subletting to Chinese houses in the settlements, which practice threatens to become, as it has long been at Shanghai, a serious inconvenience to the requirements of legitimate foreign trade.

The note from the British consul at Wuhu to Mr. McNally, which forms the inclosure to his dispatch, sets forth so fully and clearly the importance of the amendments that I need not dilate on it further.

I think that our acceptance of these amendments, if they can be agreed to, is very desirable considering the rights our missionaries have under the provisions of our treaties for the purchase of land outside settlement limits. I have informed our consul at Nanking that I have submitted the question to you and that he should await your instructions before replying to the British consul at Wuhu.

I have, etc.,

W. W. ROCKHILL.

[Inclosure.]

*Consul McNally to Minister Rockhill.*AMERICAN CONSULATE,
Nanking, ———, 1908.

SIR: I have the honor to inclose herewith a copy of a communication from the British consul at Wuhu with regard to the general foreign settlement at that port.

I delayed presenting the matter to the legation until I could make a personal investigation of the limitations of the settlement, and went to Wuhu for that purpose.

The settlement area is very small, and should missionaries enter thereon with hospitals or educational institutions merchants would have but little territory for business purposes. The missionaries there have already considerable property just outside the settlement environments and could enlarge the same at

any time under treaty in the direction inland, while the merchants, steamboat lines, and oil companies are confined to the settlement boundaries.

I respectfully present the matter to the legation for your consideration and await your instructions before replying to the communication above referred to beyond a formal acknowledgment.

I have, etc.,

J. C. McNALLY.

[Subinclosure.]

The British Consul to Consul McNally.

H. M. CONSULATE,
Wuhu, September 4, 1908.

SIR AND DEAR COLLEAGUE: AS you are doubtless aware, the taotai has recently refused applications from missionaries to purchase land in the general foreign settlement at this port on the ground that the settlement is expressly reserved for foreign merchants. It appears to me that, considering the limited area of the settlement and the comparative facility with which missionaries can purchase land outside, in the interests of foreign merchants the taotai should be supported in this reading of the regulations.

There is another point in connection with the settlement regulations to which I would direct your attention. Only foreign merchants can own land, but there is apparently nothing in the regulations to prevent the subletting of lots to Chinese, which would entirely defeat the object of this clause. Many Chinese are most anxious to live in this settlement, and there is reason to suspect that some applicants for small lots are either lending their names to Chinese for a consideration or are intending to sublet to persons who are not qualified to own land. The great demand for semiforeign houses and the increased rates now obtainable make building for Chinese tenants a very profitable business; and unless some restriction is placed on the right of subletting it is only too probable that at no distant date a large portion of this settlement will be in occupation of Chinese, to the exclusion of bona fide foreign merchants.

I have submitted these two points to His Majesty's minister at Peking, and he agrees with me that in the interests of the trade of Wuhu the land within the settlement should be reserved for foreign merchants and that missionaries and Chinese should be excluded, in any case until the commercial requirements of the port have been satisfied. He has further authorized me to consult with the taotai and my foreign colleagues at Nanking with a view to measures being taken to this end.

I have accordingly the honor to submit this matter for the consideration of yourself and those of your colleagues who represent the interests of their nationals at Wuhu, and trust that both you and they will support me in inviting the Chinese authorities to agree to an amendment to the settlement regulations in the above sense. The exact wording of the clause can, I think, be left for future discussion.

I have, etc.,

(Signed)

HERBERT COFFE.

File No. 16576/-2.

The Secretary of State to Minister Rockhill.

No. 520.]

DEPARTMENT OF STATE,
Washington, November 30, 1908.

SIR: The department acknowledges the receipt of your No. 1022 of the 8th ultimo, in which is transmitted with its inclosure a dispatch from the consul at Nanking, on the subject of the two proposed amendments to the regulations for the international settlement at Wuhu, the first reserving to foreign merchants exclusively the land within the settlements, and the second restricting the right of foreign owners of subletting to Chinese houses in the settlements.

No copy of the regulations of the international settlement at Wuhu has ever been received by the department.

The department appreciates the position taken by the British consul at Wuhu. This Government, however, has consistently held that American citizens are at liberty under treaty rights to frequent, reside, transact business, and secure property for commercial and residential purposes in all the ports or localities of China which are now open or may hereafter be opened to foreign residence and trade, and that these specific rights apply with equal force whether the property possessed by any of its citizens be situated in an international settlement or in a foreign concession belonging to any single power or merely within the limits of an opened locality.

To accept the first amendment proposed, therefore, would be to discriminate against the missionaries in favor of those traders who desire, possibly, to reside within the limits of the international settlement but who are, equally with the missionaries, entitled to hold land outside such settlement limits and within those cities open to international residence and trade.

Furthermore, with regard to the second of the amendments suggested, since this Government has asserted that American citizens are entitled to reside and hold land, not only within the settlements which have been delimited at certain open cities in China, but within these cities themselves, the department considers that the exclusion of Chinese from these international settlements at treaty ports would be unwarranted, and would go far to justify the Chinese in their contention, which we have never accepted, that Americans and other foreigners are not entitled under the treaties to reside within the so-called native cities, but should be confined within the limits of their concessions.

The department feels that many of the difficulties which have arisen between Chinese and foreigners have been due to a lack of sympathy on the one side and to misunderstanding on the other. A better feeling between strangers and natives and a realization that mutual consideration alone will insure mutual advantage and profit may be secured only by the elimination of those differences which have been fruitful sources of trouble in the past. It is deemed unwise and undesirable, therefore, to concur in measures which might deprive certain American missionaries of their just rights and which make for further segregation and not for the growth of that international harmony which it should be the object of foreigners and Chinese alike to encourage. This Government, therefore, is unwilling to accept the proposed amendments to the regulations for the international settlement at Wuhu, and you are instructed so to inform the consul at Nanking.

I am, etc.,

ELIHU ROOT.

File No. 16576/3.

Minister Rockhill to the Secretary of State.

AMERICAN LEGATION,
Peking, January 14, 1909.

SIR: I have the honor to acknowledge the receipt of the department's instruction No. 520 of November 30 last, informing me that our Government is unwilling to accept two proposed amendments to the regulations for the international settlement at Wuhu, one reserving to foreign merchants exclusively the land within the settlements,

and the other restricting the right of foreign owners of subletting to Chinese houses in the settlements.

The consul at Nanking has been furnished a copy of this instruction.

I have, etc.

W. W. ROCKHILL.

File No. 16576/4-6.

Consul McNally to the Assistant Secretary of State.

No. 90.]

AMERICAN CONSULATE,
Nanking, February 9, 1909.

SIR: Referring to that part of the department's dispatch No. 520, of November 30, 1908, to Mr. Rockhill, the minister at Peking, which reads: "No copy of the regulations of the international settlement at Wuhu has ever been received by the department," I have the honor to inclose herewith a translation of the regulations and a letter from T'ung Taotai at Wuhu to the British consul at that port on the subject.

I have, etc.,

J. C. McNALLY.

[Inclosure 1.—Translation.]

The T'ung Taotai at Wuhu to the British Consul.

WUHU, December 7, 1904.

SIR: The regulations in 10 articles for a general foreign settlement at Wuhu, which was discussed and agreed upon between us have received the approval and sanction of the Wai-Wu-Pu. It is provided in article 2 of these regulations that "land used for public purposes, such as roads, drains, bridges, etc., shall be exempt from the land tax, and no one shall be allowed to occupy such land privately." Again, in article 5, it is provided that a "strip of 5 chang in width shall be left along the river front for a towing path or road, on which no building or other obstruction to traffic shall be permitted." Also, in article 6, "the work of constructing public roads, drains, and bridges shall be undertaken by the local authorities, and in order to meet the expenses of construction and maintenance the local authorities and the consul shall draw up regulations for an assessment."

According to the above provisions the 5-chang towing road to be left along the river front is public land, and is not included in the lease; and the expenses of construction and maintenance should be met by an assessment levied according to regulations drawn up by the local authorities and the consuls.

But although this port has been open for 20 years, British firms are the only foreigners at present proposing to rent land in the settlement, and it is therefore impossible at once to raise the enormous sum required for wharf building, roadmaking, etc., it is to be feared that these works can not be at once carried out. You have expressed your apprehension that owing to the varying rise and fall of the water at the river bank, the loading and unloading of cargo by British merchants will be impeded unless there are bunds and landing places, and that this point has formed the subject of repeated discussions between us. I agree to the principle that foreign land renters must on no account suffer hindrance in coming or going, loading or unloading; and therefore, if the settlement can not at once arrive at a prosperous condition so that funds can not be provided and the local authorities are not in a position to undertake the work, the land for the 5-chang towing road along the river front may be provisionally leased to the British land renters concerned, within the limits of their respective lots, at the price of the settlement and plus the "expenses of moving." The said land renters shall be at liberty to construct their own bunds and landing places, and shall not be liable to pay wharfage dues. The area of the towing road shall be exempt from payment of the annual land tax, the rest paying according to the regulations. When the landing places are to be constructed, an estimate of the cost will be arranged with the Chinese authorities and the amount put on record beforehand.

If at a future time the local authorities should be in a position to undertake public works, the original lease price paid for the towing road thus provisionally acquired by the British land renters, together with all expenses incurred in wharfing may be refunded and the local authorities resume possession and control, whereupon the British land renters shall consent to pay the assessment uniformly levied according to regulations, and the use of the wharves shall still belong in perpetuity to the land renters concerned.

I have the honor hereby to communicate to you officially the above declaration, and to request a reply for the purpose of record.

I have, etc.,

[SEAL OF TAOTAI.]

[Inclosure 2.—Translation.]

Regulations for general foreign settlement at Wuhu.

1. The boundaries of the area, situated outside of the west gate, which was marked off at the instance of the former Taotai Liu for the international foreign settlement at the treaty port of Wuhu, are defined as follows: On the south, the T'ao-chia Creek; on the north, the foot of the I-chi hill; on the east, the Hsia-sn P'u-t'ung Temple at the foot of the P'u-t'ung or T'ung-an hill; on the west, the river's edge.

2. Foreign merchants of good standing shall be at liberty to select and lease land in the settlement according to their requirements. The lease price shall remain as already settled, 180 Spanish dollars per mow. Since there are disputes and uncertainties with regard to the ownership of much of the land on the foreshore, it is agreed, in order to avoid delay being caused by rival claimants, that the price shall be deposited in the first instance with the Chinese authorities, who shall issue title deeds and pay over the money to the rightful owners when these are ascertained.

The land tax is fixed for the present at 3,000 cash per mow annually. The tax is to be paid in advance between the 1st and 15th day of the second Chinese moon in each year, and is to be sent through the consular representatives of the landholder; or, in the absence of a consular representative at Wuhu, through the commissioner of customs or the bureau of foreign affairs to the Chinese local authorities, who will issue receipts therefor. But land used for public purposes, such as roads, drains, bridges, etc., shall be exempt from the land tax, and no person shall be allowed to occupy such land privately.

All old drains used for agriculture shall remain undisturbed so as to provide an outlet for the ponds.

No persons of bad character, foreign or Chinese, shall be permitted to reside in the settlement. All shall be expelled and not allowed to loiter about, and if they refuse to leave when requested, if Chinese, they shall be arrested and punished by the Chinese authorities, and if foreigners, they shall be dealt with by their consul at the request of the taotai.

3. Applications to lease land in the settlement shall be made to the consular representative of the applicant, accompanied by a map showing the position and extent of the lot required. The consul will notify the local authorities accordingly, whereupon a deputy shall be designated, who, with the applicants' representative, will examine the land and see that all is in order. The applicant will then pay the lease price and the land tax due for the remainder of the current year, and upon receipt thereof, the local authorities will issue title deeds in triplicate under their seal; one copy to be retained by the Chinese authorities, and two to be sent to the renters' consular representative, who will seal them, give one copy to the renter, and file the other in the consulate.

4. A land renter having occasion to transfer his land, must first apply to his consul, who, after due investigation, will notify the Chinese local authorities and send the original title deeds to them for indorsement.

No transfer will be allowed except to subjects of treaty powers.

5. It shall be arranged to leave some roads from east to west in the settlement, so as to maintain communication between the land behind and the water front. A strip 5 chang in width shall be left along the river front for a tow-path, along which foreign merchants may pass freely, load and unload cargo, and moor or anchor vessels, but on which no building or other obstruction to traffic shall be permitted.

6. In the event of the settlement becoming prosperous and the population increasing therein, all arrangements as regards police shall be undertaken and administered by the Chinese local authorities. The work of constructing public

roads, drains, and bridges shall also be undertaken by the local authorities. In order to meet the expenses of construction and maintenance, the local authorities and the consuls will draw up regulations for an assessment, which shall be levied on all persons alike, irrespective of nationality.

7. The term of the lease will be 30 years, but on the expiration thereof the same may be renewed on the presentation of the title deeds to be verified and exchanged. Thereafter each successive term for renewal shall be 30 years. On the expiration of each term the land renter will send his deeds for verification to the Chinese authorities through his consular representative. If at such time the ordinary land tax has been raised, the local authorities will arrange with the consuls for an increase of the annual land tax, but the lease price is not to be paid again, nor will any new charges be imposed. If no application is made at the end of the term, the local authorities will communicate with the consul concerned with regard to the matter, and if the application is still delayed for more than four months, the title deeds shall be canceled.

8. All Chinese dwelling houses and all timber, etc., piled or stored in the settlement, shall, when the land on which it stands is taken up, be removed within six months by order of the local authorities, but the expense of moving the same, which will be very heavy, is not included in the original lease price, and must be met by a supplementary payment of 40 per cent of the lease price per mow according to the number of mow purchased. If there are graves on the land, the land renters must not remove the same themselves, a proceeding which might cause complications. Land not taken up by foreigners shall be left in possession of its present Chinese owners and farmers, so that they might not lose their means of livelihood.

9. As a precaution against fire no one shall be allowed to erect straw huts or low-class wooden buildings within the settlement under penalty of being immediately compelled to pull them down; Chinese inhabitants, however, whose land is not taken up and who dwell at some distance from buildings erected on land that is taken up, shall not for the present have their houses pulled down, but shall be persuaded by the local authorities to change their dwelling places.

No gunpowder, dynamite, or other material dangerous to life and property, shall be stored in or carried through the settlement. Offenders, whether foreigners or Chinese, shall, upon detection, be arrested and punished according to the laws of their respective countries. In case of such materials being required for manufacturing purposes or for works, application must first be made to the consul, and if the application is bona fide, the consul will communicate with the taotai, who will request the commissioner of customs to make due inquiries, after which the materials may be landed. On being landed, a safe place must be selected for its storage, and it must be used quickly and not stored for any length of time. In violation of this regulation, the Chinese local authorities will communicate with the consul who will order the material to be removed to a place of safety.

10. Other details and matters not covered by these provisions can be discussed and put on record as the occasion requires.

THE CUSTOMS IN MANCHURIA.

File No. 788/138-139.

Chargé Fletcher to the Secretary of State.

No. 809.]

AMERICAN LEGATION,
Peking, January 10, 1908.

SIR: I have the honor to inclose herewith copy of the "Experimental regulations for the collection of duty on native and foreign goods shipped to the new ports in Manchuria," which have been transmitted to the legation by the foreign office and which provide for the issuance of certificates exempting such goods imported at Tientsin, Newchwang, Antung, or Dalny from the payment of further duty, irrespective of mode of shipment.

Copies of the inclosed have been furnished to our consuls at Tientsin, Newchwang, Mukden, Antung, and Dalny.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure.]

The Prince of Ch'ing to Chargé Fletcher.

F. O. No. 371.]

FOREIGN OFFICE,
Peking, November 19, 1907.

YOUR EXCELLENCY: I have the honor to inform Your Excellency that on November 9 I received the following communication from the general superintendency of customs:

"In accordance with the arrangement made by this office, in conjunction with the viceroy of Chihli, foreign goods which have been paid the regular import duty at Newchwang, if shipped from that port by rail to any of the newly opened ports in Manchuria, are given a certificate exempting them from the payment of any further duties; then, if the goods in question arrive at the port mentioned within two months, the original certificate is stamped and returned for cancellation. Instructions to this effect have been issued and distributed, as the records show.

"It now appears that the ports of Tientsin, Antung, and Dalny should be classed with Newchwang in this respect; and also, that goods not forwarded by rail, if really being transhipped to an open port, are in no way different from those carried on the railway, and should not, therefore, be subject to different rules. Furthermore, native goods which have paid the coast trade duty and are transhipped to ports in Manchuria should also be exempt from further payments. It is only just that the same regulations which apply to foreign merchandise should cover native goods as well.

"This office accordingly communicated with the inspector general of customs, directing him to make some arrangement with reference to the above points, and in reply has received from him a copy of the rules which he has drawn up, and which will be put into effect as experimental regulations.

"We inclose herewith a copy of these rules for your inspection, respectfully requesting that you will forward copies of them to the various foreign ministers in Peking, asking them to direct their nationals to observe the same."

It becomes my duty, therefore, to inclose herewith a copy of the rules above mentioned and to request that you will give directions for their observance.

A necessary dispatch.

[SEAL OF THE WAI-WU PU.]

[Subinclosure.]

Experimental regulations for the collection of duty on native and foreign goods shipped to the new ports in Manchuria.

I. All foreign goods which have paid the regular import duty at Tientsin, Newchwang, Antung, or Dalny, as well as all native goods which have paid the coast trade half duty (except such as may be sent into the interior either under transit pass or by paying likin, as may still be done at the direction of the owner and under the old regulations) and which are intended for transshipment to any of the newly opened ports in Manchuria, will be given a special certificate exempting them from the payment of further duty, and this is irrespective of how such goods are to be transhipped to their destination. This special certificate will be stamped in accordance with regulations, and will be good for two months only.

Whenever such certificates are applied for a signed declaration must be presented showing to what port the goods are consigned and stating that in case evidence of the arrival of the goods in the port mentioned is not forthcoming within the two months' limit, the applicant will be willing to forfeit three times the amount of the half duty. In order to avoid the trouble of preparing a guaranty on each occasion, however, it will be permissible to draw up a bond of a similar nature, which will hold for a year, and to deposit the same in the customhouse. Such bond, if presented by a foreigner, must be sealed by a consular officer, and if presented by a Chinese, must be sealed by the commissioner of customs. If a yearly bond is not furnished, then a signed declaration made for each shipment will suffice. The forms for these bonds and declarations shall be determined upon by the imperial maritime customs.

II. In all cases where goods are shipped to the newly opened ports under special certificate such goods must correspond exactly with the declaration.

In case of any discrepancy or of the shipment of any goods not on the declaration, not only will the customhouse where such declaration was made collect a fine amounting to three times the half duty levied upon the entire shipment, but the goods which have been shipped to the newly opened port will there be confiscated.

File No. 551/87-88.

Ambassador O'Brien to the Secretary of State.

No. 171.]

AMERICAN EMBASSY,
Tokyo, January 29, 1908.

SIR: I have the honor to inclose herewith a copy of a dispatch from the consul at Dalny, in which it is stated that the Port Arthur branch of the Imperial Chinese Maritime Customs at Dairen was finally opened on the 8th instant, and stating that the rumors to the effect that Port Arthur was to be opened to foreign trade on the same basis as Dairen has now been officially denied.

I have, etc.,

T. J. O'BRIEN.

[Inclosure.]

Consul Greene to Ambassador O'Brien.

AMERICAN CONSULATE,
Dalny, January 17, 1908.

SIR: I have the honor to report that the Port Arthur branch of the Imperial Chinese Maritime Customs at Dairen, the proposed establishment of which I reported on September 6, 1907, was finally opened on the 8th instant. It is understood that the delay was due to difficulty in securing the consent of the Japanese navy department, which has jurisdiction over the port.

Rumors have been current here to the effect that Port Arthur was shortly to be thrown open to foreign trade on the same basis as Dairen, but this has been officially denied.

It is not unlikely that some relaxation of the strict rules governing the entry of the vessels owned by Japanese and by Chinese residing in the leased territory, now admitted, may be considered. At present even such vessels are required to apply at a station outside the port for permission to enter the bay, and are otherwise inconvenienced.

I have, etc.,

ROGER S. GREENE.

File No. 551/89.

Chargé Fletcher to the Secretary of State.

No. 841.]

AMERICAN LEGATION,
Peking, February 7, 1908.

SIR: Referring to my dispatches Nos. 778 and 784 of November 2d and 27th last, respectively, on the subject of the North Manchurian customs arrangements, I have the honor to confirm my telegram of yesterday reading as follows:

My dispatch No. 778, customs station at Manchuria and Pogranichnia opened February fifth.

The delay in the opening of these customs stations was a cause of complaint on the part of Japanese and other merchants in southern Manchuria, which is now removed.

I have, etc.,

HENRY P. FLETCHER.

EXTRADITION OF HORACE G. MCKINLEY GRANTED BY THE
CHINESE GOVERNMENT AS AN ACT OF COMITY.

File No. 4992.

The Acting Secretary of State to Minister Rockhill.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 8, 1907.

Horace G. McKinley convicted of conspiracy to defraud United States Government forfeited bail and fled to China. Supposed to be running small hotel on outskirts of Shanghai. Inquire of Chinese foreign office whether request for his extradition would be granted as act of comity, but state that this Government is prevented by its laws from being able to reciprocate the favor should occasion arise.

ADEE.

File No. 4992/3.

Minister Rockhill to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, March 20, 1907.

(Mr. Rockhill states that the Chinese Government in reply to inquiry says that "all American criminals guilty of an ordinary offense who have taken refuge in Chinese territory, can of course be extradited, except those guilty of political offenses." Mr. Rockhill adds that the Chinese Government will take action in the case submitted upon a statement of the exact nature of the crime and the presentation of written evidence.)

File No. 4992/5-7.

Minister Rockhill to the Secretary of State.

No. 563.]

AMERICAN LEGATION,
Peking, March 20, 1907.

SIR: In further acknowledgment of your telegram asking whether the Chinese Government would grant the extradition of Horace G. McKinley, I have the honor to inclose herewith copy of the note which I addressed to the Wai-wu Pu on the 12th instant, and of its reply, received yesterday.

I have, etc.,

W. W. ROCKHILL.

[Inclosure 1.]

Minister Rockhill to the Prince of Ch'ing.

F. O. No. 221.]

AMERICAN LEGATION,
Peking, March 12, 1907.

YOUR IMPERIAL HIGHNESS: I have the honor to inform Your Imperial Highness that I am in receipt of a telegram from the Department of State, saying that one Horace G. McKinley, who has been convicted of conspiracy to defraud the United States Government, has forfeited his bail and is now in China, supposed to be on the outskirts of Shanghai, keeping a small hotel.

I am directed to inquire of Your Imperial Highness whether or not a request for his extradition would be granted as an act of comity, and to state that, although the request may be granted, my Government is prevented by its laws from being able to reciprocate the favor, should the occasion arise.

Knowing the interest of Your Imperial Highness in the enforcement of justice, I feel sure that you will be disposed to grant the request made, and, trusting that I may receive a favorable reply at an early date, I avail, etc.,

W. W. ROCKHILL.

[Inclosure 2.—Translation.]

The Prince of Ch'ing to Minister Rockhill.

FOREIGN OFFICE,
Peking, March 19, 1907.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your dispatch of the 12th instant, saying that you had received a telegram from the Department of State to the effect that one Horace G. McKinley had been convicted of conspiracy to defraud the United States Government; that he had forfeited his bail, and that he was now supposed to be in China, on the outskirts of Shanghai, keeping a small hotel. Your Excellency was instructed, therefore, to inquire whether or not a request for his extradition would be granted by the Chinese Government as an act of comity.

In reply I have the honor to state that all American criminals guilty of an ordinary offense who have taken refuge in Chinese territory can, of course, be extradited, except those guilty of a political offense. We must wait, therefore, until Your Excellency's Government informs us of what crime this man is guilty, and gives us the details of the whole case, that we may have written evidence upon which to act. It becomes my duty to send this reply to Your Excellency's dispatch for your information.

A necessary dispatch.

(SEAL OF THE WAI-WU PU.)

File No. 4992/10-11.

The Acting Secretary of State to Minister Rockhill.

No. 344.]

DEPARTMENT OF STATE,
Washington, August 13, 1907.

SIR: Referring to your Nos. 563, of March 20, and 571, of March 27 last, in regard to the extradition of Horace G. McKinley from China, I inclose the evidence in the case and the record of his indictment and conviction in the United States district court for the district of Oregon, both duly certified; also copy of a photograph of the fugitive.¹

You will take the proper steps to obtain the provisional arrest and detention of McKinley with a view to his extradition for conspiracy to defraud.

You will telegraph the department upon receipt of information that the fugitive has been arrested.

I am, etc.,

ALVEY A. ADEE.

File No. 4992/12.

Chargé Fletcher to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, October 5, 1907.

(Mr. Fletcher states that McKinley has been arrested at Mukden by the Chinese authorities.)

File No. 4992/13.

Chargé Fletcher to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, October 9, 1907.

(Mr. Fletcher reports that the Chinese authorities at Mukden have been instructed to surrender McKinley. He requests instructions by telegraph as to custody.)

File No. 4992/14.

The Acting Secretary of State to Minister Rockhill.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 10, 1907.

(Mr. Bacon directs that the Chinese Government be requested to hold McKinley in their custody at the expense of the United States until the arrival of the agent to receive the fugitive.)

Mr. Bacon informs Mr. Rockhill that the steamship *Manchuria* will sail from the Pacific coast on the 24th instant.)

File No. 4992/21-26.

Chargé Fletcher to the Secretary of State.

No. 761.]

AMERICAN LEGATION,
Peking, October 17, 1907.

SIR: I have the honor to acknowledge the receipt of the department's instruction No. 344 of August 13 last on the subject of the extradition of Horace G. McKinley, inclosing certified copies of the evidence in the case and the record of his indictment and conviction in the United States district court for the district of Oregon, and instructing this legation to take the proper steps to obtain the provisional arrest and detention of McKinley with a view to his extradition for conspiracy to defraud.

As I have already reported by telegraph, McKinley was arrested at Mukden upon request of the legation by the Chinese authorities, and orders have been given to surrender him to the authorities of the United States.

Upon receipt of the department's telegram of the 11th instant, confirmed below, I requested the Chinese Government to hold McKinley in their custody at the expense of the United States until the arrival of the agent of our Government to receive him, and have to-day received a note from the foreign office stating that my request will be complied with.

I inclose copies of correspondence with the foreign office and confirm the telegrams exchanged with the department relative to this case.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure 1.]

*Chargé Fletcher to the Prince of Ch'ing.*AMERICAN LEGATION,
Peking, October 2, 1907.

YOUR IMPERIAL HIGHNESS: On March 12 of this year Mr. Rockhill wrote to Your Imperial Highness asking if your Government would extradite a fugitive from justice named Horace G. McKinley, who had been convicted of conspiracy to defraud the United States Government, and who had taken refuge, it was supposed, in China. On the 19th of March Your Highness replied to this note saying that all American convicted criminals who have taken refuge in Chinese territory, except those guilty of a political offense, would be extradited; but as to the man in question you would have to wait until my Government had informed you of what crime he is guilty, and had given you the details of the whole case, that you might have written evidence upon which to act.

In this connection I now have the honor to state that I have received from the Department of State a copy of all the evidence in the case and a record of Mr. McKinley's indictment and conviction, and that I have been instructed to request his immediate provisional arrest and detention with a view to his extradition for conspiracy to defraud.

I understand that Mr. McKinley is now in Mukden. It becomes my duty, therefore, to request that telegraphic instructions be sent to the local authorities at that place directing them to arrest the said Horace G. McKinley and hold him in confinement with a view to his extradition as soon as the evidence shall have been examined and your Government convinced of the nature of his crime.

I avail, etc.,

HENRY P. FLETCHER.

[Inclosure 2.]

*Chargé Fletcher to the Prince of Ch'ing.*AMERICAN LEGATION,
Peking, October 4, 1907.

YOUR IMPERIAL HIGHNESS: Referring to my note of the 2d instant, in which, acting under instructions of my Government, I requested the arrest with a view to his extradition of Horace G. McKinley, I beg to thank the ministers of Your Highness's board for their promptness in directing the Mukden authorities to arrest and hold the fugitive, as reported to the acting Chinese secretary of this legation by the secretaries of your board.

In accordance with Your Imperial Highness's note of March 10, I now have the honor to request his extradition upon apprehension, and to submit herewith a brief résumé of the facts of the case against the fugitive. In this résumé I have included only the facts necessary to show: (1) That McKinley was indicted for conspiracy to defraud the United States Government of certain public lands; (2) that he was regularly tried and convicted of this crime, and upon conviction gave bail in the sum of \$4,000 to appear in court for sentence; and (3) that when summoned before the court for such sentence he failed to appear, having fled beyond the jurisdiction of the court.

In order that Your Imperial Highness may have all the facts of the case, I send herewith, also, the complete record thereof, including all the evidence, but I trust that the résumé will prove sufficient to show to Your Highness that the man is a fugitive from justice and that he stands convicted of a crime involving moral turpitude, viz, not one of a political nature.

I avail, etc.,

HENRY P. FLETCHER.

[Inclosure 3.]

*Ministers of the Foreign Office to Chargé Fletcher.*FOREIGN OFFICE,
Peking, October 9, 1907.

YOUR EXCELLENCY: With reference to the case of the fugitive McKinley we acknowledge the receipt of your dispatch of the 4th instant, in which you sent

us a résumé of the case, showing that McKinley has been convicted of an ordinary crime and could, therefore, be handed over to the American authorities.

While we were in the act of preparing a telegram to send to the governor at Mukden, we received a telegram from that official stating that the fugitive had been arrested on the previous day, and was being temporarily held in custody by the police authorities.

This board thereupon telegraphed the résumé presented by you to the governor, and informed him that he could consider the crime committed by the fugitive as falling outside the class of political offenses, and that he could, therefore, turn him over to the American authorities, as we had agreed to do.

As soon as we shall have heard anything further from the governor we will communicate further with Your Excellency, but in the meantime it becomes our duty to send you this informal letter for your information.

(Signed)

NA-T'UNG.
YUAN SHIH-K'AL.
LIEN-FANG.
LIANG TUN-YEN.

[Inclosure 4.]

Chargé Fletcher to the Prince of Ch'ing.

AMERICAN LEGATION,
Peking, October 12, 1907.

YOUR IMPERIAL HIGHNESS: I have the honor to inform your Imperial Highness that I have just received a telegram from my Government directing me to request the Imperial Government to be kind enough to hold the American criminal, Horace G. McKinley, recently arrested at Mukden upon request of this legation, in the custody of the Chinese authorities until the arrival of the agent of my Government, who is being sent from the United States to receive the fugitive and conduct him back to the United States. The agent will leave San Francisco on the 24th instant, sailing on the steamship *Manchuria*, and may be expected to arrive within a month after that date.

I am directed to state also that my Government makes this request for the detention of the fugitive by the Chinese authorities with the understanding that he shall be held in custody by them at the expense of the United States.

I avail, etc.,

HENRY P. FLETCHER.

[Inclosure 5.]

The Prince of Ch'ing to Chargé Fletcher.

FOREIGN OFFICE, October 16, 1907.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your dispatch of the 12th instant, in which you informed me that you had received telegraphic instructions from your Government to the effect that the American criminal, Horace G. McKinley, who was arrested in Mukden, should be held in custody by the Chinese local officials until the arrival in China of the specially deputed agent of the United States, who should receive him and take him back to America.

In accordance with your request we telegraphed to the governor of Fengt'ien, and have now his answer, stating that he had done as directed.

A necessary dispatch.

[SEAL OF THE WAIWU PU.]

File No. 4992/49.

Chargé Fletcher to the Secretary of State.

No. 830.]

AMERICAN LEGATION,
Peking, January 24, 1908.

SIR: In continuation of my No. 803,¹ of the 6th instant, I have the honor to report that on the 22d instant, in pursuance of the depart-

¹ Not printed.

ment's instructions, Horace G. McKinley was delivered by the consul general at Tientsin into the custody of J. F. Kerrigan, the agent of the Department of Justice, who had been sent to receive him. Mr. Kerrigan left Tientsin with his charge on the same day.

I have, etc.,

HENRY P. FLETCHER.

IMPOSITION OF TAXES OR DUTIES ON AMERICAN GOODS BY INLAND CHINESE AUTHORITIES IN ADDITION TO THOSE PRESCRIBED BY TREATY.

File No. 8602/6-10.

Chargé Fletcher to the Secretary of State.

No. 801.]

AMERICAN LEGATION,
Peking, December 26, 1907.

SIR: I have the honor to inclose copies of recent correspondence with the Wai-wu Pu in relation to the imposition at Nanking and at Shun Te Fu of certain taxes on American kerosene oil, which seem to me to be in violation of treaty rights and against which I have protested.

The facts fully appear in the correspondence. Briefly stated, they are as follows:

At Nanking a contribution, called voluntary, but collection of which was enforced by fine and imprisonment, was levied by the local authorities on kerosene oil, the proceeds being devoted to the maintenance of a hospital. Nanking being an open port, I have taken the position that the taxes and charges which may be levied on American goods there are only those provided for by treaty, irrespective of whether in foreign or Chinese hands and whether the duty certificates have been canceled or not.

At Shun Te Fu the case differs slightly. There the tax has been imposed on kerosene oil by the local magistrate in aid of a girls' school, and under Article XI of the commercial treaty of 1896 between China and Japan, which provides that—

It shall be at the option of any Japanese subject desiring to convey duly imported articles to an inland market to clear his goods of all transit duties by payment of a commutation transit tax or duty, equal to one-half of the import duty in respect of dutiable articles, and 2½ per cent upon the value in respect of duty-free articles, and on payment thereof a certificate shall be issued which shall exempt the goods from all further inland charges whatsoever—

seems to be in contravention of our treaty rights. To my note in reference to this case I have as yet received no reply.

In the Nanking case the principal question involved is whether the duty-free area of an open port includes the whole area of the port or city. This point has never been definitely settled, except in the case of Changsha, when China agreed to the British contention, but the treaty powers have always insisted that it includes the whole area of the port, and my protest is based on this assumption.

The fact that the taxes are collected from Chinese subjects complicates the question and makes effective protest and action on the part of the legation difficult, but in view of the far-reaching consequence of the exercise of this alleged right of local taxation, if allowed to

go unchallenged, I have felt obliged, while disclaiming any desire or intention of interfering in purely Chinese questions, to point out its effect on American trade and to protest against it as in violation of our treaty rights. I have not asked for a restitution of the money collected, but merely that orders be given to the local authorities to refrain from the collection of the taxes.

Cases of this kind may be expected to recur, and I have the honor to request the department's instructions in the premises.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure 1.]

Chargé Fletcher to the Prince of Ch'ing.

No. 321.]

AMERICAN LEGATION,
Peking, November 6, 1907.

YOUR IMPERIAL HIGHNESS: I have the honor to call Your Highness' attention once more to the case of the levy at Nanking of a tax on American kerosene oil in the hands of native dealers under the name of a voluntary contribution for the support of a hospital.

On September 27, 1906, Mr. Rockhill addressed a note to Your Highness with reference to this taxation and requested Your Highness "to instruct the central likin office at Nanking that the levy of any tax whatsoever upon foreign goods which have already paid the inland transit duty is in violation of existing treaties and must be discontinued."

To this note Your Highness replied on October 20, 1906, by communicating the reply of the superintendent of southern trade to the effect that the sums referred to had been collected as a "voluntary contribution" of Chinese merchants in aid of charity and has nothing in the world to do with the duty and likin collected by the Government. The officials simply allow the people to do as they please in the matter and certainly can not either compel them to pay or prevent it.

Relying upon this statement the legation regarded the matter as settled and closed. It is now, however, reported by the American consul at Nanking that two native dealers, Heng Ieng-jun and Liu Shen Kuan, have been arrested and imprisoned by orders of the central likin office for refusing to pay this contribution, and compelled to sign a written statement that they will always, hereafter, pay this tax or contribution willingly.

This legation, therefore, while disclaiming any intention of interfering in purely Chinese questions, feels in duty bound to protest earnestly against the imposition of any additional tax or charges whatsoever, either in the form of a contribution or otherwise, upon American goods, whether in Chinese or foreign hands, which have paid the duties provided for by treaty.

That the tax referred to is such a charge seems clear, and it can not be admitted that because the proceeds of the contribution are devoted to a charitable institution and not received by the Government that it is not any the less a tax.

It has been designated in previous correspondence as "a voluntary contribution," but the arrest and imprisonment by the local authorities of dealers who have refused to pay it divests it of any voluntary character and proves it a tax under another name.

Under these circumstances I have the honor to again request Your Highness to instruct the local authorities to refrain from enforcing the collection of this so-called contribution.

I avail, etc.,

HENRY P. FLETCHER.

[Inclosure 2.]

The Prince of Ch'ing to Chargé Fletcher.

FOREIGN OFFICE,
Peking, November 20, 1907.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of November 6, 1907, with regard to the collection of a voluntary contribution in aid of charity by the central likin office at Nanking. In

the note under acknowledgment you state that you have received a communication from the American consul in Nanking to the effect that two native dealers, Heng Feng-jun and Liu Shen-kuan, have been arrested and imprisoned by order of the central likin office, and compelled to sign a written statement that they will always hereafter pay the contribution willingly; that such action proves this contribution nothing more nor less than a tax, and that you must, therefore, again request that the local authorities be directed to refrain from enforcing the collection of this so-called contribution.

Upon receipt of your note my board telegraphed immediately to the superintendent of trade for the south, directing that the matter be investigated and a report made of the action taken. His reply has now been received and is to the following effect:

"The central likin station reports that this contribution was voluntarily levied on themselves by the merchants; that recently one or two dealers, selfishly seeking their own private gain and having no regard for the public welfare, had refused to pay their contributions; that after urgent exhortations, however, these men had paid the money as before, and the affair had been closed; that the likin station had arrested no one and taken no compulsory measures; and finally, that this contribution was levied after the cancellation of the duty certificate and the delivery of the goods to Chinese firms, and, therefore, was no concern whatever of any foreign merchant.

"Since the case has thus been settled, then the collection of the contribution should go on as formerly. And as the money is used for the charitable purpose of assisting the Chinese foreign hospital, the American minister will be glad to give us his hearty cooperation at all times.

"Please transmit to him this reply."

It appears from the above, then, that no arrests have been made and no compulsion brought to bear; and as the case in question has been settled, the collection of the contribution will be continued as formerly. Since the money is collected for a worthy cause I think that Your Excellency can not but be glad to assist in the accomplishment of an effort to benefit the public at large.

It becomes necessary for me to send this reply for Your Excellency's information.

[SEAL OF THE WAIWU PU.]

[Inclosure 3.]

Chargé Fletcher to the Prince of Ch'ing.

AMERICAN LEGATION,
Peking, December 26, 1907.

YOUR IMPERIAL HIGHNESS: I have the honor to acknowledge the receipt of Your Highness' note of November 20 last, in reply to my note of November 6, 1907, with regard to the collection of a contribution or tax on American kerosene oil by the central likin office at Nanking.

In my note of November 6, last, to which I have the honor to refer, I called Your Highness' attention to the case of two native dealers in American kerosene oil who had been arrested for nonpayment of this contribution, and compelled to pay it, as well as to give security that they would pay it in the future.

In reply, Your Highness quoted the reply from the superintendent of southern trade to the following effect:¹

Your Highness stated in conclusion that it appeared that no arrests had been made and no compulsion brought to bear, and that as the case in question had been settled, the collection of the contribution will be continued as formerly.

Upon receipt of Your Highness' reply, the American consul at Nanking was again instructed to investigate the case and to make a full report, and his attention was called to the fact that it had been reported to Your Highness that no arrests had been made. I am now in receipt of his reply, informing me that two native dealers (Na Ting Liang and Fang Lien-chên) were on the 22d of the 8th moon of this year, arrested by the Kiang Ling magistrate at the request of the likin office and incarcerated in the magistrate's jail because of their refusal to pay this oil contribution. The former was detained 14 and the latter 9 days, and were only released upon signing a written statement that they

¹ Supra.

would in future pay this tax and were compelled to give security to that effect. They were then assessed \$283 and \$168, respectively, and informed that if in future they refused to pay this tax they would be severely punished and their shops closed. Since then they have refused to deal in American kerosene oil and the American trade has thus suffered a severe injury.

The superintendent of southern trade, in his reply above quoted, states that: "This contribution was levied after the cancellation of the duty certificate and delivery of the goods to Chinese firms, and therefore was no concern whatever of any foreign merchant."

Against this position the legation feels bound to enter its protest, and, as stated in my note of November 6 last, can not agree to the imposition of any additional tax or charge whatsoever, in the form of a contribution or otherwise, upon American goods which have paid the duties prescribed for by treaty, irrespective of whether the duty certificates have been canceled or not.

It becomes my duty therefore to again request Your Highness to instruct the local authorities to refrain from the collection of this so-called contribution.

I avail, etc.,

HENRY P. FLETCHER.

[Inclosure 4.]

Chargé Fletcher to the Prince of Ch'ing.

No. 333.]

AMERICAN LEGATION,
Peking, December 3, 1907.

YOUR HIGHNESS: I have the honor to call Your Highness' attention to the imposition at Chun Te Fu of a tax of 60 cash a case on American oil, which in the opinion of this legation, is in violation of Article XI of the commercial treaty of 1896 between China and Japan.

The facts of the case as reported to the legation are as follows:

The local magistrate at Shun Te Fu has lately issued a proclamation to the effect—

"That whereas the establishment of girls' schools is very important, and whereas there are no funds on hand to meet the expenses of such schools, the magistrate has decided to levy a tax of 60 cash upon all persons who purchase a case of oil, or 60 cash for each case he purchases; the said tax, moreover, to be collected by the seller of the oil and turned over to the local tax office which collects the tax on skins and furs. Further, in order to prevent any mistake in the collecting whereby full returns would not be made, the seller is ordered to produce his invoices for each consignment of oil which he may receive, have them stamped at the local tax office, and then each month pay to this office the 60 cash which he has collected from the purchasers of oil; and if his tax receipts show any shortage he is to be fined ten times the amount of such shortage."

and has proceeded to levy the tax mentioned. While the tax is stated in the first part of the proclamation to be on the purchaser, this seems a mere subterfuge, as the seller is made entirely responsible for the amount of the tax, and in any event it is clearly a tax on American goods which have already paid the import and inland transit charges, and are therefore exempt from all further taxation.

In similar cases which have arisen the argument has been brought forward by the local authorities that after the transit passes have been produced and canceled the interest of the foreign merchant ceases and they are at liberty to impose whatever taxes they may choose to levy. This position can not be agreed to by the legation.

It is hardly necessary to recall to Your Highness the provisions of Article XI of the treaty above referred to, reading as follows:

"It shall be at the option of any Japanese subject desiring to convey duly imported articles to an inland market to clear his goods of all transit duties by payment of a commutation transit tax or duty equal to one-half of the import duty in respect of dutiable articles and 2½ per cent upon the value in respect of duty-free articles, and on payment thereof a certificate shall be issued which shall exempt the goods from all further inland charges whatsoever."

As stated by Mr. Rockhill in his note to Your Highness dated September 27, 1906—

"It is plain, from the above language, that it makes no difference whether or not the goods be already sold to a Chinese firm and delivery of them taken, the goods are free of all further inland charges whatsoever after the inland transit tax has once been paid."

The growing use in the interior of kerosene oil, one of the principle American imports to China, gives the question a more than local importance, for if this article is singled out for taxation locally the trade in it will soon be extinguished at all nontreaty places and the transit-pass provisions of the treaties with respect to this important item of American trade will be rendered useless and void.

This case has been taken up by the American consul general with the customs taot'ai at Tientsin without result, and it now becomes my duty to bring the matter to the attention of Your Highness, and I do so with the earnest hope that Your Highness will agree with me that this taxation, no matter how laudable the object to which the revenue derived therefrom is applied, is not according to treaty nor consistent with the good trade relations which we hope to see maintained between our respective countries, and that Your Highness will give the necessary instructions that the local authorities concerned shall cease to tax locally goods which have already paid the full charges stipulated in the treaties.

I avail, etc.,

HENRY P. FLETCHER.

File No. 8602/6-10.

The Secretary of State to Chargé Fletcher.

No. 410.]

DEPARTMENT OF STATE,
Washington, February 12, 1908.

SIR: I have to acknowledge the receipt of your dispatch No. 801, of December 26 last, and to inform you in reply that the department approves the attitude maintained by the legation in respect to the imposition of taxes on American kerosene oil at Nanking and Shun Te Fu in addition to those prescribed by treaty.

In view of the fact, as stated in your dispatch, that the principal question involved in the Nanking case is whether the duty-free area of an open port includes the whole area of the port or simply that section of the city comprising the international settlement; the department believes that you could avail of this opportunity again to impress upon the Chinese the settled conviction of this Government that a port which, under the treaties, has been declared open to international residents and foreign trade, is opened in its entirety.

As bearing on the subject under consideration there is inclosed herewith for your information a copy of the department's instruction to the consul general at Shanghai as to the attitude which he is to assume in connection with the attempt of the Chinese authorities to levy likin duties within the harbor limits of Shanghai.

I am, etc.,

E. Root.

[Inclosure.]

The Secretary of State to Consul General Denby.

No. 45.]

DEPARTMENT OF STATE,
Washington, December 11, 1907.

SIR: I have to acknowledge the receipt of your No. 51 of November 1, 1907,¹ and to express the department's approval of the joint communication to the taotai by the consular corps on the subject of likin within the harbor limits.

¹ Not printed.

This department is of the opinion that no opportunity should be overlooked in which to impress upon the Chinese Government the interpretation which the United States attaches to the words "open port."

The tendency of the Chinese authorities to restrict the actual growth of Shanghai by limiting the accommodation of foreign shipping to within that portion of the harbor which comprises the settlement area, as well as by other measures reported to this department in the past, should, whenever the occasion requires, be strongly resisted.

The levying of likin dues within the harbor limits constitutes a clear case for protest, since it is entirely proper that the whole harbor should be included in the confines of the open port.

The department awaits with interest the result of your request for the issuance of a proclamation prohibiting within the harbor the levy of taxes of every nature on foreign goods excepting those provided for by treaty.

I am, etc.,

W. J. CARR, *Chief Clerk*
(For the Secretary of State).

File No. 8602/11-15.

Chargé Fletcher to the Secretary of State.

No. 898.]

AMERICAN LEGATION,
Peking, April 7, 1908.

SIR: In continuation of my No. 801 of December 26, 1907, and in reply to the department's instruction No. 410 of February 12, 1908, I have the honor to inclose copies of two notes which I have addressed to the Wai-wu Pu on the subject of the collection of taxes on American goods in addition to those prescribed by treaty at several places in China. I also inclose the replies of the foreign office to show the department the manner in which these questions are dealt with and the difficulty of making satisfactory progress. It is true that latterly some of the larger questions have been expedited by the presence of Yüan Shih-k'ai in the Wai-wu Pu, but routine business is still transacted in the unsatisfactory manner reported in my No. 794 of December 14 last.

The matter of the collection of likin duties within the harbor limits of Shanghai having been referred to the diplomatic corps by the consular body, I have the honor to inclose copy of the note of the dean to the Wai-wu Pu in relation thereto.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure 1.]

Chargé Fletcher to the Prince of Ch'ing.

AMERICAN LEGATION,
Peking, March 30, 1908.

YOUR HIGHNESS: On December 3 last I had the honor to address a note to Your Highness on the subject of the collection at Shun-to Pu of a tax of 60 cash a case on American kerosene oil, which in the opinion of the legation is in violation of treaty stipulations. To this note I have received no reply.

In again bringing this matter to the attention of Your Highness's board, it is my duty to inform you that similar taxes, unwarranted by treaty, are being levied at T'ai-yuan-fu, in the Province of Shansi. American kerosene oil is shipped to the latter place by the Standard Oil Co. to the Chinese firm of I Chu Kung Sasu (), and after the transit dues have been duly paid, additional taxes amounting to 6 tael cents per case are charged by the local officials, to

which is added a tax of 2 tael cents per case for yamen runners' fees, making the total unlawful taxation amount to 8 tael cents per case.

As pointed out in my note of December 3 last, to which I have had the honor to refer, this taxation seems opposed to the letter and spirit of the treaties. For if local taxation of this kind is permitted, the treaty stipulations as to import and transit dues become nugatory.

The amount of the tax imposed in the cases complained of is small, but Your Highness will readily see that if a small amount is allowable a larger amount could also be imposed and the trade greatly injured and possibly extinguished. Foreign products are imported into China for the use and consumption of the people, and it is useless to fix by treaty the import and transit duties, if the goods are to be subjected to special additional taxes when they reach the Chinese merchant.

It becomes my duty, therefore, in calling this new instance to the attention of Your Highness to renew the legation's former protest against the imposition on American goods of taxes in addition to those prescribed by treaty.

I avail, etc.

HENRY P. FLETCHER.

[Inclosure 2.]

Chargé Fletcher to the Prince of Ch'ing.

AMERICAN LEGATION,
Peking, March 30, 1908.

YOUR HIGHNESS: Under date of November 20 and December 26 last I had the honor to call the attention of Your Highness's board to the levy of a contribution or tax on American kerosene oil by the central likin office at Nanking. A reply was received from Your Highness dated January 4 informing the legation that the matter had been referred by letter to the superintendent of trade for the south, since which time no further communication has been received by the legation in regard to this most important matter.

On the 13th of January last, however, an official proclamation was issued by the head likin office, of which proclamation I inclose a copy, in which the collection of this tax is ordered and the names of the collectors given.

As the legation has heretofore stated to Your Highness, this tax is in violation of treaty provisions. It is the settled conviction of my Government that a port which, under the treaties, is declared open to international residence and foreign trade is opened in its entirety. Nanking is a treaty port and the charges and duties upon American goods imported therein have been fixed by treaty. Any extra or additional taxes, no matter how large or small nor whether the goods be in Chinese or foreign hands, is contrary to treaty. Any other interpretation of the treaty stipulations would open the way for unlimited taxation and render the formal provisions of the treaty of no effect.

Trusting that Your Imperial Highness's board will agree with me that these taxes are unwarranted, and will give orders in this sense to the local officials.

I avail, etc.

HENRY P. FLETCHER.

[Inclosure 3.]

The Dean of the Diplomatic Corps to the Prince of Ch'ing.

AMERICAN LEGATION,
Peking, March , 1908.

YOUR HIGHNESS: On behalf of the foreign representatives, I have the honor to transmit for the information of Your Highness's board copies of correspondence which has passed recently between the consular body at Shanghai and the customs taot'ai on the subject of the levy of likin on foreign merchandise within the harbor limits of the port, and to inform Your Highness that the communication of the consular body to the taot'ai has the approval and expresses the views of the foreign representatives.

It has always been held by the Governments of the treaty powers that the duty-free area of a port, which under the treaties has been declared open to international trade, comprises the whole area of the port, including, of course, the harbor thereof, and that the taxes and charges leviable on foreign goods imported therein and native goods exported therefrom are those only which are specified in the treaties.

Further, as regards foreign imports, it has always been held that, even after they have been sold to Chinese firms they are not liable to further taxation within the treaty-port area; and it is only by strict observance of these principles that the proper distinction can be preserved between "treaty ports" and "the interior."

In the interests, therefore, not only of trade but of friendly relations, I have the honor to request that the Shanghai likin authorities may be instructed to conform with this principle and make no exactions on foreign imports, whether in foreign or native hands, or on foreign-owned produce intended for export, within the treaty-port area.

I avail, etc.,

[Inclosure 4.—Translation.]

The Prince of Ch'ing to Chargé Fletcher.

FOREIGN OFFICE,
Peking, April 7, 1908.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your note of March 30 with regard to the levy of a so-called "voluntary contribution" upon oil by the central likin office at Nanking. You state therein that on January 13 last an official proclamation was issued by the central likin station at Nanking, a copy of which you inclosed, ordering the collection of the tax to continue; and you expressed the hope that my board will agree with you that the tax is unwarranted, and will give orders in that sense to the local authorities.

In reply, I have the honor to state that upon receipt of your previous note in connection with this affair, received in December of last year, my board referred the matter to the superintendent of trade for the south for a reply. Having now received this your second note my board has communicated again with the superintendent of trade urging him to reply in the matter as soon as possible. In the meantime, however, it becomes my duty to send this reply.

A necessary dispatch.

[SEAL OF THE WAIWU PU.]

[Inclosure 5.—Translation.]

The Prince of Ch'ing to Chargé Fletcher.

FOREIGN OFFICE,
Peking, April 7, 1908.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your note of March 30, 1908, calling attention to your note of December 3, 1907, on the subject of the taxation of oil at Shuntefu. At the same time you state that similar taxes, unwarranted by treaty, are being levied at T'aiyuan-fu, in the Province of Shansi. In this instance it appears that American kerosene oil is shipped to T'aiyuan-fu by the Standard Oil Co. to the Chinese firm called the I Chu Kung Sau, and after the transit dues have been paid, additional taxes amounting to 6 tael cents per case are charged by the local officials, to which is also added a tax of 2 tael cents per case for yamen runners' fees. Such taxes, you state, are opposed to the letter and spirit of the treaties.

In reply I have the honor to state that upon receipt of your note of December 3, 1907, my board referred the matter to the viceroy of Chihli, but up to the present no reply has been received from him. Upon receipt of your second note, however, my board communicated at once with the governor of Shansi, and also sent a further communication to the viceroy of Chihli urging him to reply in the matter as soon as possible. In the meantime, however, it becomes my duty to send this dispatch for your information.

A necessary dispatch.

[SEAL OF THE WAIWU PU.]

File No. 8602/11-15.

*The Acting Secretary of State to Minister Rockhill.*DEPARTMENT OF STATE,
Washington, May 21, 1908.

SIR: I have to acknowledge the receipt of Mr. Fletcher's dispatch No. 898, of the 7th ultimo, in further relation to the imposition of taxes or duties on American goods by inland Chinese authorities in addition to those prescribed by treaty.

Mr. Fletcher's two notes of March 30, 1908, upon this subject, addressed to the Wai-wu Pu, are approved by the Department.

I am, etc.,

ROBERT BACON.

File No. 8602/16-19.

Minister Rockhill to the Secretary of State.

No. 957.]

AMERICAN LEGATION,
Peking, July 10, 1908.

SIR: In the legation's dispatch No. 898 of April 7 last was inclosed copy of a note addressed by the dean of the diplomatic body to the president of the Wai-wu Pu in relation to the levying of likin on foreign merchandise within the limits of the harbors at the treaty ports. It was stated therein that the treaty powers held that the duty-free area of an open port comprises the whole area of the port, the harbor included.

I have now to inclose a copy of the reply of the Prince of Ch'ing to the note of the dean, in which he traverses the statements made as to the limits of free areas at treaty ports and clearly defines the question at issue between the treaty powers and the Chinese Government.

The diplomatic body, after the receipt of the above note, decided upon reviving the discussion of the general question where it had been left in 1888, when, after a meeting between certain diplomatic representatives and the ministers of the Tsung-li Yamen, the former submitted their views on the subject in a collective note dated April 28, 1888. This note remained unanswered. I inclose a copy for convenient reference.

The ministers of the Netherlands, Great Britain and myself, having been asked by our colleagues to undertake in their names the discussion and settlement of the matter with the Wai-wu Pu the note, a copy of which I inclose, was sent to the Prince of Ch'ing on the 8th instant.

I have, etc.,

W. W. ROCKHILL.

[Inclosure 1.—Translation.]

*The Prince of Ch'ing to the Dean of the Diplomatic Corps.*FOREIGN OFFICE,
Peking, April 10, 1908.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your letter of the 3d instant, whereby, on behalf of the foreign representatives you

transmitted for the information of my board copies of correspondence which has recently passed between the consular body at Shanghai and the customs taot'ai on the subject of the levy of likin on foreign merchandise within the harbor limits of the port.

It had always been held by the Government of the treaty powers that the duty-free area of a port, which, under the treaties, has been declared open to international trade, comprises the whole area of the port, including, of course, the harbor thereof, and that the taxes and charges leviable on foreign goods imported therein and native goods exported therefrom are those only which are specified in the treaties.

Further, as regards foreign imports, it has always been held that even after they have been sold to Chinese firms they are not liable to further taxation within the treaty port area; and it is only by strict observance of these principles that the proper distinction can be preserved between "treaty port" and "interior."

Your Excellency requested that the Shanghai likin authorities may be instructed to conform with this principle and make no exactions on foreign imports, whether in foreign or native hands, or on foreign-owned produce intended for export, with the treaty port area.

My board finds that in none of the treaties it has been clearly expressed how the limits of a "treaty port" and the "interior" must be defined. In the Chefoo convention between China and Great Britain, Section III, it is said that no likin ought to be collected on foreign goods within the concessions of the open ports. Afterwards it appears from the additional articles to this agreement that this question required further consideration. All this shows that the above is a question which has not been properly settled between China and the foreign powers.

Up to now the foreign ministers in Peking held the opinion that the four words "T'ung shang k'ou ngan" (treaty port) comprised the port, the city, of the port, and any road or water way connecting these two. To this defining of limits my department never agreed.

This time the consular body in Shanghai holds that the limits of the port are determined by the imperial maritime customs in accordance with the requirements of the shipping visiting the port, and that within the limits thus determined the levy of likin is not permissible. This contention is only a proposal from the consular body and can not be taken as definite.

The levying of likin in Shanghai is of long date; if foreign imported goods have paid transit dues, and if native exported products are provided with a transit pass, then it is impossible to levy likin, which would be against the treaties.

Why dispute when by doing thus a great deal of difficulties may arise about measures which have been accepted for ever so long.

I consider it my duty to bring the above to your excellency's notice, as dean of the diplomatic body, with the request to inform the different ministers in Peking as to the contents of same.

A necessary dispatch.

[Inclosure 2.]

The foreign representatives at Peking to the Prince of Ch'ing and minister of the Tsungli Yamen.

PEKING, April 28, 1888.

YOUR HIGHNESS: At the meeting which took place on the 25th instant between the representatives of Germany, Great Britain, and the French Republic on the one side and some of the ministers of the Tsungli Yamen on the other, T. E., the Chinese ministers contended that under the treaty of Nanking only the ports were opened and not the towns, and that therefore Chinese produce bought in the towns mentioned in that and other treaties was subject to the payment of inland dues on being brought to the port for shipment.

The terms used in article 2 of the treaty of Nanking to designate the places opened for foreign trade are cities and towns, and no discrimination is made with regard to ports.

The Anglo-Chinese treaty of 1858 uses in Article II the terms of cities and ports for Neuchwang, Tangchow, Taiwan, Chaochow, and Kiungchow; the

Franco-Chinese treaty of the same year uses in article 6 indeed only the term of ports, but even if there could be any doubt as to the significance of this expression, it is in article 7 explained by the use of the words "ports et villes," at which French merchants are given the right to trade; in article 7 of the Franco-Chinese treaty of 1860 the town and port, la ville et le port of Tientsin are expressly mentioned as opened to French trade under the same as all the other towns and ports mentioned in the treaties; the American-Chinese treaty of 1858 uses the term of "ports and cities" at which American citizens are allowed to trade; the German-Chinese treaty of 1861 uses the term of "ports et villes" at which German subjects can freely trade, and the same expression is used in the Belgian-Chinese treaty of 1865, Article II. In the other treaties the expressions "ports and towns" are alternately used, so that no doubt can exist that everywhere the expressions used are intended to designate the administrative unity called a town and not a part of it, which might be called the harbor or port of the town.

In all the treaties above mentioned, concluded since 1858, the foreign text is declared to be the one which in case of differences of opinion is to be held as the correct one.

The undersigned representatives of the German Empire, the United States, Japan, Great Britain, Spain, Russia, the French Republic, and Belgium must therefore protest strongly against any attempt on the part of the members of the Tsungli Yamen or other high Chinese officials to reduce the rights of foreign merchants to reside and trade at the towns open under treaty to the one of residing and trading in that part of the towns mentioned in the treaties which may have been set aside for shipping purposes.

No further settlement having existed at the time of the conclusion of the treaties, it is self-evident that they can not have been meant by the use of the terms "towns or ports."

The further attempt of the members of the Tsungli Yamen made at the conference above referred to deduce from section 3 of article 1 of the Chefoo convention that, because in that arrangement it was proposed that only within the foreign concessions no likin was to be levied on foreign imports, likin might be levied on Chinese produce without the foreign concessions at the places open to foreign trade under the treaties can hardly be looked upon as a serious one, as section 3 of the Chefoo convention has as yet been neither ratified by H. B. M.'s Government nor approved by any Governments of the other treaty powers.

The undersigned avail themselves of this opportunity to renew to His Highness and Their Excellencies the assurances of their highest consideration.

Herr von BRANDT, *Germany.*
 Mr. DENBY, *United States.*
 Mr. JABEARO, *Japan.*
 Sir J. WALSHAM, *Great Britain.*
 M. RODRIGUES Y MUNOS, *Spain.*
 M. COUMANY, *Russia.*
 M. LEMAIRE, *France.*
 M. MICHEL, *Belgium.*

[Inclosure 3.]

The Ministers of The Netherlands, the United States, and Great Britain to the Prince of Ch'ing.

PEKING, July 8, 1908.

YOUR HIGHNESS: The undersigned, having been authorized by the diplomatic body to discuss and settle with Your Highness the question concerning the levy of likin within treaty port limits, have the honor to acknowledge the receipt of Your Highness's note of the 10th of April last, which has been carefully considered by them.

In this note Your Highness observes that the limits of treaty ports in distinction to interior has never been defined by treaty and that the Chinese Government have never accepted the definition formulated by the foreign representatives. Your Highness contends therefore that likin is leviable on all foreign

imports unless they have paid transit dues, and similarly on all native produce for export unless it is covered by a transit pass.

According to this contention China would be entitled to collect transit dues on all merchandise. But the treaty stipulates clearly that the payment of transit dues is only leviable, in the case of imports, on notice being given at the port of entry from which such imports are to be forwarded inland, of the nature and quality of the goods, the ship from which they have been landed, and the place inland to which they are bound; and in the case of exports, on produce purchased in the interior which has to be inspected at the first barrier it passes on its way to the port of shipment, and on arriving at the barrier nearest the port notice must be given to the customs, and the goods are passed on payment of the transit dues.

Such is the procedure laid down in rule 7 appended to the British treaty of Tientsin; the essential points being in the case of imports that they are to be conveyed away from the treaty port into the interior, and in the case of exports that they are purchased in the interior for conveyance to a treaty port.

From this it is abundantly clear that foreign imports, in respect to which no notice has yet been given to the customs that they are to be forwarded inland, are exempt from transit dues while remaining in the treaty port; and that exports, not purchased in the interior, but in the treaty port itself, are similarly exempt from transit dues.

It then becomes a question, as indicated in Your Highness' note, where the treaty port ends and where the interior begins. Your Highness states that no definition of limits has ever been made to which both China and the treaty powers have agreed. In the absence, therefore, of an explicit definition acceptable to both sides, the intention of the treaties must be examined, and it will doubtless be conceded that the imposition of import duties on foreign merchandise was intended to admit those goods to particular markets in China, and that it was not intended that these goods should pay other dues until transferred to more distant markets in the interior. Similarly with native products it was only intended that when there were purchased at a more distant market in the interior for conveyance to a treaty port, and shipment abroad, they should pay a transit due in excess of the import duty.

That the foreign powers, in negotiating the treaties, intended that a fairly liberal area should be comprised by the term "treaty port" or "port open to foreign trade" is evidenced by the use of the terms "cities and towns" in the English text of the British treaties and "ports et villes" in the French treaties; also by the rules regarding the issue of passports for traveling in the interior, where no passport is called for within 100 li of the treaty port.

The tendency, on the other hand, of the Chinese authorities has been to restrict the meaning of the term within the narrowest limits, with the consequence that the tariff on a basis of 5 per cent ad valorem becomes in effect transformed to a 7½ per cent tariff; and the fact that this unsatisfactory condition of things has existed for years, involving constant friction between China and the treaty powers, should, we venture to hope, render Your Highness desirous of finding a remedy by introducing methods of taxation less irksome to trade and conformable with the treaties.

The position of the treaty powers in this question is well known to Your Highness. They contend, as they always have done, that the term treaty port includes the city and its approaches by land or water, and further that no matter whether a place has been opened to foreign trade under treaty or by the spontaneous act of the Chinese Government the same principle must apply for the sake of uniformity.

The foreign representatives trust, therefore, that this matter may engage the serious attention of the board, and that they may be favored with a reply at an early date indicating the course of action which the Chinese Government proposes to pursue.

We avail, etc.,

A. J. VAN CITTERS.
W. W. ROCKHILL.
J. N. JORDAN.

CHINESE INDEMNITY FOR LOSSES ON ACCOUNT OF RIOTS IN
SHANGHAI, DECEMBER 18, 1905.

Minister Rockhill to the Secretary of State.

[Extract.]

No. 284.]

AMERICAN LEGATION,
Peking, April 14, 1906.

SIR: In my dispatch No. 208 of the 23d of January, 1906,¹ I transmitted certain correspondence and other information concerning the filing of claims by foreign residents in Shanghai for losses incurred through the riots of December 18, 1905.

The British minister informs me that he has demanded of the Chinese Government the payment of an indemnity of \$80,000 Mexican for the losses sustained by British subjects in the settlement through the acts of the mob. He insists that the Chinese authorities should have prevented the holding of mass meetings in localities situated outside the settlement, which meetings incited the people to acts of violence against foreigners, and that it should also have prevented the rowdy element from coming into the settlement.

I have, etc.

W. W. ROCKHILL.

The Secretary of State to Minister Rockhill.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 8, 1906.

Mr. Root acknowledges dispatch No. 284 and directs Mr. Rockhill to inform the Chinese Government that if indemnity is paid for losses of others by reason of the riots of December 18, 1905, this Government will demand indemnities for losses of American citizens caused thereby.

The Secretary of State to Minister Rockhill.

No. 153.]

DEPARTMENT OF STATE,
Washington, June 14, 1906.

SIR: Your dispatches Nos. 208 and 284, of the respective dates of January 23 and April 14, 1906, were duly received.

The first transmits copies of the correspondence exchanged between your legation and the consul general at Shanghai in connection with the filing of claims by American citizens in Shanghai for property losses caused by the riots which took place in the international settlement on December 18 last.

The second informs the department of the demand made by the British minister on the Chinese Government for the payment of an indemnity of \$80,000 for losses sustained by British subjects in the settlement through the excesses of the mob.

¹ Not printed.

The department has carefully considered these dispatches. The question for determination is: When losses by a Chinese riot occur in the foreign settlement at Shanghai, shall China avoid all liability to make compensation therefor on the plea that she exercises no police control in said settlement, or shall China's liability be regarded as determined if it can be proved that the riots were instigated or supported by her own authorities outside the said settlement?

The British Government, presumably after a proper investigation of the circumstances, holds by the presentation of the claims that the Chinese Government is so liable. The department sees no good reason why American citizens who suffered losses under identic circumstances should receive different compensatory treatment from that which may be accorded to British subjects. The department accordingly telegraphed you on the 8th instant as follows:¹

On the same day the consul general at Shanghai was instructed to telegraph to "carefully examine all claims American citizens by riots of December 18, 1905, and forward a list of all claims substantiated."

I am, etc.,

ELIHU ROOT.

File No. 10388.

Consul General Denby to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE GENERAL,
Shanghai, December 11, 1907.

(Mr. Denby reports that the Chinese local authorities have paid British subjects 50,000 Mexican and German subjects 30,000 Mexican losses on account of the Shanghai riots in December, 1905, and that the American losses, about 11,000 Mexican, have not been presented. Mr. Denby calls attention to the fact that department cabled the legation in 1906 to inform the Chinese Government that if the British and German losses were paid the payment of the American losses would be demanded and recommends that the legation be directed to act.)

File No. 10388.

The Acting Secretary of State to Minister Rockhill.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 13, 1907.

(Mr. Bacon refers to department's telegraphic instruction of June 8, 1906, and instructs Mr. Rockhill to report whether the claims of American citizens have been carefully substantiated, and to forward them to department for approval.)

¹ Supra.

File No. 10388/10-20.

Chargé Fletcher to the Secretary of State.

No. 818.]

AMERICAN LEGATION,
Peking, January 22, 1908.

SIR: In compliance with the department's telegram of December [13] 14 last, acknowledged in my unnumbered dispatch of December 20, 1907, to report whether the claims of American citizens for damages suffered in the mixed court riots of 1905 have been carefully substantiated, and to forward them to the department for approval, I have the honor to transmit herewith the original statements of claim filed with the American consul general at Shanghai, together with the findings of the consul general with regard to each, transmitted in his No. 40 of the 13th instant to the legation (copy inclosed).

Each claim has been carefully investigated by the consul general, and I concur in his findings and recommend that they be adopted by the department.

Should the legation be instructed to ask the Chinese Government for indemnity in the amount recommended, viz, \$889.73 United States currency, I do not anticipate that it would encounter serious objection in view of the recent payment to Germany and Great Britain of indemnity for losses suffered on this occasion.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure.]

Consul General Denby to Chargé Fletcher.

No. 40.]

AMERICAN CONSULATE GENERAL,
Shanghai, January 13, 1908.

SIR: In conformity with your instruction, Con. 1474, of the 14th December, I have the honor to submit herewith a tabular statement of the claims by American citizens for losses in the riots of December 18, 1905.

The statement shows the names of the claimants, the character of their claims, the amount claimed, the date of original making of the claim (in all cases they were immediately after the riots) as shown by the records of this consulate general, the date on which they were examined before the undersigned, and the conclusion reached concerning the merits thereof.

There were originally filed in this consulate general in this connection nine claims. One for \$982 Mexican was found to have been filed by a British subject and, at the request of the British consul general, was transmitted to his consulate general. Another, of a certain Woolf, for \$1,292.30 Mexican was at the time of presentation rejected by the then consul general, as on its face it was for losses incurred after the date of the riot.

Of the above claims, No. 7, that of George Henley, has not been supported by personal appearances of the claimant at this consulate. Said claimant is not in this jurisdiction, and the date of his return thereto is uncertain. It does not seem necessary, however, to delay the report on account thereof. The said claim is for 5,000 taels for "attempt on life and permanent injuries" and 63 taels for injuries to clothing and doctor's bill, which has been proven satisfactorily by the doctor without the presence of the claimant. The doctor's certificate is appended to the claimant's statement.

Claims 1 to 6 have received careful examination. Claimants have been asked to appear before me in person and have been cross-examined under oath with regard thereto, the United States district attorney aiding in the cross-examination.

The details of the finding in each case are as follows:

Claim No. 1: The destruction of the automobile and its value were proved beyond question and the claim is entirely fair.

Claim No. 2: The loss and the value were fully proved, but the clothing not being entirely new, a deduction of 25 per cent would be equitable.

Claim No. 3: The value placed upon the articles lost seems to be excessive, and a deduction of 65 taels would be equitable.

Claim No. 4: In this claim it appeared that the destroyed bicycle belonged to claimant's employer, not of American nationality, and that the claimant had suffered no personal loss by its destruction. The amount claimed for bicycle would therefore be deducted.

Claim No. 5: This claim was satisfactorily proved in full.

Claim No. 6: This claim was satisfactorily proved in full.

Claim No. 7: Commented on above.

I am satisfied that substantial basis exists for all these claims, subject to the deductions recommended by me. I recommend that in case action is to be taken on these claims the amount of charge for affidavits in each case, \$2 gold, should be added to claims 1, 2, 3, 4, and 6, the makers whereof have paid for the stamps affixed thereto.

Detailed statements of claims 1 to 6 on forms prepared by this consulate and duly filled up by claimants are inclosed herewith, supported by such vouchers as were submitted. The form in which claim 7 is submitted is above explained.

The total amount of the seven claims was \$4,857.23 gold, as presented by the claimants, of which there seems reason to consider only \$889.73 gold.

Claimants have been informed that these claims were examined by me under instructions of the legation and that I have no knowledge as to what further steps, if any, will be taken in connection therewith by the United States Government.

I have, etc.,

CHARLES DENBY.

File No. 10388/21.

The Secretary of State to Minister Rockhill.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 12, 1908.

(Mr. Root refers to department's telegraphic instruction of June 8, 1906, and instructs Mr. Rockhill to inform the Chinese Government that since the British and German subjects have been paid for losses incurred in the Shanghai riots of December, 1905, this Government, after careful investigation of the claims of American citizens for losses suffered, has determined upon the sum of \$889.73 gold in final settlement. Mr. Root directs that a formal demand for this amount be presented.)

File No. 10388/22-23.

Chargé Fletcher to the Secretary of State.

No. 894.]

AMERICAN LEGATION,
Peking, April 3, 1908.

SIR: Referring to my No. 818 of January 22, 1908, I have the honor to acknowledge the receipt of the department's telegraphic instruction of the 12th ultimo.

In accordance therewith I made a formal demand for the payment of the amount stated in final settlement in the note of which I inclose a copy.

Not having received a reply, I took the matter up verbally and informally at the foreign office this afternoon and was informed that my note had been referred to the taotai, at Shanghai, with instructions to settle the matter with the American consul general.

As soon as the amount shall have been received by the consul general, the department will be notified and I have the honor to suggest that he be instructed to distribute same to the claimants, in accordance with his findings heretofore transmitted.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure.]

Chargé Fletcher to the Prince of Ch'ing.

AMERICAN LEGATION,
Peking, March 14, 1908.

YOUR HIGHNESS: Under the instructions of my Government I have the honor to bring to the attention of Your Imperial Highness the matter of the indemnity to American citizens for losses suffered in the riots of December 18, 1905, at Shanghai.

When the question of indemnity for losses suffered by American citizens on this occasion came up the American minister, Mr. Rockhill, under the instructions of the Department of State, in June, 1906, informed Your Highness's Board that if the Chinese Government paid indemnity for losses sustained by citizens of other nationalities in these riots that the American Government would demand indemnities for losses suffered by its citizens thereby.

Inasmuch as British and German subjects have now been indemnified by the Chinese Government for the losses sustained in these disturbances, I have now the honor to inform Your Imperial Highness that my Government, after careful investigation of the claims of American citizens for losses suffered in these riots, has determined upon the sum of eight hundred and eighty-nine dollars and seventy-three cents gold (\$889.73 gold) in final settlement.

It becomes my duty, therefore, to present to Your Imperial Highness a formal demand for the payment of this sum, eight hundred and eighty-nine dollars and seventy-three cents gold (\$889.73 gold) by the Chinese Government.

I avail, etc.,

HENRY P. FLETCHER.

File No. 10388/22-23.

The Secretary of State to Minister Rockhill.

No. 477.]

DEPARTMENT OF STATE,
Washington, June 9, 1908.

SIR: I have to acknowledge the receipt of Mr. Fletcher's dispatch, No. 894, of April 3 last, in which he states that on March 14, 1908, formal demand was made of the Chinese Government for the payment of the indemnity for losses sustained by American citizens on account of riots in Shanghai in December, 1905.

On June 1 the following telegram was sent to the American consul general at Shanghai:

When you have received from the Chinese Government indemnity for losses, Shanghai riots, December, nineteen five, you may forward total sum to the department for distribution among the claimants.

I am, etc.,

ELIHU ROOT.

File No. 10388/27.

Minister Rockhill to the Secretary of State.

No. 943.]

AMERICAN LEGATION,
Peking, June 17, 1908.

SIR: In continuation of the legation's No. 818 of January 22 last, I have the honor to inform you that the payment of the American claims on account of the 1905 riots at Shanghai has been made in full

by the local Chinese officials to the consul general there, who informs me that he has forwarded same to the department as instructed.

I have, etc.,

W. R. ROCKHILL.

File No. 10388/25-26.

Consul General Denby to the Secretary of State.

No. 209.]

AMERICAN CONSULATE GENERAL,
Shanghai, June 19, 1908.

SIR: I have the honor to inform you that the Chinese Government has paid to me the amount claimed for damages to American citizens on account of the Shanghai riots of December, 1905, the aggregate of the claims amounting to \$889.73, United States currency.

In pursuance of the department's telegraphic instructions of June 1, I inclose herewith a draft on the International Banking Corporation of New York for \$889.73, the amount above stated.

I have, etc.,

CHAS. DENBY.

MINING REGULATIONS IN CHINA.

File No. 2648/8-9.

Chargé Fletcher to the Secretary of State.

No. 767.]

AMERICAN LEGATION,
Peking, October 22, 1907.

SIR: I have the honor to report that the legation is in receipt of a note from the foreign office, dated October 14, 1907, copy inclosed, informing it of the promulgation by the Chinese Government of a new set of Mining Regulations, in two volumes, copies of which accompanied the note. A translation, now being made, will be forwarded at a later date.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure.]

The Prince of Ch'ing to Chargé Fletcher.

No. 351.]

FOREIGN OFFICE,
Peking, October 14, 1907.

YOUR EXCELLENCY: I have the honor to inform Your Excellency that it is of official record that on September 20 this board and the board of agriculture, industries, and commerce, jointly memorialized the Throne to the effect that, having come to a decision regarding the Mining Regulations drawn up by His Excellency Chang Chih-tung, since promoted from the viceroyalty of the Hu Kuang Provinces, the said boards petitioned for imperial action in conformity therewith. An imperial rescript granting this request has now been received.

The board of agriculture, industries, and commerce has compiled these regulations in book form and has requested me to distribute the same to the foreign ministers in Peking. It accordingly becomes my duty to transmit herewith the Mining Regulations, in two volumes, for Your Excellency's information.

A necessary dispatch.

[SEAL OF THE WAIWU PU.]

File No. 2648/10-13.

Chargé Fletcher to the Secretary of State.

No. 790.]

AMERICAN LEGATION,
Peking, November 29, 1907.

SIR: In continuation of my No. 767 of October 22 last, I have the honor to inclose two copies (translations) of the Revised Mining Regulations of China, which have been approved by the Throne and are intended to be put into effect in March, 1908.

For the convenience of the department, I have prepared and forward herewith, in duplicate, a synopsis of these regulations.

The regulations are not framed in a liberal spirit and will, if put into operation in their present form, handicap, if not entirely prevent, the employment of foreign capital and foreign participation in the development of China's mineral resources. The provisions of Article VII of our Treaty of October 8, 1903, do not seem to have been borne in mind in the preparation of the regulations and some of the articles, notably 10, 49, 50, 59, 60, 61, and 62, appear to be in direct contravention thereof and attempt to limit extra-territorial treaty rights. As the regulations are not intended to be put into effect until next March, there remains sufficient time to receive an expression of the department's views with reference to them, and I have already acknowledged the receipt of Prince Ch'ing's note with which they were transmitted.

The British minister has, however, addressed a note to Prince Ch'ing, copy of which I inclose, in which he states his objection to them and asks that they be revised in consultation with the other powers before being put into effect.

I am informed that the Russian minister has forwarded the regulations to St. Petersburg for instructions, but has meanwhile replied to Prince Ch'ing to the effect that he reserved all Russian rights under present treaties or agreements.

The French and German legations, I am told, have not yet concluded their translations, but will likely offer objections following the general lines of Sir John Jordan's note.

The Japanese legation has as yet taken no action, the regulations, presumably, having been referred to Tokyo.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure 1.]

Revised mining regulations.

1. The following new regulations are to be enforced from this date, and all existing ones previously in force are to be withdrawn and to become null and void.

2. The sole control of all mining affairs, all mining employees, issue of mining permits, either for prospecting or mining operations, or the employment of foreign engineers or prospectors is vested in the board of commerce and agriculture.

When cooperation with foreigners is desired by the Chinese, the nationality and experience of the foreign parties with the proposed location of the intended enterprise must be communicated to the Waiwu Pu before the permit can be issued by the board.

3. A head mining office must be opened in every Province of China, which must appoint officers to attend to each department of mining affairs. The

directors must appoint deputies in the different departments and districts of the Province and the said deputies must be under the direct control of the head provincial office. All applications for the prospecting or opening of mines must be dealt with by them in strict accordance with the mining regulations.

4. The deputy or deputies appointed by the head office have power to decide all matters in connection with mining affairs, providing no matter prejudicial to the public peace is involved. Any matter out of the ordinary and involving confliction with other interests must be referred to the local authorities for consideration, and neither the director nor his deputy will have the right to give any decisions on such points. The deputies must in all cases be Chinese, but they may if they desire engage either foreign or Chinese experts. In the event of any foreign expert being engaged he must be bound by Chinese laws and be under the direction of the head office. Any deputy may be specially appointed by the head office if necessary to accompany the foreign expert to prospect mines, and when the survey is completed a report must be furnished to the head office for consideration. The duty of the foreign expert, however, is only to find out the value and prospects of the mine and to make suggestions as to how it may best be worked. He has no right to dictate or make any decisions in regard to mining affairs.

5. Permits for the prospecting of any mine can only be granted when the locality designated offers no obstruction to an already established industry and represents no complication with other local matters. Also the status of the applicant, his capital and experience to enter on such a project, without any reservation must be fully reported to and approved by the local authorities, and sent up to the board of commerce. When the head office is satisfied with such application, it may apply to the governor of the Province, who will forward it to the board. In the event of any application being made directly to the board by anyone, the board will refer the matter to the provincial authorities and request the head office to make the necessary investigations.

6. Fees must be paid by all mining promoters in the shape of an annual rental for the mining area, and a percentage on all output of the mine, also a bonus on all mining operations carried on on land jointly owned by the Government and the people. All such fees are to be collected by the head office in each Province, half to be remitted to the board of commerce and half to be paid to the provincial treasurer for the necessary provincial expenses. A full return of such fees must be submitted to the board at the end of each year through the governor, the fees for the issue of prospecting permits only being retained by the head office for current expenses. The fees received by the deputies should be transmitted to the head office, which will distribute them to the deputies in the departments and districts for the defrayal of their office expenses.

The above rules from No. 3 apply to the mining concerns already in existence.

7. Those who are already engaged in mining or have been permitted to open mines must, according to the new regulations, report all details of mines to the head offices of the Provinces they are in, and must furnish such particulars within a period of two years from the publication of these regulations, and they can only be permitted to continue work under the conditions laid down herein.

8. If any of these articles are found disadvantageous to and embarrassing to interests of concerns already in operation, or to whom permission has been granted to open and work mines, the circumstances may be pointed out to the head office, which can submit the objection to the board through the governor for alteration, if such protest is made within six months of the issue of these regulations.

All foreign mining industries must submit their reports or objections to the Waiwu Pu through the same channel, and providing China's sovereignty or the public peace are in no way injured some modification may be made in the rules to suit their case. All who apply for permission to open mines after the issue of these regulations must be bound by the terms of the regulations without alteration or amendment.

9. Chinese subjects in accordance with Chinese law are solely entitled to own land, and in any case where foreigners cooperate with Chinese their rights of participants last only so long as the mining continues, and they can have no territorial rights whatever.

10. The subjects of treaty powers may, subject to the laws of China, be permitted to cooperate with Chinese in the opening of mines, providing permission to do so is legally obtained. Both parties, foreign and Chinese, will be desig-

nated mining merchants, and the two following paragraphs are designed to specially cover such partnerships:

(a) If the Chinese enters into partnership by giving his land for development, the foreigner working it, he is entitled only to a share of the surplus profits and is free from any liability of financial loss. If the owner of mineral land does not wish to enter into partnership with the foreigner, but is desirous of getting money from his land, he can sell it to the Chinese authorities, who will thus become the owners, and the land may then be leased to the mining merchants in cooperation. The profits in such case will be divided in accordance with terms mentioned hereafter. No foreigners will be permitted to own mineral land.

(b) Chinese entering into partnership with the foreigners financially will have an equal share of the profits and power and also of the liabilities, and the shares must be equally held. In such case if the Chinese owner only contributes the land and no other Chinese cooperates with the foreigner financially, the foreign mining merchant must set aside three-tenths of the shares for a period of five years to afford any Chinese desiring to enter into partnership at par value of the shares. The foreigner may then part with half of the three-tenths unallotted shares, and if at the end of another five years no other Chinese make application for them, he is at liberty to allot the remainder of the shares. But if at the end of 10 years there are Chinese applicants, shares must be provided to meet the demand at the prevailing price.

The foreigners and Chinese who have no right to be admitted into mining enterprises are as follows:

- (a) Chinese subjects who have committed offenses against the law.
- (b) Priests, monks, and missionaries or religious teachers.
- (c) Foreigners whose country has no treaty with China or whose country does not grant China similar privileges.
- (d) Foreigners who do not observe the Chinese law or who have committed offenses against the laws of their own country.
- (e) All representatives of the various countries and all those in the employ of the Chinese Government.
- (f) Foreigners who have worked for their Government and have not clearly retired from such service.

(g) Places where mining has been specially prohibited by China.

11. The products of mines, whether underground or surface, and irrespective of the combination in which they occur, are divided into three general groups, in order that distinction in methods of operation may be conveniently made.

(a) All the minerals which are constructive substances are to be under the head of class 1.

(b) Minerals such as amber, phosphorus, etc., are to be called class 2.

(c) Minerals such as coal, iron, sulphur, etc., which combine the characteristics of both, are to be called class 3.

Salt is a Government monopoly, and is not included in the above.

12. Any new minerals discovered or any mineral substances which have not been clearly classified in the regulations must be submitted to the board for consideration, and the provinces will be instructed by the board accordingly.

13. Mineral lands will be divided into two classes:

Lands on which minerals are obtained from the surface and which does not prohibit the owner building on or cultivating.

Mineral land which must have deep shafts sunk and the mining works carried on below the surface.

14. The right of working surface minerals is granted only to the owner of the land and will not be extended to mining merchants in cooperation, but mining merchants who have been given permission to open up and mine any given area will have the exclusive right to do so, and will not be restricted in their operations by the owner or any others.

According to the accepted rule underground mines belong to the Government, who have the first right to all precious minerals, and the owners and subjects of the country should not profit by underground wealth. But the administration of China is liberal, and in addition to the collection of the annual tax on the mining area and on the output of the minerals, one-half of the profit of the minerals marked "c" should be paid to the governor and one-half to the owner. In this way the people as well as the Government may enjoy profit.

Any foreign and Chinese partners working the mines will have no power to control the mining area judicially. Chinese and foreign partners must first consult the owner of any mineral land as to whether he wishes to participate

with them and accept shares for his property, or whether he wishes merely to raise money on his land. In the latter case he may report to the head office and the market rate will be paid him for his land, and such land will then become Government property and the Government will cooperate with the mining merchants. But if the owner does not wish to sell his land the proposal made must be carefully considered, and no force must be brought to bear on him to cooperate with the merchants. When the mining area has been granted for working the mining merchants have only power to arrange the actual mining affairs and can not interfere with the general business of the locality, and the local authorities must not hinder the enterprise by the enforcement of regulations not included in the Mining Regulations.

When the mining area is not needed any more and the mining work is finished, the land must be handed back to the head office and the mining permit must be canceled. The sole authority for opening any mine rests with the Government, whether it be by Chinese officials or people or by foreigners in cooperation with Chinese. If any person privately sells his land to foreigners, he will be punished on a charge of having dealt illegally, and the land will be confiscated. No mines will be permitted to be opened by foreigners only without Chinese partners.

15. When mines are opened by Chinese and foreigners in partnership the shares will be termed "silver shares." When the owner contributes his land and does not assist financially his shares will be termed "land shares." When the Chinese shareholders are unable to subscribe their quota of the capital, the Government may assist them in completing the amount, and thus the Government acquires "silver shares." In the same way there may be Government "land shares."

16. Minerals marked "a" in article 11, being surface minerals, are allowed to be worked by the owner who has also the right of possession. But if such minerals are produced on Government land the applicant will be allowed to work them only after the usual permit has been obtained from the head office. The annual tax and tax on mine products will not be collected, but such owners must pay the fees according to the regulations of the province.

17. Minerals classified under "b," article 11, if on Government land, should be worked by the Government. But if they are privately owned, such owner may have the first right to work them. If he has no funds to do this, he can contribute such lands as his share and cooperate with foreign mining merchants. The profits after all expenses have been paid will be divided thus: The owner will take three-tenths and the mining merchants seven-tenths. The Government collects only the annual tax and the tax imposed in accordance with these Mining Regulations and does not take any of the profits.

18. In the case of minerals marked "c" one-quarter of the profits must be paid to the owner of the land, one-quarter to the Government, and two-quarters to the mining merchants.

19. The amount of mineral produced either from Government lands or from private lands must be reported quarterly to the head office through the deputy, and that office must report it to the board, so that the result of mining for the whole of China may be recorded.

20. The mining merchants are not allowed to privately sell the products of the mines or exchange or mortgage them for any loans. In the event of this being done it must be reported to the deputy for investigation and consideration, and if the merchants are found in fault they will be charged with having unlawfully sold the mineral. Any property other than the mines belongs to the merchants and is not hereby included.

21. Any owner of mining land is at liberty to enter into partnership with mining merchants, and the amount of profit accruing to them will in all cases be determined by the class of mining carried on. In the case of minerals, class "b," the mining merchants will receive seven-tenths of the profits and the landowner three-tenths. If the mineral belongs to class "c" the mining merchants are entitled to half the profits and the other half should be divided between the landowner and the Government. Any mine, whether large or small, difficult to work or easy, must first pay ground rent, the mining tax, and accumulations. The profits received by the landowner and merchants must be regulated on the above basis. If it is Government land, any profits over and above belong to the Government, when the mining merchants have received their share as dividend. Should the mining merchants not feel inclined to conform to the regulations they can not be allowed to enter into the industry at all.

In the event of the land only being contributed the mining merchants have the entire management of the mine, and all losses must be borne by them. If the loss is actual, the landowner will of course receive no profit, but he will be entitled to inspect all accounts so that it may be publicly known whether the failure is genuine or not, and both parties will thus be saved from any dispute. In the case of Government land, half the share belongs to the Government and half only to the mining merchants, and they must on no account hold more than the Government, and the profits must be equally divided. A Government representative will in all cases be sent to inspect the accounts and watch the workings. If the landowner has entered into partnership with capital he will share any loss sustained so far as the capital is concerned, but not on his land. The people's shares and the Government shares will be on precisely the same footing.

22. Application for the working of minerals of "b" and "c" class must be first made to the head office and a permit obtained, but all salt deposits are exclusive property of the Government, and China does not include them in the mineral products of the country. If a certificate for the working of salt is obtained through mistake, the holder can not be allowed to use it and can not hand over the rights contained therein to others.

23. Permits are for two purposes, for prospecting in the first place, which is supplied by the board to the head office, after due particulars have been supplied. The other is for the opening of the mine. These permits can be obtained by a single promoter or by shareholders in partnership, or by corporated mining companies.

24. Anyone applying for a prospecting permit must state clearly his position, the locality he wishes to prospect, the class of mineral to be worked, and he must then wait for the head office to investigate these particulars with the local authorities. If the applicant is found to be unsatisfactory in any way, or some obstacle occurs in connection with the place for which the permit is requested, the permit will not be issued. As a guarantee of bona fides the prospector should be asked to sign a bond.

25. On the prospecting permit being granted, the prospector is allowed one year for the work, or may be granted six months more if the work is important and has not been completed. But if within two month of receiving the permit the prospector has not engaged any mining engineer with a certificate from a mining college to conduct the work, the extension of time will not be permitted. Prospecting permits will be granted only for an area of 30 Chinese li and must be wholly situated within the boundary of one district. Should several promoters apply for prospecting permits for the same land, the permit will be issued to the prospector applying first. The prospecting permit can not be exchanged, sold, or mortgaged, or be in any way altered by the holder.

26. Any piece of land not kept for the public use and not obstructing the public convenience may be prospected for minerals under classes "b" and "c." Shafts must not be more than 30 Government feet deep, but simple borings may be 500 feet deep. If a greater depth is necessary, the promoter must consult the owner as to whether he is willing for the shaft to be sunk to a greater depth, and not the least compulsion must be used.

27. When the boundary of a mining permit has been clearly defined and another promoter applies for a permit nearby, a distance of at least 600 official feet must separate the two mining areas. But if a mining area for which a permit was previously issued has been abandoned, the next promoter may be permitted to prospect there.

28. When prospecting for minerals under classes "b" and "c" the depth of a shaft sunk exceeds 30 official feet in length, it will be termed a "mine," and it will be necessary to apply for a mining permit before the work can be proceeded with.

29. For the opening of a mine, boundary lines 300 official feet must be measured on each side, and this area will be designated one mine. Those who open mines must make the lines on the surface correspond with the delimitations of the working below and must not exceed the line of working. When the minerals classed "b" and "c" have been excavated within these prescribed limits, and are exhausted, the working must cease and the mine be considered finished. Greater depths of excavation must not be made.

30. An application to open one or more such mines can be covered by one permit, and the mines so opened must be regarded as one lot and not separated. When many such mines adjoining each other are opened by one promoter, the whole area must be limited to 960 mou, or 160 English acres. If less than this

area is applied for originally, and it is afterwards desired to extend it, the same procedure as at first must be gone through.

31. Should unsuspected mineral areas be discovered between two already existing mines, the dimensions of which are not strictly in accordance with the limitations laid down, application to work them may be made by one of the holders of the adjacent mining grants, and if he does not desire to work the area, application from others may then be made.

32. If the promoter desires to abolish all the mining work after receiving his permit, or some portion of it, he can do so in accordance with the supplementary regulations, which are issued by the head office.

33. As soon as the prospecting work is completed application should at once be made to the head office for a mining permit, with full particulars of the applicant's status, whether there are partnerships, and all such particulars, with the number of mines it is proposed to open, which facts must be sent together, with a bond from some established firm to the extent of 10,000 taels to insure the applicant working the mine in accordance with the regulations, for failure to do which the security money will be forfeited.

34. Any applications for mining rights will be entertained in their order, but a prior right lies with the owner of mineral land, class "b," to work the land himself, if he desires to do so, within a certain limit of time set by the head office. Beyond such limit the head office can purchase the land, which then becomes Government property.

35. Should the land adjoining mineral lands belong to private owners and should be considered necessary for the proper working of the mines or for storing, the mining merchant may consult with such owners, and if they are not willing to negotiate with the mining merchant the head office may endeavor to arrange the matter and see if there is any real objection to the proximity of the mines.

36. If any mineral land is productive of minerals of both "b" and "c" classes, but it is not possible to work both at once, it can be worked by the parties who make application for either mineral first. The applicant who applies for mining rights under class "c" can have the benefits of any minerals he finds under class "b." But applicants to mine under class "b" can not work minerals under class "c." A new application must be made in such case.

37. When application for mining permit is made the name of the applicant must be posted up outside the head office, so that it may be ascertained whether any complications are likely to arise. The head office will send a special deputy to the site of the mine to examine it; the presence of houses, roads, or other works on the land applied for will not be held an obstacle. The work of opening the mine must be in conformity with regulation 44 and supplementary regulation 42.

38. When the boundary stones have been erected on the allotted land by the head office, if the promoter has applied for prospecting rights, and the permit causes no embarrassment to the local officials, the head office may report to the board for the opening permit, which will be issued through the head office.

39. The promoter can then freely open his mine within the stated boundaries.

40. When underground shafts are necessary for pumping out water, ventilating, and output, and such tunnels and shafts require land beyond the actual limits, application must be made, and if such tunnels approach the minerals of other promoters the mining merchants must consult with the other promoters. If no agreement can be arranged, the work must be stopped pending the decision of the head office. If, in the course of excavation of such underground shafts, minerals of classes "b" and "c" are unexpectedly met with, the mine operator must inform the deputy of the fact and conform to article 40 of the supplementary regulations.

41. Any subterfuge or trickery in the obtaining of permits will be severely punished and the permit will be confiscated.

42. For any land on which mining permits are granted, annual fees on the following scale will be levied:

(a) For minerals of class "b," for each mine, 1 tael 5 mace, or 1 mace per mou.

(b) For minerals of class "c," for each mine, except gold, silver, and precious stones, 3 taels, or 2 mace per mou.

(c) For mines with gold, silver, and precious stones, 4 taels 5 mace, or 3 mace per mou.

If mines of class "c," mentioned in this article, which pay a yearly rental of 3 taels, also contain gold, platinum, or silver, they must pay rental as ordered for class "c," i. e., 4.5 taels per mine, or at the rate of 3 taels per mou.

(d) These fees are in addition to the land tax.

43. All mining fees must be paid half yearly, and if they are in arrears for six months the mining permit is liable to be canceled and the mine closed up. If the land is Government property it must be restored to the Government.

44. When a permit for prospecting on privately owned land is issued there must first be an official record of the agreement entered into by the prospector and the landowner. For mining on Government land the promoter must pay a prospecting rental fee of 2 taels, and a half fee if the period is extended six months. Such fee must be paid to the head office before the prospecting permit and before the extension grant is obtained. But these fees will not be charged on ventilating shafts of connecting tunnels.

45. In addition to the mining fees collected on the mining area, the output of all mines will be taxed as follows:

(a) On hard coal, soft coal, and coke, 1 mace per ton.

(b) Iron ore, 1 mace per ton.

(c) Gold, platinum, silver, 10 per cent on the retail market rate.

(d) On mineral ores containing gold, silver, or platinum, the exact amount of which can not be immediately ascertained, 5 per cent of retail market rate.

(e) On tin, copper, and mercury, 3 per cent of market value.

(f) Precious stones and jade, 10 per cent of market value.

(g) All minerals under class "b," 1 per cent of market price, and of class "c," 3 per cent of market price.

46. The tax on the mineral output of one month must be paid before the 15th of the following month. The rental on the mining area and the tax on the minerals should be paid to the deputy, who will send it to the head office.

47. If the tax on the previous month's output, which should be paid on the 15th of the month, is in arrears for three months, the mine is liable to be closed and the land taken back if it is Government property.

48. Export duty according to the customs tariff should be paid on all minerals exported, and on both crude and smelted ores. All machinery and materials for mining must also pay duty.

49. All foreign subjects of treaty powers who wish to cooperate with Chinese in mining enterprise must be termed "mining merchants," and are then recognized as having already conformed to Chinese law. They are under the control of the Chinese authorities and must comply with the Mining Regulations and with any future regulations and to any new law in connection with mining which may subsequently be passed. If these points are understood foreigners may engage in mining enterprise as much as they like. The too hasty or too long-delayed opening of a mine might involve the stoppage of the work temporarily, which might be unavoidable. If a whole year elapses without any work being done, then the Government may take it for granted that the mine has been permanently abandoned.

Any risk or damage sustained through mismanagement of the work is the responsibility of the mining merchants, who should take proper precautions. If others suffer loss through the mismanagement of the mining merchants the whole question must be investigated by the head office, and if necessary, the mining merchants must pay compensation. Whenever notice is issued by the head office for mining work to be stopped no delay will be permitted or opposition allowed or forcible resistance. Any loss sustained by the stoppage must be borne by the mining merchants, and the foreign consuls and ministers can not be allowed to interfere.

50. Mutual benefit must be enjoyed by the promoters of adjoining mines in regard to roadways, watercourses, and ventilating shafts, and both parties should be equally liable in case of loss, but in any case of special request or indemnity the parties must conform to the supplementary regulations and to the decision of the local authorities.

51. Water in the mines must be dealt with by the mining merchants, and any surface water must be dealt with in accordance with the general scheme of the mine, but public waterways must not be impeded.

52. Agreements for compensation must be signed by the mining merchants when any damage is sustained to the property of others through the underground working of the mine or on the surface, if such damage can be shown to be the result of neglect on the part of the mining merchants who presumably

knew the chances of such emergencies already. The amount of such compensation will be settled by the head office.

53. The head office has power to authorize the mining merchants, whose mines adjoin, to jointly contribute to the expense of removing surface water if they can not amicably agree on the point within a reasonable time, and if the discussion of responsibility between them is delaying mining operations.

54. No kind of mining will be permitted within one li of any land on which the owner has declined to allow mining, without his permission, nor within three li of any important public waterway or supply, public roads, or railways, yamens or guilds, unless by special permission of the local authorities; nor within 30 li of any forts, camps, and ammunition stores.

55. All mining promoters, whether working alone or in partnership, must keep proper books and accounts, which must be open to the inspection of the head office.

56. A plan of the working, with full particulars, must be prepared in accordance with the requirements of the head office and be always open to inspection.

57. The felling of timber for the clearing of roadways or opening of mines is not included in the prospecting or mining permits. If the trees are on Government lands, a special permit to cut them is necessary, and must be applied for, with a deposit equal to the retail price of the timber. If the trees are on private lands the owners must first be consulted as to the price of the trees, and they can only be cut with the consent of the owner, or a legal decision can be given by the local authorities.

58. All navigable streams, lakes, or creeks which have been habitually used by the people, and are under the control of the Government and people, must not be altered or interfered with, nor must the waters of the upper stream be cut off from below so as to injure their utility.

59. The status of foreign merchants entering into partnership with the Chinese, with the necessary bonds, must be certified to by the consul of the nationals concerned, with the declaration that the said applicants are in a position to conform with the requirements of both volumes of mining regulations; and the confirmation of the head office, that the statements are in accordance with article 5, as to the mining merchants' standing, must be duly recorded, and then the mining permit can be given through the head office. Passports for permission to travel in the interior will still be necessary for all foreigners, and all regulations with regard to the illegality of foreigners leasing ground, building houses, and opening stores in the interior will still hold good.

60. When any foreign mining partner has any monetary litigation with a Chinese other than the members of the mining concern, or with the subjects of any other country, the matter must be settled in accordance with Chinese law, without partiality; and if there is no precedent in Chinese records of any such case, the usage and law of the country concerned may be consulted and applied to assist the Chinese law.

60. Should any foreign mining partner commit any crime or offense the Chinese authorities must investigate the case and adjudicate if his consul is far from the place of occurrence, and if the accused seeks to run away, the Chinese authorities may temporarily arrest him and convey him to the nearest consul for trial under his own law, according to treaty. The Chinese authorities should not insist on interfering. Should the consul in such case decide unfairly and not do justice by the Chinese concerned, then the foreigners of that nationality will not be in future allowed to have any mining privileges in that Province.

62. In any case in which the decision of the mining deputy in any dispute in connection with mines is not satisfactory to the foreigner, he may appeal to the head office, and if still dissatisfied he can appeal again to the provincial judge, the viceroy, or to the board of agriculture and commerce, but the consul or minister must not interfere. If the point at issue is not covered by the regulations, the foreign mining regulations applicable to such a subject may be consulted, but the principle of these regulations must not be violated.

63. Foreigners in partnership with Chinese desiring to indulge in racing and the other forms of sport which they are given to, must apply to the local authorities for the selection of some suitable place where their sports may be indulged in without risk to others. They will then be protected in accordance with the conditions under which traveling passports are given. The Chinese authorities are not in any way responsible for foreigners who have no such

passports, nor any connection with mining enterprise exclusive of the foreign partners, engineers, and mechanics.

64. Should the head office or the local authorities consider any place being unsafe on account of the people being restless, or that for any other reason it is not suitable for foreigners to be there, they will not issue the necessary mining permit.

65. All Chinese engaged in the actual work of mining are called mining laborers. All regulations drawn up by the mining merchants for their control must be submitted to the head office for approval before they are enforced.

66. Mining merchants must keep a record of all the names of the men who are working for them, with their ages and places of birth, date of engagement, or discharge.

67. Under the following conditions laborers have the right to refuse to work:

(a) In the event of any ill treatment on the part of the mining merchant or his employees.

(b) When wages are not paid at the right time, or deductions are made.

(c) When overtime work is insisted on and the laborers are made to suffer thereby.

68. The mining merchant should compensate the laborers under the following conditions, and must report their rules for so doing to the head office:

(a) Laborers suffering injury for which they are not responsible by their own fault or carelessness must have their medical expenses paid.

(b) Wages sufficient for his support must be paid to any laborer so incapacitated during the term of his illness.

(c) When such injuries cause death all burial expenses should be generously paid.

(d) When permanent injury is caused by such accident, living wages should be paid for a certain period. The amount of such compensation as is suggested in the above four clauses should be settled in consultation with the mining deputy.

69. The mining merchants have the right to dismiss their laborers who embarrass them under the following circumstances:

(a) Those who commit offenses against the Chinese law and disturb the peace of the citizens.

(b) Those who secretly introduce bad characters under the pretext that they are laborers.

(c) Those who on the plea of being converts join the mine as laborers and then decline to observe the regulations or obey the authority of the local officials.

70. Under the following circumstances, which are calculated to cause mischief to the people, the mining deputy may exercise pressure on the mining merchants to dismiss the men and hand them over to the local authorities for punishment, and the mining merchants must not harbor or shelter the same:

(a) When the men do not observe the conditions on which they are allowed to be employed by the mining merchants.

(b) When they are unruly and turbulent toward the mining merchants and are generally not amenable to discipline. When, in spite of the fact that they are being paid in full by their employers, the men strike work or endeavor to obtain more money by intimidation.

71. The rules for the government of mining merchants and for the prevention of ill treatment of laborers by mining merchants can be amended if necessary at any time, with the approval and assistance of the governor of the Province, who can communicate with the board of agriculture and commerce.

72. Mining supervision is accomplished by the head office acting through the deputies in the general manner detailed below:

(a) The risk of safety of the proposed excavations.

(b) Matters pertaining to the lives and health of the laborers.

(c) Matters concerning the protection and benefit of all parties.

73. If the deputy is assured that there is danger to the enterprise or to the general welfare of the promoters or people he can apply to the head office for the immediate stoppage of the work, and if the danger is so imminent and serious as to allow of no time for reporting, he can himself take steps to stop the work forthwith.

74. If the stoppage of the work is caused by a temporary incident, when things have been put right the work may be allowed to proceed after the deputy has duly investigated the matter.

[Inclosure 2.]

Supplementary mining regulations.

1. Every director of the head mining office in each province has, as already stated, to appoint deputies to attend to all the details of mining affairs in the fields of their respective jurisdictions; they must also see that all applicants for prospecting or mining permits fulfill in every respect the provisions of the mining regulations whether mentioned in the original or in these supplementary regulations.

2. The deputies are to avoid all matters in which their personal interests are in any way concerned, whether directly or indirectly.

(b) The interests of clansmen or relations must not be allowed to have weight, but must be kept in the background as the rules of the Ta Ch'ing dynasty and the requirements of the board of civil office direct.

(c) Deputies must not concern themselves or interfere with disputes about land in which either they or their kinsmen may be involved.

(d) Deputies are required to withdraw from the dispute if it is concerning the property of any relative of theirs, or even if a friend with whom they may have financial dealings is implicated.

3. The deputies are required to look after the reporting and forwarding of all statements made to them by the mining capitalists.

(b) Should the applicants desire to have their applications canceled, or to alter them by adding to or deducting anything therefrom, this is to be arranged.

(c) A complete record of the business of the preceding month must be sent in by each deputy before the 10th of each month.

(d) The address of the deputies' office, with the hours of attending to business, must duly be made known to all.

(e) In all districts where mining has already started it must be inspected by the deputies in accordance with the regulations.

4. No foreigners can be employed as mining deputies or mining policemen or as overseers. All the deputies appointed to look after a mining district must be Chinese, but they must have a fair knowledge of the mining work. No foreign official or merchant is allowed to hold such a position, but the mining expert employed by the head office is exempt from the provisions of this rule.

5. Applications for prospecting permits must be made in duplicate in accordance with Volume I, article 24, and must be sent in to the deputies of the head office, which office will in turn notify the district officials to make arrangements for the mining land to be inspected, and if the officials shall approve the application the duplicate shall be returned to the applicant with the official seal and the date of the receipt of the application stamped on it.

6. In the application for permission to prospect any mine it must be clearly stated whether the land is Government or privately owned. If it is private land a reasonable compensation must be paid for it and the willingness of the owner to allow mining operations must be certified. The form of the sanction of the owner must be as follows:

It is hereby certified that the portion of land of ———, lot of ——— section, situated in ——— district, ——— province, covering an area of ——— and lying to the east of ———, on the west of ———, on the south of ———, is permitted to be placed at the disposal of ——— to prospect and make experiments with. This is further to certify that the terms for this prospecting have been negotiated and paid.

(Signed) ———. Witness, ———. (Signed) ———, owner of the land.

A copy of the above certificate must be kept by the prospector and the other ——— handed to the deputy and kept on record. Whether the land to be prospected is Government or privately owned the area of preliminary experiment must be limited to 30 feet square and 30 feet deep.

7. Permits for prospecting and experiment are to be given in regular order. Where several applications are received at the same time for the same place they must be taken in regular order and the permit granted to the one first received. If there is any reason for not granting one application the next one in order will be taken.

8. In the event of no definite arrangement being arrived at between the owner of the land and the prospector regarding the precise amount of money which shall be paid for the right of prospecting, the matter shall be referred to the deputy within two months. Full particulars as to the reasons why such decision can not be come to must be clearly stated. If the owner fails within the appointed time to show good cause for failure to give his consent it will

be assumed that none exists and the deputy will make a memorandum of the facts at the bottom of the application certificate and the duplicate, as follows:

"The sum of ——— taels has been placed in the hands of the undersigned as deposit for the indemnity against all damage done to the land as claimed by the owner. The actual amount is to be hereafter estimated and paid out of this deposit.

"(Signed ———, Deputy for ——— District."

9. The time limit allowed for the commencement of preliminary operations is one year from the issue of the prospecting permit, and no other permit to work the same area can be granted until that time has expired.

10. Applications to open mines must be made in duplicate with the fullest particulars, the name, address, occupation of the applicant and his nationality, also whether it is intended to work it as a company. If the application is filed by a company, an account of the company must also be filed, as demanded by Chinese law. The boundaries of the mining area are to be clearly stated, also the situation and direction of the mines, the part of the district in which it is located and the most striking natural features of the vicinity, also the class of mineral to be sought. It must also be stated what form the mine will take, i. e., following a vein, drifting at different levels, or some other form. A bond executed by a responsible party must accompany the application.

11. Should the applicant by some mischance meet with an accident by which the permit is damaged or destroyed he may apply for a duplicate on reporting the particulars to the head office.

12. Should the death of the promoter occur and a substitute take his place, the matter must be reported to the deputy within 60 days and then to the head office.

13. If a permit is applied for to mine minerals of class b, as mentioned in Volume I, article 11, the deputy of the district must ascertain whether the owner desires to carry out the mining operations himself or whether, if the work is to be done by others, there is any ground on which he does not care about the enterprise being undertaken at all. If the permission is for himself the head office must fix a time for the work to commence, and keep a record of this and of the application to see that the owner keeps his word. If the owner fails to satisfy all his inquiries within a month he will be regarded as having given up the idea of working his land. The head office, in accordance with article 39 of the regulations, will have to deal with the owner if he fails to acknowledge his communications and give definite reply, refuses to let others engage in the enterprise either, or if undertaking to work the land himself he fails to start operations within the time specified, even when expostulated with, the matter must be brought to the notice of the local gentry, who must decide the matter.

14. If, after the landowner has received his compensation and indemnification money, and the head office has granted the prospecting permit to some other person, the year allowed being still unfinished, the landowner then decides he wishes to do the work himself, he must reimburse the prospector for sums expended on work. If the two parties can not arrive at an agreement as to the amount expended on the work then the provisions found in article 39 of these supplementary regulations will regulate the decision.

15. The deputy has the full right to make what inquiries he thinks fit in connection with the opening of any mine. If the application fails to furnish clearly all the information required by article 10 of these regulations, it will not be registered, and should the deputy find anything suspicious in the circumstances of the application he may make investigations with a view to finding out, and he will then report to the head office the cause of his suspicions and all that he has found out.

16. On receipt of the application for prospecting or mining the deputy must, in the presence of the applicant, duly record the date of the application being received and the number of the application, and these figures must be written on the bottom of both the application and the duplicate in proof that this has been properly recorded.

17. The deputy must on no account accept other applications for the same place once the first one is recorded. During the interval between the receipt and approval of the application no other application must be received.

18. Should there be several applications at the same time for land situated in the same place, they must be dealt with in order in the manner stipulated in article 7 of these regulations.

19. Within 10 days after the application for a mining permit is filed the mining deputy must dispatch an engineer to measure the land which has been applied for, and also to draw a map of the same, with explanations. All the land within 300 feet of the boundary of the piece of land applied for must be included in the map. The charge for measuring the land and making the map must not exceed 5 taels per day, or 50 taels in all. This charge is to be fixed by the deputy and paid by the applicant. If the engineer dispatched to do the work manifests a desire to protract the work, the applicant may make a formal protest to the deputy, and, after consideration, the charge may be reduced.

20. Sixty days will be allowed mining engineers for the preparation of plans for the mining area, and the detailed report of same, which must be handed in in triplicate to the head office through the deputy. Should there be any who cause obstruction to the work and prevent the proper execution of it in time, they must be arrested and punished accordingly.

21. In measuring out a mine a base line should first be established, and from that the side lines should be laid out.

22. The boundaries, when made, must be distinguished by boundary stones or boards and the following conditions must be observed:

(a) Once the boundary stones or boards are fixed, they are on no account to be removed unless the boundaries are changed.

(b) The boundary stones or boards must be well made and durable and kept in good repair.

(c) Any figures or characters on the boundary mark must be written so as to be easily seen by all, and the mine owner's name and number must be engraved thereon.

23. The positions where these boundary marks are to be placed must be arranged by the engineers surveying the mine area and indicated on the map.

24. The engineers marking out the area will be held accountable for any mistakes in the survey or in the plan made.

25. The holder of a mining permit must carry on the mining work strictly within the boundary limits marked. It is not allowable to increase or decrease the area. Any mistake made in the marking of the area or placing the boundary marks likely to cause any disagreement or dispute must be promptly altered, and if it is suspected that the mistake has been made with the object of increasing the area of operations the owner must be fined.

26. If the issuance of a permit is protested it shall be the duty of the mining deputy to inform both the applicant and the head office of the name of the objector and the grounds of his protest.

27. The protest must be made within four months from the public announcement of the granting of the permit and must allege at least one of the following reasons:

(a) Disagreement arising with the owner of the land.

(b) An attempt to alter or encroach on the boundaries.

(c) In the event of any portion or the whole of a piece of land granted for mining being found to be within the boundary of a mine worked by another.

(d) If the holder of a mining permit is found to impose on the people as a result of having such permit.

(e) The conditions stated in the permit differing from those actually in existence.

(f) The holder of the permit being found to be unqualified to operate a mine.

(g) The commission by the holder of the permit of any of the offenses mentioned in article 20 of the principal regulations.

(h) The actions of the holder of the permit being contrary to the regulations.

28. The deputy must, on being notified of any cause of dispute and on being applied to to cancel the permit granted, ascertain for himself all the particulars of the case by personal investigation, even though he may be fully informed of all details from one or other of the parties concerned, and he must submit his own statement of the case to the head office.

29. The engineers sent to report on and investigate any cases of dispute are to confine their attention entirely to so doing and have no further power to make any decision.

30. Any petition made by the owner of the land which is found to contain any misstatements such as for the rejection of an application on the ground that there are no minerals on the ground, and if the engineers have in the meantime ascertained that there are such, the petition must be rejected.

31. On receipt of any report of a dispute the deputy must request the parties to attend at his office within 15 days of such notification and he must

use his best endeavors to settle the matter amicably. Should they fail to act on his advice the conference must cease and the matter be handed over to the local authorities, and if neither party take any steps and apply to the court within four months, the deputy must apply to the head office and ask that the permit be issued.

32. If four months have elapsed and no protest has been made, or if the ground for protest is not one of those mentioned in article 27, or if, further, the case has been settled by the local official, the records of these protests must within 15 days, together with the map and the draft of the accusation, be sent by the deputy to the head office for inspection.

33. If the accusation is not made in the manner prescribed the blame must not be considered to have been incurred by the plaintiff. But the head office will make a note of the incorrect places at the back of the records and will direct that within a certain time the deputy shall make the needful changes; but if the error is an intentional one the maker of it shall be condignly punished.

34. When the head office has examined all the records of the case, if it appears that the permit may be granted, then in the manner prescribed in article 35 of these supplementary regulations the head office may recommend that the permit be issued and this together with a copy of the map drawn by the engineers shall be transmitted to the applicant by the deputy as evidence.

35. The head office will first see if the application for a mining permit is made in due form and will then petition the governor or viceroy for a permit, which petition will be forwarded to the board of agriculture, industries, and commerce. When the permit has been granted by the said board it will be forwarded through the same channel to the applicant.

36. In the case of application being made to open mines with the cooperation of foreigners the head office must see to it that all the conditions are in accordance with article 9 of the principal regulations, and the head office must also make sure that the owner of the land is quite agreeable to his land being worked in exchange for shares in which foreigners are part holders. If it is the owner of the land himself who is in partnership with foreigners, contributing the land as his share, he must furnish the head office with proofs that the conditions are in harmony with article 10 of the principal regulations, and if everything is found to be in order then the permit may be granted. If the enterprise is to be carried out only by a Chinese corporation and the owner does not desire to take any shares but only get money for the use of his land an agreement can be made in accordance with article 10 of the principal regulations, and the permit issued.

37. Any dispute arising for which provision is not made in these or the principal regulations must be settled by the local authorities in accordance with the national property laws.

38. If when prospecting or working any mine the mining merchant should find any minerals which are not mentioned in his application and permit, the matter must be reported to the head office for decision before the working of such minerals can be allowed, as provided for in Volume I, article 36.

39. If the holder of a prospecting permit or a mining permit needs for his purpose or to extend his operations some land, whether the property of several owners or one, and is unable to come to an agreement as to the price for such land, then the local official shall mediate between them and arrange a compromise after the following rules; but if all the landowners are unwilling to come to terms the said official must not confine himself to the rules laid down below but must devise some other solution.

(1) Each party to choose an assessor to assess the amount which the mine operator shall pay for the use of the land, and report to the local official within 10 days of appointment, for the official's consideration.

In case of the failure of the two assessors to come to an agreement the local official shall appoint a third, who shall report his valuation to the official within 10 days after his appointment. The local official, taking into consideration the statements of the contestants and of the three assessors, shall determine the amount of the remuneration received by the landowners for the use of their land, as well as the amount of land which shall be used by the said mine operators. He shall come to his decision within 10 days.

(2) If the landowners, after having been directed by the local official to do so have not within 10 days chosen and appointed an assessor, the local official shall appoint an assessor who shall consult with the landowners and the mine

operators, be the latter foreigners or Chinese. If any receiving of bribes or partiality is discovered appropriate punishment shall be determined upon.

(3) If it is not known or if it is uncertain who the landowners are, then the local official shall appoint for them an assessor. If the assessor appointed by the mine operators and the assessor appointed by the official in behalf of the landowners fail to come to an agreement, the official must himself fix the amount. This amount shall be retained by the official for payment to the rightful parties.

(4) That which assessors have to do with regard to mining land is as follows: (a) To determine the price of the land; (b) to determine the damage sustained by land; (c) to determine what must be done in accordance with article 42 of the supplementary regulations.

40. When engineering work is being undertaken and tunnels are being constructed, if any minerals should be found, it is necessary to make an application for mining permit before they can be worked.

41. Should application have been made for the use of land only for tunnel purposes, for the carrying off of water or other reasons, the holder has the first right to apply for mining privileges on that land should be chance to find minerals during his working operations, and no one else has the right to be granted the privilege should they apply for it until he has rejected the right to mine. He must be informed of such application and must give his answer one way or the other within three months of the date of such notification. If he declines to take up mining enterprise there or fails to give any answer to the authorities, the head office will have the right to grant the privilege to others, but the parties to whom such mining privileges may be granted must not interfere with the work that he is doing or damage his tunnel.

42. The additional clauses indirectly indicated in article 50 of the principal regulations are as follows:

(1) If X, a mining operator, takes no precautions to prevent the water of his ditch from injuring the property of Y, likewise a mining operator, or if X constructs his ditch in so faulty a manner that Y's property is damaged, then X must indemnify Y.

(2) It is not allowable to make any excavation or water channel passing through the boundaries of another mine unless by mutual arrangement and agreement.

(3) In accordance with the provisions of section (2) of this article the mine owner through whose land the ditch runs should, if he derives benefit from the ditch in drainage facilities, reimburse the maker of the ditch therefor in proportion to the benefit he derives from it. The amount of reimbursement shall vary with the condition of the mine.

(4) Anyone desirous of making such an excavation or tunnel must apply for special permission and can not begin work until it is granted and the head office must see to it that the plans and conditions of the proposed work are in accordance with the application as represented by the deputy.

(5) When work is being done on a tunnel that will trespass on another's property, the operator of the said mining property may dispatch an agent to inspect the work, and if the agent observes that the work is not correct he may call the attention of the mining deputy or the local official to the fact, but he may do nothing himself to interfere with the work.

(6) If a tunnel is made connecting one mine with another, then the maker of the tunnel must devise precautions against obstructing passages and means of communication.

(7) Any public underground passage or right of way which may have been made in accordance with (3) of this article can not be used for any purpose other than that it was constructed for unless by special agreement with the parties concerned, in which case the matter must be reported to the deputy and registered in his office. It must be stated in such agreement that it fails to be valid in the event of any of the parties failing to keep the stipulations of clause 6 of this article.

(8) If any new ventilating shaft is sunk in the general underground passage it will partake of all the advantages mentioned in clauses 3, 5, 6, and 7 of this article.

(9) Should a ventilating shaft be necessary to a mine and a saving of great expense be possible by using the shaft of a neighboring mine and paying so much to the other mine owner for the privilege, this may be arranged.

(10) Besides this matter being mutually agreed between the owners of the two mines it must be also reported to and registered in the deputy's office and

they must mutually guard against the stoppage of the ventilating and adjoining passages.

(11) The owner of the ventilating shaft is not allowed to levy any other charges on the mine owner sharing its privileges except as stipulated in clause 9 of this article and the receiver of the privilege is also not allowed to interfere with the rights of the owner of the shaft.

(12) The cost of making and upkeeping a tunnel must be borne by the man making application for permission to open it.

(13) All the underground construction work made chiefly for transportation and communication are to be carried out in accordance with clauses 2, 3, 4, 5, 6, and 12.

(14) If any valuable minerals are found by anyone making a tunnel within the area expressly granted him for the purpose they are his property. But if in the course of the work minerals are exposed beyond the actual area granted he must hand them to the owner of the land or mine, and if the work is being carried out by a company all must share equally in the find.

(15) If work of the above character is to the advantage of X mine, but interferes with Y mine, the following rules must be observed: The two may consult together and come to a decision, Y mine operator giving his consent and the arrangement may be filed with the deputy; the mining deputy and the local official may jointly inquire into the case and settle it; under the circumstances when Y mine operator does not agree that the work shall be done X mine operator should first request a decision from the mining deputy; if Y mine operator is still not satisfied the case may be appealed to the local official; if the latter's decision is not agreed to by Y mine operator, the case may still further be carried, within the next two months, to the head office for final settlement.

(16) If it is desired to do underground work in accordance with sections 4, 9, and 12, of this article an application, together with a map of the proposed work, should be filed with the mining deputy, who will transmit it to the head office with a request that a permit be granted; this is the only regular way of doing it. The map must show all the dimensions; there must also be a detailed map of the work, which is intended, as well as particular specifications of the conditions. All this shall be for inspection and consideration.

43. All mining promoters owning workshops, assay departments, and mining plants are required to send in monthly reports giving full particulars concerning the work, the number of employees, and the result of the month's working, each report to be made out in triplicate and handed to the deputy of the district before the 10th of the month. Forms will be furnished for the purpose of being filled in with the necessary particulars, and if nothing has been accomplished during the month the fact must be stated.

44. Those who are obliged by the above regulations to make these reports may obtain from the deputy blank report forms for one month or several months. If these report forms are not obtained from the deputy in advance then any error that is made in the form of the reports will be held the fault of the one making it.

45. In addition to the monthly report if there are any further particulars which the head office requires to know they must be furnished on application being made for them.

46. Of those reports called for in articles 43 and 45 of this volume, when they have been examined and found without mistake, one should be inscribed with the date of receipt and returned to the sender.

If any inaccuracies or points not clear are discovered in these reports the one making them out should be fined in accordance with regulation, but the fine must not exceed taels 25. On refusal to pay the fine the man should be imprisoned for not more than two months. The reports should be returned to the maker for correction, after which they should be again tendered to the head office for inspection.

47. Ground rent for the area occupied by the mine must be paid twice yearly, on the 15th of the second moon and on the 15th of the eighth moon. The money must be paid into the head office personally and no excesses for delay will be accepted.

48. The form of the receipt given for these payments must specify the name of the district in which the mine is located, the area of the mine, the amount paid, and the date, the name of the mine owner or worker, and number of the permit issued.

49. The assessment of duties on the output of the mines, as stipulated in article 45 of the principal regulations, must be paid into the head office on the

15th of each month, the form of receipt to be similar to that given for the ground rent but detailing the quantity and nature of the minerals assessed. Half of the amount of the ground rent and duties collected during the year will be forwarded to the board of agriculture, industries, and commerce, and the other half to the high authorities of the province for local expenses.

50. The head office must notify each mining proprietor in the first and seventh moons of the rate on which the mineral output will be taxed, which rate will remain in force for half a year, such average rate being based on the market price of the minerals concerned during the previous six months.

51. The amount of the duty on mine products at the place of production shall be estimated on the basis of the monthly reports made by the mine operator or his representative as to the amount produced by the mine. Falsifications shall be punished as provided in the regulations dealing with such cases.

52. The deputy must report to the head office any irregularity or shortage in the payment of ground rents or taxes, and the head office must deal with the case in accordance with articles 43 and 47 of the principal regulations.

53. The head office and the deputies should keep full records, and in these records the proceedings should be fully entered, such as the name of each applicant, the definitions of the mine boundaries, the nature of the contract, all dates, the system of operation, the number of outworks and buildings, the formation or cancellation of any agreements, and all other particulars connected with the working and personnel of each mine must be fully entered, and whether there has been any increase or decrease in the capital or shares.

54. Record of mining operations should be kept either in the head office or in the office of the deputy.

55. All documents which have been registered as required will assume a legal status and can not be set aside in favor of any others brought forward.

56. The head office should receive fees as follows:

(1) Whenever the head office is petitioned for and issues a mining permit, if the mine is a gold, silver, aluminum, or mine for precious stones, the fee should be taels 10 per mine; or if more than 1 is applied for by one party, any number of mines up to 10, when the mines contain the above substances, will be charged for at the rate of taels 100 for the entire number up to 10.

(2) Whenever the head office is petitioned for and issues a mining permit for a mine which does not contain the above substances at all the fee shall be taels 2.5, or for more than 1 and under 40, taels 100.

(3) Whenever the head office issues a prospecting permit the fee shall be taels 50.

(4) For replacing a permit which has been lost, taels 30; for issuing a permit to open a tunnel, taels 30.

(5) For permission to discard part of a grant, taels 20.

(6) For the correction by the head office or the mining deputy of a document or map to be sure of its correct legal form, taels 2.

All of the above fees are payable to the head office. The fees for the mining permits shall be forwarded to the board of agriculture, industries, and commerce.

57. The mining operator, in addition to those fees paid into the head office in accordance with foreign mining law, is under additional expenses that will be incurred from time to time and will be paid to the representative of the head office on the spot. These are known as fees for office expenses. They are payable to the mining deputy, and should be reported by him to the head office every month for convenient supervision. The salary of the mining deputy and his expenses for grooms and horses, the pay of the local literati employed in deputy's office, the pay of servants, etc., and their traveling expenses are all payable monthly by the head office, as are also the running expenses of the deputy's office, such as lights and fire, after the rules laid down by the head office. Having this much, the deputy must not try to obtain any more money from the mine operators. But the life of the mining deputy is very laborious, on account of traveling in the mountains and going down into mines, and is very fatiguing, being in these respects unlike the usual public office. Therefore the head office should be exceptionally generous in the matter of salary, allowances for grooms, horses, running expenses, etc., and thus enable him to abstain from fault. A list of fees payable to the deputy's office is as follows:

(1) Every petition for a prospecting permit will entail a charge of taels 2—1 being for the indorsement of the deputy and 1 for recording the petition.

(2) When protest is made at the deputy's office against the carrying out of the prospecting operations the fee shall be taels 2.

(3) For every application for an increase or alteration of a mining area the fee shall be tael 1.

(4) For writing out documents for persons having business with the office, correcting documents, or for indorsement, the fee shall be tael 1 for every thousand characters or less.

(5) When the mining deputy leaves his office on public business the fee shall be tael 0.20 per li traveled.

(6) Whenever it is necessary for the mining deputy to leave his office to observe the surface characteristics of a piece of land and make a report thereon the fee shall be taels 5.

(7) When it is necessary for the deputy to examine the underground workings of a mine the fee shall be taels 5 for every 300 feet of depth or less, and if it is necessary to make out a report the fee shall be an additional taels 5.

(8) When the engineers shall correct and indorse maps the fee shall be tael 1; also when the engineers shall correct and indorse copies of maps retained in the office the fee shall be tael 1.

58. The mining merchant, whether he be a single proprietor or only partner with other Chinese or foreigners, must keep a daybook, ledger, and record books, in which all details of the output, sales, classification of minerals, etc., must be clearly set forth in regard to the mine and all its branches and depots on a system which shall be given by the head office.

59. In addition to the maps which the engineers must prepare when the permit is granted, the following maps must be prepared by each mine in such form that they may conveniently be inspected from time to time.

(a) The map made by the engineer must be copied or a similar one made; only an accurate one will suffice. It must show the limits of the mining area, existing roads, ventilating and drainage facilities, places where machinery is set up, the extent of land devoted to the different plants connected with mining, the limits of the land devoted to other uses within the area, etc. The map herein provided for must be of the same size as the following one. Changes in it must be made within six months of its drawing.

(b) This map of the mining area, or a copy of the first one, will depict the geological formation of the land, the alluvial deposit, what land is given over to placer mining, all cavities, mouths of shafts, excavations, waterways, bodies of water, places used for the storage of different kinds of minerals, official roads, railroads, cart roads, wires for the transmission of electric power, telegraph lines, telephone lines, tap lines, size of conduits, sheds—whatever can be seen on the surface of the land. All the above must be protected and not dug up; this map may be altered not later than one year after its making.

(c) This map of the mine, copied from the former map, must show also the boundaries of the mining area, the different shaft openings, the drifts with their connected openings, the length of underground workings, places for storing blasting material, the veins then being worked, the galleries, the underlying strata, the foot and hanging walls, other elements mixed with the main body of ore, important alterations in the galleries—all this should be clearly noted; whatever other kinds of veins there are, the geological formation of the body of the ore, the work on the different levels, etc., must be described to the deputy on another map. These maps should be changed when necessary within three months of the time set for their completion.

(d) The plans of the workings should be sectional as well as inclusive; they should depict also the strata, the veins, and the drifts, the character of the partition walls, and the different contacts. These maps must be changed when necessary within one year of the time set for their completion.

60. All the maps should be drawn on a decimal scale; the maps required in (a) and (b) of the last article shall be proportioned to the size of the mine on the scale of 500 to 1, of 1,000 to 1, 2,500 to 1, or 3,000 to 1; but the maps required in (c) and (d) of the last article must be drawn on a scale of 500 to 1 or 1,000 to 1.

61. If it is desired to relinquish part or the whole of a mine the working plans must be completed up to the time when it is intended to abandon the said part or whole of the mine; when any particular workings are to be abandoned they must be minutely described before permission will be given to abandon them. If a mine operator desires to conclude his operations because the mine is useless then he should notify the deputy, and with 60 days he must remove from the land all the houses or other evidences of his work; if anything remains after 60 days it will belong to the proprietor of the land; but the mining deputy must examine within and without the mine, and nothing necessary to the

entirety of the land must be removed. If the mining operator has absconded to parts unknown the provisions of the article shall still be complied with.

62. Mining operators should make accurate copies of the maps required by article 59 and deposit them with the head office for its information.

63. The maps required by article 59 should be copied and deposited with the head office on the first day of the sixth moon of each year; the maps required in (c) should be filed twice a year on the first days of the sixth and twelfth moons, respectively.

64. Should the mining merchants fail to forward these plans or fail in any of them to note the particulars required, the head office will depute its own engineer to draw up the plans properly, and all expenses of this work must be borne by the mining merchants.

65. The head office must not give these plans or show them to others without the proprietor's special permission.

66. Imperfections and inaccuracies in any of the maps or any hesitancy displayed in the reporting about or granting any information concerning a section of the mine, will render the proprietor liable to a fine of not more than taels 2,000, or imprisonment for not more than one year.

67. All earth excavated from the underground works must be piled up on either side of the works and steps taken to protect the mouth of the shaft and guard against accidents.

68. Should the inspecting deputy discover that any place on which experimental works have been started is inconvenient to the locality or dangerous to life, the worker must be required to fill in the excavations and make the place safe.

69. Every open space, shaft head and pit, in the mine area must be fenced around or otherwise guarded against.

70. Any graves on the mining area must be respected and protected and no mining work must be carried on within the limits of their inclosures. The distance from any imperial tomb or the tomb of any illustrious sage must be at least 30 li, while that from the tomb of any formerly noted statesman or official must be 3 li and from the graves of ordinary persons of literary rank 500 feet, and these limits must not be encroached on either above or below ground. Should the presence of graves within the mining area cause great inconvenience and loss, the local officials may be appealed to and if they can make arrangements with the owners, the graves may be removed after suitable compensation has been paid. The opening of a mine in any locality must not be opposed on the foolish excuse of "Fengshui," but if the enterprise really causes serious disadvantage to any district and is likely to cause unrest, it is advisable to discourage it. The mining promoters may report any such case to the deputy who will refer it to the head office for settlement.

71. Mining merchants may at any time, if they choose, decrease the area of the mining boundary provided they duly report the matter to the deputy and the alteration is made on the plan, and provided that all boundary lines are laid out in accordance with article 32 of the principal regulations.

72. When a mining deputy receives an application for permission to relinquish part of a mining area, he must dispatch an engineer to draw a plan of the land and set up the necessary boundary marks on the remaining land. The work must be completed within 60 days and the fee for the services of the engineer must be met by the applicant.

When the map is completed it must be presented to the deputy and the latter should note the fact in the record of the original application and note on the mining permit the amount of land relinquished, after which the said permit should be returned to the applicant for evidence.

73. The mining permit may be canceled if the mining merchant desire, after he has duly reported his intention to the head office which will deal with the petition in accordance with article 61 of these regulations.

[Inclosure 3.]

Synopsis of the Revised Mining Regulations of China.

[Approved September 30, 1907. To go into effect March, 1908.]

The mining regulations place the control of mining operations in the board of agriculture and commerce.

Applications of foreigners must be made to the board through the Wai-wu-pu. Mining bureaus are to be established in each Province, to which will be referred all applications relating to mines in that Province.

Fees consist of, 1, annual rental; 2, royalty on output; and 3, a bonus if the mine is situated on Government land.

Mining operations heretofore authorized must be reported in detail within two years and conform in all respects to the new regulations. However, if the new regulations prove disadvantageous to the mines now being operated, objection must be made within six months, and there may be exceptions made.

All new mining enterprises are to be governed by these regulations.

Foreigners are not entitled to own land in China, and in case of foreign and Chinese cooperation in a mining venture the interest of the foreigner ceases with the mining operations.

Foreigners will be permitted to cooperate with Chinese in mining operations. If a Chinese enters into such a partnership by giving his land for development by the foreigner, he (Chinese) is entitled only to a share of the surplus profits and is free from any liability of financial loss. If, however, he declines to enter into such partnership and prefers to sell his land, he must sell it to the Chinese authorities, who will lease it to the operators.

A Chinese who enters into a mining partnership financially (i. e., otherwise than by giving land as above) will have an equal share of the profits, power, and liabilities.

If, however, the Chinese is simply a land partner and there are no other Chinese financial partners, the foreigners interested must reserve three-tenths of the shares for 5 years, which any Chinese desiring to enter shall have option of buying at par. If at the end of 5 years the option is not exercised, one-half of these reserved shares may be sold, and at the end of 5 more years the remainder may be sold if the Chinese option is not exercised. But shares must be sold to Chinese, if there be any demand, at market price at the end of 10 years.

Foreigners whose country has no treaty with China, or does not grant China similar privileges, or foreigners who fail to observe Chinese law, or who have committed offenses against the laws of their own country will not be allowed to engage in mining enterprises, nor will official representatives nor foreign employees of China or foreign Governments.

Salt is a Government monopoly and can not be mined.

Minerals are (1) constructive, (2) phosphorous, or (3) a combination of both, as iron, coal, etc.

If mining land is sold to foreigners privately, the vendor will be punished and the land confiscated.

No mines will be permitted to be operated by foreigners only without Chinese partners.

Output must be reported to head mining bureau and may not be sold or exchanged or mortgaged privately.

All applicants for prospecting permits must state the position, the locality, and class of minerals sought, and give bond. If a permit is issued, the prospector is allowed one year for the work, and may be granted six months in addition, but no extension will be granted unless a mining engineer with a mining college certificate has been engaged within two months of the granting of the permit.

Prospecting permits will not embrace a greater area than 30 Chinese li (10 miles) and are untransferable.

Mining permits will be granted after prospecting is completed upon application giving full particulars and entering into a bond for 10,000 taels.

Mining fees shall be paid as per schedule, and the export duty on materials exported.

Article 49 provides: "That all foreign subjects of treaty powers who wish to engage in mining enterprises will be termed 'mining merchants' and recognized as having conformed to Chinese law." They must comply with present and all future mining laws. If these points are understood, foreigners may engage in mining as much as they like.

A mine not worked for a year will be deemed abandoned.

If any risk or damage be sustained through mismanagement of the work the responsibility will rest with the "mining merchants." If others suffer loss thereby the bureau will investigate and the "mining merchants" may be compelled to pay compensation.

The mining bureau may order work stopped and the loss due to the stoppage must be borne by the "mining merchants," and the foreign ministers and consuls can not be allowed to interfere.

Mining in certain localities and felling of timber are restricted.

The status of a foreigner entering into a mining partnership must be certified by his consul with a declaration that the applicants are in a position to conform with these regulations.

Passports for foreigners to travel in the interior are still necessary, and the illegality of foreigners leasing houses, building houses, and other stores in the interior still obtains.

Litigation where a Chinese, not a partner, is concerned will be settled according to Chinese law.

Should any foreign mining partner commit any offense the Chinese authorities must investigate the case and adjudicate if his consul is far from the place where the offense was committed, and if the accused seeks to run away the Chinese authorities may temporarily arrest him and convey him to the nearest consul for trial under his own law according to treaty.

The Chinese authorities should not insist on interfering.

Should the consul in such case decide unfairly and not do justice to the Chinese concerned, and the authorities are not satisfied, then foreigners of that nationality will not be in future allowed to have any mining privileges in that Province.

A foreigner engaged in a mining enterprise may appeal a dispute, if he have one, in connection with the mining venture, to the bureau or provincial judge, viceroy, or board of agriculture and commerce, but the consul or minister must not interfere. If the point at issue is not covered by these regulations foreign mining regulations may be consulted, but the principle of these regulations must not be violated.

Recreation grounds will be set aside for foreigners.

Should the bureau or local authorities consider any place unsafe as a place of foreign residence a permit will not be granted.

Articles 65 to 74 relate to labor and police conditions, the employment and discharge of men, payment of damages for injuries, etc.

The supplementary regulations which accompany and form part of the preceding mining regulations provide for the appointment of inspectors, called mining deputies, and prescribe their duties.

Foreigners may not be appointed deputies.

Forms of applications, certificates, etc., are prescribed.

If owner and prospector fail to agree as to price of land the matter is referred to the deputy within two months.

The land must be measured and plotted within 10 days of filing of mining application, which shall not cost more than 50 taels.

Plans of the mining operations must be filed within 60 days.

The method of marking the boundaries is pointed out.

Protests must be made within four months of the granting of the permit and the grounds on which the protest may be based are indicated.

The deputies are authorized to endeavor to settle disputes by calling parties together.

If other minerals be found than those specified in the permit the matter must be reported to the bureau for decision before they are worked.

In case of an extension of area being desired the manner of expropriation and assessment is laid down.

The effect of the mining operations upon abutting or adjacent land is guarded and rules of procedure for adjustment of damages are outlined.

Monthly reports must be made to the deputy or inspector showing the number of employees, the output, and full particulars of the operations upon forms to be provided for the purpose. Additional reports may be called for by the deputy.

Ground rent must be paid semiannually to the bureau.

The taxes on the output of the mines must be paid to the bureau on the 15th of each month; one-half of the revenue derived from mining taxation goes to the Department of Agriculture and Commerce, the other half to the provincial treasury.

The bureau fixes the rate of assessment every six months. It will be based on market prices of product for preceding six months.

Provision is made for full records to be kept and for their force and effect at law.

Fees are as follows:

	Tael.
Mining permit—gold, silver, aluminum, or precious stones—each permit—	10. 0
Mining permit for other minerals.....	2. 5
Mining permit for more than 1 and under 40.....	100. 0
Property permit.....	50. 0
Replacing lost permit.....	30. 0
Tunnel permit.....	30. 0
Permit to discard part of grant.....	20. 0
Certification of map or document.....	2. 0

These fees are payable to the head bureau and fees received from mining permits must be sent to the Department of Agriculture and Commerce.

Fees for office expenses are payable to the deputy, as follows:

	Tael.
Petition for prospecting permit, filing, and recording.....	2. 0
Protest against operations.....	2. 0
Application for alterations.....	2. 0
Copying, certifying, etc., for every thousand characters or less.....	1. 0
Travel on public business, per li (one-third of a mile).....	. 2
Reports of inspection (surface).....	5. 0
Reports of inspection (underground).....	5. 0
Inspection (underground).....	5. 0
Certifying maps.....	1. 0

Record books must be kept by all operators, consisting of daybook and ledger, showing all details of output, sales, etc., in the form prescribed by the mining bureau.

Accurate maps, corrected every six months, must be made of the mine and they must show geological formation, alluvial deposits, shafts, tunnels, storehouses, roads, railroads, wires, conduits, sheds, boundaries, openings, drifts, etc.

These maps must be open to inspection.

Specific details are prescribed with reference to the preparation, correction, and filing of these maps. Imperfections and inaccuracies render proprietor liable to a fine of not more than 2,000 taels.

Safeguards for open shafts, etc., are prescribed.

Mining operations are forbidden in graveyards unless permission of owners be secured. But foolish objections on the ground of "Feng shui" (interference with local spirits) will not be listened to.

Mining operations can not be carried on within 30 li (10 miles) of an imperial tomb or tomb of an illustrious sage, nor within 3 li of the tomb of a noted statesman or official, nor within 500 feet of the tomb of a person of ordinary literary rank.

[Inclosure 4.]

The British Minister to the Prince of Ch'ing.

PEKING, November 21, 1907.

YOUR HIGHNESS: I have the honor to acknowledge the receipt of Your Highness's note of October 14, transmitting a copy of the Mining Regulations submitted to the Throne by the Wai-wu-pu and board of commerce and sanctioned by imperial rescript.

Owing to the length of this document the work of translation has only been completed within the past few days, and I regret to find on reading the Regulations that they offer little inducement to foreign or native capitalists to engage in the development of mines in China. I have formed this opinion, as far as foreign enterprise is concerned, from those sections of the regulations—for example, sections 4, 10, 49, 60, 61, 62, etc.—which seek to place foreigners under Chinese jurisdiction and to deprive them of extraterritorial rights. It need scarcely be said that British subjects are not prepared to submit themselves to such conditions, or that His Majesty's Government is not yet satisfied that the state of the Chinese laws warrants her relinquishment of her extraterritorial privileges.

Since the above-mentioned articles are entirely contrary to the stipulations of existing treaties, I am at a loss to understand Your Highness's object in submitting them to the Throne for sanction.

British enterprise in mines being thus rendered impossible at the outset, it is not necessary for me to deal with the many grave objections presented by the rules affecting partnership, the payment of dues, the division of profits, and the numerous restrictions regarding the time limits allowed for prospecting, and the area of mining properties.

But the Regulations do not only stand in the way of new mining enterprises. By section 8 it is laid down that existing mining agreements must be submitted for revision. Here again I am unable to understand the object of Your Highness's board in laying before the Throne a regulation which China has not the power to enforce.

By the commercial treaty of 1902, Article IX, the Chinese Government agreed within one year to revise the existing Mining Regulations, with a view to attracting foreign as well as Chinese capital to embark in mining enterprises. Five years have been spent in the production of rules which are contrary to treaty, hostile to the employment of foreign capital, and entirely unworkable. The issue of such an enactment under imperial sanction reflects, in my opinion, small credit upon those responsible for its preparation, and brings into disrepute the Chinese Government itself by thus disregarding the engagement made in 1902.

I have the honor to request that the criticisms which I have offered may be carefully considered, and that steps may be taken to prevent these Regulations from coming into effect till they have been thoroughly revised in consultation with other powers.

I avail, etc.,

Sir JOHN JORDAN.

File No. 2648/8-9.

The Acting Secretary of State to Chargé Fletcher.

No. 373.]

DEPARTMENT OF STATE,
Washington, December 10, 1907.

SIR: I have to acknowledge the receipt of your dispatch No. 767, of October 22 last, inclosing a copy of a note from the Chinese foreign office, informing you of the promulgation by the Chinese Government of a new set of mining regulations, in two volumes, copies of which accompanied that note. You promise to send to the department a translation of the regulations, as soon as the translation is made.

The department awaits with interest the arrival of the translation and the legation's comments thereon, particularly as to whether the regulations express the sense of Article VII of our treaty of 1903, or have been revised in a sense unfavorable to American and other foreign enterprises.

I am, etc.,

ROBERT BACON.

File No. 2648/10-13.

The Acting Secretary of State to Chargé Fletcher.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 3, 1908.

Mr. Bacon acknowledges dispatch No. 790, and directs Mr. Fletcher to inform the Chinese Government on lines followed by the British minister in the note of November 21 that the United States Government views with dissatisfaction the Mining Regulations proposed by the Imperial Government. States that articles 49, 60, 61, and 62 are inconsistent with the rights guaranteed by treaty and that articles 5, 10, 24, 25, 26, 28, 29, 54, and 59 show restrictive tendency.

File No. 2648/22-23.

Chargé Fletcher to the Secretary of State.

No. 839.]

AMERICAN LEGATION,
Peking, February 6, 1908.

SIR: In continuation of my No. 790 of November 29, 1907, on the subject of the Revised Mining Regulations for China, I have the honor to inclose copy of a note which I have to-day addressed to the Wai-wu Pu in accordance with the department's telegraphic instructions of the 3d instant, reading:¹

Up to this time the Chinese Government has made no reply to the British minister's note and I have asked the foreign office for a reply to my note to the effect that the regulations will be thoroughly revised and modified in the light of the objections of the foreign representatives before being put into effect.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure.]

*Chargé Fletcher to the Prince of Ch'ing.*AMERICAN LEGATION,
Peking, February 6, 1908.

YOUR HIGHNESS: Accompanying Your Highness's note of October 14 last, I had the honor to receive the Revised Mining Regulations of China in two volumes, which, as stated in the note, had been jointly submitted to the Throne by Your Highness's board and the board of agriculture, industry, and commerce and had received the imperial sanction.

A translation of those Regulations has been submitted to the Department of State at Washington and I am now instructed to inform Your Highness that my Government views the said Regulations with dissatisfaction. China, by Article VII of the commercial treaty of October 6, 1903, with the United States, engaged to recast its mining regulations in such a way as, while promoting the interests of Chinese subjects and not injuring in any way the sovereign rights of China, will offer no impediment to the attraction of foreign capital, nor place foreign capitalists at a greater disadvantage than they would be under generally accepted foreign regulations. These regulations are in direct contravention of this treaty stipulation and would, if put into force, hinder rather than encourage the development of China's mineral resources, either by foreigners or Chinese subjects.

Referring to particular provisions thereof, my Government finds the articles 49, 60, 61, and 62 are inconsistent with rights which are guaranteed to citizens of the United States by treaty, and that articles 5, 10, 24, 25, 26, 27, 28, 29, 54, and 59 show a tendency unduly to restrict mining operations.

In view of the general dissatisfaction with which these regulations have been received, I sincerely trust Your Highness may be pleased to take the proper measures to prevent their going into effect in March, 1908, as intended, and that Your Highness will cause them to be thoroughly revised and modified so that China's mining regulations may, when put into effect, conform with existing treaty stipulations and compare favorably in letter and spirit with generally accepted foreign mining regulations.

Hoping to receive a reply in this sense at an early date,

I avail, etc.,

HENRY P. FLETCHER.

¹ Supra.

File No. 2648/10-13.

The Secretary of State to Chargé Fletcher.

No. 413.]

DEPARTMENT OF STATE,
Washington, February 12, 1908.

SIR: I have to acknowledge the receipt of your dispatch No. 790 of November 29 last, inclosing two copies of the translation of the Revised Mining Regulations of China, together with a synopsis thereof prepared by you.

You state that many of the provisions of the regulations are antagonistic to foreign enterprise and treaty stipulations; that the British minister has already entered formal objections to the regulations; that the Russian minister has asked his Government for instructions; that the French and German legations will likely offer objections following the general lines of the British note; and that the Japanese legation has as yet taken no action, but has, presumably, referred the matter to its Government.

After a careful reading and consideration of these regulations, the department has reached the conclusion that they are of such character as to justify a vigorous diplomatic protest on the part of this Government. Besides being unreasonably restrictive and prejudicial to the industrial development of China itself, some of these regulations violate the spirit, if not the letter, of our treaty stipulations with China.

Articles 49, 60, 61, and 62 are inconsistent with our extraterritorial rights in China. Article 49 places the foreigner under the control of the Chinese authorities and declares that the head office may order work stopped, and that any consequent loss must be sustained by the "mining merchants," but that "the foreign consuls and ministers can not be allowed to interfere."

Article 60 provides that when a foreigner has any monetary litigation with Chinese or other foreigners not members of the mining concern, the "matter must be settled in accordance with Chinese law without partiality, and if there is no precedent in Chinese records for any such case the usage and law of the countries concerned may be consulted and applied to assist the Chinese law."

Article 61 is offensively worded in the clause which threatens withdrawal of mining privileges as a penalty for any miscarriage of justice as administered by a consul and viewed from the standpoint of the local authorities.

In article 62 appeal is allowed by foreigners, in matters pertaining to mines, to the head office, the provisional judge, the viceroy, or to the board of agriculture and commerce, "but the consul or minister must not interfere."

The restrictive tendency of the regulations appears particularly in articles 5, 10, 24, 25, 26, 28, 29, 54, and 59. Article 59 requires that the status of foreign merchants entering into partnership with the Chinese, with the necessary bonds, "must be certified to by the consul of the nationals concerned, with the declaration that they are in accordance with the regulations," etc. It is doubtful whether our consular regulations permit of the issue of such a certificate.

On the whole, it seems to the department that the revised regulations are absolutely unreasonable and that their enforcement would interfere with our long-established treaty rights in China.

Accordingly, the following telegram was sent to you on the 30 instant, which I now confirm.¹

I am, etc.,

ELIHU ROOT.

File No. 2648/23.

The Secretary of State to Minister Rockhill.

No. 435.]

DEPARTMENT OF STATE,
Washington, March 18, 1908.

SIR: I have to acknowledge the receipt of Mr. Fletcher's dispatch No. 839 of the 6th ultimo, inclosing a copy of his note of that date to the Wai-wu Pu regarding the Chinese mining regulations.

In reply I have to inform you that Mr. Fletcher's note to the Wai-wu Pu is approved by the department.

I have, etc.,

E. ROOT.

POLITICAL REFORMS IN CHINA.

File No. 1518/109-110.

Chargé Fletcher to the Secretary of State.

No. 804.]

AMERICAN LEGATION,
Peking, January 7, 1908.

SIR: I have the honor to inclose translation of an imperial edict which has appeared recently on the subject of the preparation of the people for the introduction of constitutional government and explaining that public discussion of affairs of State must be conducted by regularly authorized bodies, and that local agitators and agitations on public concerns must be suppressed as unlawful. The edict is credited to Chang Chih-tung and was called forth by the popular meetings which have lately been held in the provinces to protest against certain policies of the imperial Government in connection with railway loans, policing of the West River, etc.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure.—Translation.]

Imperial edict.

[Peking Cheng Chih Kuan Pao, Dec. 24, 1907.]

On December 24, 1907, the grand secretariat received an imperial edict, as follows:

We, the Emperor, have received from Her Imperial Majesty, the Dowager Empress, these commands:

Last year we issued an edict that preparation be made for constitutional government. At the same time warning was given that the project was one of vast magnitude and infinite complexity, necessitating thorough preparation of statutes by the higher officials and a clear understanding on the part of the people of the principles involved. For only in that way could a constitutional government be instituted at an early date.

¹ *Supra.*

The present is a time of preparation. In our edict we have repeatedly said that the state of preparedness of the people should be carefully studied, so that these constitutional forms may be introduced as soon as the people are ready for them and may enjoy their benefits to the fullest extent.

Every country constitutionally governed has relegated the ultimate authority to the Throne. It is true that the affairs of the nation are passed upon by the nation as a whole, but the final decision in every case rests with the Throne. And in popular discussions, whether oral or written, there are certain restrictions. No country permits its citizens to transgress its laws under guise of bringing about constitutional reform.

Our country has been especially strict in the observance of order and decorum in society. Even if we adopt methods of government from other countries, we must carefully guard our national ideals of conduct. The Throne is most sincere in attempting these reforms. There have, of late, been not a few among the governing classes, the merchants, the literari, and the populace who have intelligently performed their individual duties; but there have been also many fickle, deceitful, ignorant ones entirely lacking in insight. People have made these constitutional reforms a pretext for meddling with the internal and foreign concerns of the Government. When one has raised his voice a hundred have flocked to him and added their quota to the general chorus of interference. One falsehood leads to another. If this is not stopped it is to be feared that they will soon swarm like bees, leading to inexplicable confusion. Inferiors insult their superiors, and in consequence the higher classes are becoming unworthy. The national ideals begin to be shaken. This all serves to interrupt the laying of foundations for a constitutional government. The peaceful rule of the country is disrupted and, most important of all, the real establishment of a constitutional government is postponed to an indefinite date, as is also the day when the Empire will regain its strength.

The people must be allowed to understand these things and express themselves, but they must not indulge in disorderly discussions. Under constitutional forms of government ministers and people are mindful of distinctions of rank and maintain peaceful relations.

Parliamentary bodies express public opinion; thus it is necessary that both electors and representatives act under strict rules. The assemblage and the dispersal of these bodies must take place in a methodical manner. Their proceedings must be controlled by carefully adjusted laws that will define their jurisdiction. There are matters that lie outside of popular control.

There have already been established in Peking and the provinces the Constitutional Assembly and the provincial deliberative assemblies, respectively. These may be regarded very properly as the beginnings of constitutional government. Hereafter the welfare of each province will be minutely discussed by its deliberative assembly. If this body arrives at any valuable opinion it will forward an expression of its views through the high provincial authorities to the Constitutional Assembly in the capital for consideration and action.

Due precedence must be observed in the order in which the two bodies transact business. Futile discussions must not take place, for they will disturb the smooth running of the Government.

In addition to commanding the boards of law and home affairs quickly to settle upon rules for the control of the public press, the Throne has ordered the bureau for the collation of administrative methods and the board of home affairs, acting jointly, and keeping in mind the laws of other countries for a similar purpose, to draw up rules restricting public discussion of Government affairs. When they have determined upon anything they shall recommend a course of action to the Throne.

For such as gather their fellow citizens together and seduce them from reason with wild fallacies the law of the Empire speaks a stern interdict. For them there can be no leniency. They must without mercy be rigorously suppressed.

Let all Government offices in Peking and the provinces in the range of their respective jurisdictions cause this edict to be reverently obeyed and scrupulously observed in every particular. If any officers are too lenient in these respects, they will but nurse to maturity untold calamity. Let not the injunctions of this edict be evaded in the slightest regard. Respect this.

File No. 1518/113-114.

Chargé Fletcher to the Secretary of State.

No. 810.]

AMERICAN LEGATION,
Peking, January 10, 1908.

SIR: I have the honor to inclose translation of a memorial, which has received the imperial sanction, recommending the establishment of a new judicial system in Peking.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure 1.—Translation.]

Memorial of the board of law recommending the establishment of a new series of courts in Peking—Imperial sanction given.

[From the Cheng Chih Kuan Pao, Dec. 12, 1907.]

This memorial giving particulars of the proposed series of courts for Peking is reverently laid before the Throne. The ministers of this board memorialized the Throne on November 8 to the effect that the establishment of the proposed series of courts in Peking would be attended by considerable difficulty and that it was desirable to postpone their opening for one month, which request was granted.

These courts of exclusive jurisdiction are constituted in conformity with international usage. Peking, being the foremost place in the country, is bound to be observed by all. We, having received the imperial commands, after much consultation drew up some rules for these courts and asked that the bureau for the collation of administrative methods revise them. They seemed rather numerous. Judicious selection must be made. The head of the superior court reports that while the said court is opened, yet some adjustment will have to be made before it will run with perfect smoothness.

We reverently state that December 9, 1907, has been selected as the date for the inauguration of the new judicial system. It is evident that Peking is an extensive area and will be difficult to cover. But it is now determined to provide the Inner City with three precinct courts and the Outer City with two. We observe that the board of home affairs divides the Inner City into 26 wards and the Outer City into 20. Whatever criminal or civil cases arise in these wards will be taken to that newly created court, under whose jurisdiction it would fall. For the area outside the walls no provision has yet been made in the way of new courts. So more trivial offenses may be left to the settlement of the courts already existent. Serious cases must be taken to the nearest precinct court. All the legal affairs of the Imperial Prefecture of Peking (Shun T'ien Fu) which are brought to Peking for settlement shall be under the jurisdiction of the newly established courts. The yamens of the district magistrates of Wan P'ing and Ta Hsing Hsiens will cease to have judicial jurisdiction.¹

Consideration of the question of extending this system of courts over all the territory of the Two Hsiens and the Imperial Prefecture will have to come about through consultation of the Prefect of Shun T'ien and the Viceroy of Chihli with this board. Before it is done it would be well for the said prefect to appoint judges who shall have no other duty than to attend to the lawsuits of that part of the districts of Wan P'ing and Ta Hsing, which lie without the two cities. These judges should temporarily conform to the rules drawn up

¹ The judicial system of Peking was formerly composed of the following officers: The board of punishments. This board, acting in conjunction with the court of censors and the grand court of revision in the most serious cases, was the last court of appeal. Next in grade came the commander of the Peking gendarmerie, who, however, had no authority in cases involving any punishment more severe than the third degree of banishment, which called for two or three years. The prefect of the Imperial Prefecture of Peking had only unimportant judicial powers in the city itself. The two district magistrates came next. About three years ago the city was put temporarily under two police headquarters, two superior courts, and five lower courts. This system displaced the "Five City" organization, according to which the Tartar city, with its environs, was divided into five sections, each under a censor as police commissioner. The present judicial system acquires the judicial prerogatives of all the above offices.

by this board. Limits of jurisdiction should be clearly laid down. When the former five superintendents of police were abolished, and all civil cases and the less serious criminal cases were transferred to the two superior and five lower courts, it was understood that the plan was merely temporary. Now that the precinct courts are established they will take over any unfinished cases of the temporary courts. But this must be done methodically or great confusion may be occasioned, which would delay matters. We intend requesting the board of home affairs to direct the temporary courts to quickly conclude such cases as may be speedily finished. But if it is not possible to terminate their work these courts will thoroughly investigate and make clear records of all cases pending, enumerate them, and hand over this data to the chief precinct court. The chief precinct court will notify the right precinct court of the receipt of the case in question and hand it over on demand. The temporary courts will make out clear statements and classifications of all cases on hand before handing them all over at the last of this moon (Jan. 3, 1908). Also all the cases on hand in the yamens of the Wan P'ing and Ta Hsing districts; that is, all cases the parties to which are residents of either of the two cities, will be similarly dealt with.

The cases in the high court of justice need not be transferred, inasmuch as to do so would cause much inconvenience, and such cases will hereafter be taken charge of by the superior court.

From December 10, 1907, all civil and criminal cases will be filed in the first instance exclusively in the precinct courts. The above directions with regard to the transfer of cases will be carefully carried into effect.

Methods of government are of serious potentialities for the well-being, or otherwise, of the people. Judicial officers must of necessity be twice as circumspect as other officers. It is extremely necessary that men of training and intelligence be chosen in anticipation of emergencies. We, the officials of the board of law, have selected from among our subordinates men of good records and transferred them to the precinct courts without raising their rank. We shall also examine others, expectant officials and others, and either by memorializing the Throne for their transfer or by direct arrangement we shall appoint them to the lower positions in these courts. When it is judged that they have the requisite experience and have been proved to have abilities we shall memorialize the Throne to have them appointed to acting positions.

All the above has been communicated to the board of civil office for record as being an important matter demanding extreme care in its transaction.

That the above three subjects (N. B., the jurisdiction of the different courts, the handing over of current business, and the method of selecting men for the offices) be clearly understood and settled is of great importance to each precinct court, for only in this way will their respective duties be kept distinct. Likewise must every man attend exclusively to his own duties. We, the officials of the board of law, are in responsible charge of these courts.

We have made out the above explicit statement of procedure for the information of the officers of these courts and await only the imperial sanction before publishing them for observance. If any matter not provided for in the above instructions shall arise, it is left to the judges of the respective precinct courts to render an honest and careful decision. This memorial is written to aid the Throne's benevolent intention to save the people from lawsuits. Thus, the time set for opening the respective courts and the general method of their operation is reverently laid before the Throne.

Rescript issued giving assent.

DECEMBER 7, 1907.

[Inclosure 2.—Translation.]

Proclamation by the board of law establishing a new system of courts in Peking.

[From the Chen Chih Kuan Pao, December 11, 1907.]

The board of law issues this proclamation for the information of the people. Judicial functions in a government are to be differentiated from administrative. The duties of a judge are not similar to those of the police department. The essential characteristic of legal authority is that it shall be absolute in its field. At the present time the Throne has established institutions

whereby the affairs of the people may gain publicity and their interests may be safeguarded. Untiring efforts have been made in this direction and the measures taken have been most comprehensive. In the establishment of a legal code it is primarily important to have judicial officers whose exclusive duty it shall be to administer it.

The officers of this board are the supreme judicial authorities of the Empire. The task has been undertaken of reforming legal procedure, and we have received permission from the Throne to establish in Peking a system of courts which, with the high court of justice, will be of four grades, three being below the said high court. Not only is the jurisdiction of the courts of these several grades clearly defined, but their proper precedence will be observed. The examination into cases will be thorough and every case will stand on its own merits. There must be no hidden injustice and the prerogative of the several courts must be observed. The object shall be in this way to strengthen the national judiciary and bring happiness and contentment to the people. It is the aim of the officers of this board to devise methods of maintaining the peace of the people.

Lawsuits are invariably occasioned by deception and there is no judge who can discern the facts of the case at first glance. In order to enable him to arrive at the facts of each case every court will have an investigation bureau to assist the judge. The investigating officer will be aided by the police and various guards and their sole duty is to make clear the true inwardness of the case. But dependence must be placed on the police, constabulary, etc., to ascertain most of the facts. The above are all necessary adjuncts of the law court.

These new courts have now been installed and this proclamation is issued for the information of the Inner and the Outer Cities. Henceforth, when it is desired to institute legal proceedings against anyone the paper provided by this board for the purpose may be procured and the complaint written and filed at the correct court. Each court, whether sitting on criminal or civil cases, must be governed by the laws of the Empire and the special regulations promulgated by this board. Our country has been unstinting of expense in creating these courts for the protection of the persons and property of its citizens. Its citizens should therefore accord due reverence to the Throne for its virtue. This board expects the citizens to prove themselves worthy to yield faithful allegiance to the courts. Below is detailed the situation of each of the courts:

(1) The superior court is situated on the west side and at the southern end of the street of the board of punishments.

(2) The chief precinct court is situated in the center of Teng Shih K'ou, on the south side of the street.

(3) The precinct court of precinct No. 1 is situated inside the north gate of the Imperial City, in the place called Huang Hua Men, on the south side of the street.

(4) The precinct court of precinct No. 2 is situated near the Tung Tan P'ai-lou, in the place called Ch'i Feng Lou, on the south side of the street.

(5) The precinct court of precinct No. 3 is situated near the Hsi Tan P'ai-lou, at the end of the Pao-tze Chieh, on the south side of the street.

(6) The precinct court of precinct No. 4 is situated outside the Ha-ta Men, in the center of the Ch'ing Hua Ssu Chieh, on the south side of the street.

(7) The precinct court of precinct No. 5 is situated in the place called P'an Chia Ho-yen, just south of the Street of the Mule and Horse Market (Lo-ma-shih-chieh).

(8) The head investigation bureau is situated in the high court of justice.

(9) The investigation bureau of the different precincts are situated in the respective precinct courts.

[Inclosure 3—Translation.]

PROCLAMATION.

THE CHIEF PRECINCT COURT.

The chief precinct court at Peking will be opened on December 9, 1907, in consequence of a memorial to the Throne from the board of law, which memorial received imperial sanction. This court will try criminal and civil suits of every sort and will have jurisdiction over the Inner and the Outer Cities. Hereafter when the people have for settlement any matters that come under the jurisdic-

tion of this court it shall be their duty to report the same to the head investigation bureau, situated in the high court of justice, for transmission to this court; as soon as their report is received the matter will receive speedy settlement. This court is established for the protection of the lives and property of the citizens, and if the litigants lay the facts before it the court will invariably decide the case with strict justice. But all litigious persons and barrators will be punished with the utmost severity. When anything is to be done by the court which is outside of its usual line of action as detailed below, public proclamation will duly be made in advance.

This court will have jurisdiction—

- (1) In criminal cases involving penalty above the third degree of banishment (two or three years).
- (2) In civil suits involving a sum in excess of 200 taels.
- (3) In any case transmitted to it by a precinct investigation bureau through the chief investigating bureau.
- (4) In cases involving destruction of property or means of livelihood.

[Inclosure 4—Translation.]

PROCLAMATION.

THE PRECINCT COURTS OF PEKING.

[From the Cheng Chih Kuan Pao, Dec. 11, 1907.]

The precinct courts of Peking are established in consequence of a memorial to the Throne from the board of law, which memorial received the imperial sanction.

These courts will be opened on December 9, 1907, for the trying of cases. Hereafter when the people have for settlement any matters coming under the jurisdiction of the courts herein mentioned it shall be their duty to report the same to the investigation bureau attached to each precinct court for transmission to the said court; as soon as the report is received the matter will receive speedy settlement. These courts are established for the protection of persons, lives, and property of the citizens, and if the litigants lay the facts before the courts they will invariably decide the cases with strict justice. But all litigious persons and barrators will be punished with the utmost severity. When anything is to be done by the courts which is outside of their usual line of action as detailed below public proclamation will duly be made.

These courts will have jurisdiction—

- (1) In criminal cases calling only for a light beating.
- (2) In civil cases involving any amount less than 200 taels.
- (3) In cases involving rents or leases of buildings.
- (4) In cases involving the boundaries of fields.
- (5) In cases involving property rights—i. e., in cases involving pawning, borrowing, or storing.
- (6) The breaking of labor contracts made for longer than a year.
- (7) In cases involving the payment of bills at wine shops, hotels, etc., or concerning the baggage or guests at such places.
- (8) In cases involving the stewardship of property.
- (9) In industrial contracts involving forests, fields, houses, or boats.
- (10) Trade-marks and patents.

File No. 1518/133-134.

Chargé Fletcher to the Secretary of State.

No. 888.]

AMERICAN LEGATION,
Peking, March 31, 1908.

SIR: In continuation of my No. 823 of January 24, last, I have the honor to inclose translation of an Imperial edict, dated the 15th instant, appointing Pao-hsi and Shen Yün-p'ei to assist in the organization of the deliberative assembly.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure.—Translation.]

(Imperial edict.)

DELIBERATIVE ASSEMBLY.

[From Cheng Chih Kuan Pao, Mar. 16, 1908.]

Let Pao-hsi and Shen Yün-p'ei assist in the organization of the deliberative assembly.

(NOTE.—The complete list of the officials appointed to organize the deliberative assembly is as follows:

By the edict of September 20, 1907: Prince P'u-lun, Sun Chia Nai.

By the edict of January 22, 1908: Ching-hsing, Yu Lien-san, Ting Chen-to, Lu Yuan-t'ing, Ts'ao Hung-hsun.

By the edict of March 15, 1908: Pao-hsi, Shen Yün-p'ei.)

File No. 1518/164-165.

Minister Rockhill to the Secretary of State.

No. 989.]

AMERICAN LEGATION,
Peking, August 28, 1908.

SIR: Referring to the legation's dispatches Nos. 742 of September 28, 1907, and 765 of October 22, 1907, with which were inclosed translations of the edicts establishing Constitutional and Deliberate Assemblies, I have the honor to transmit herewith a condensed translation of a most interesting memorial recently submitted to the Throne and approved by it concerning the mode of election to, the composition and the duties of the provincial deliberative assemblies, from which the members of the Constitutional Assembly are ultimately to be drawn. The provincial assemblies are to convene within a year.

The imperial edict of October 19, 1907, decreed the immediate establishment of provincial deliberative assemblies, but the instructions as to the method of forming these bodies were so vague that no attempt has yet been made in this direction by the provincial authorities. It is probable that, the above difficulty having been removed, the assemblies will be started within the period named. The constitutional assembly alluded to will be established as soon after the foundation of the provincial assemblies as the advancement of the country seems to the Throne to warrant such a step.

I have, etc.,

W. W. ROCKHILL.

[Inclosure.—Translation.]

Abstract of memorial submitted by the bureau for the collation of administrative methods and the Constitutional Assembly accompanying the regulations for the provincial deliberative assemblies.

(Imperial rescript issued July 22, 1908: "Sanctioned.")

An imperial edict was issued on October 19, 1907, saying that the establishment of the Constitutional Assembly had been decreed as a start toward a Parliament. In every Province there should be a deliberative assembly where public opinion could be ascertained, and the Constitutional Assembly should

draw its members from the provincial assemblies. The powers of these assemblies shall be limited strictly to debate, the final determination and execution of all measures belonging exclusively to the provincial authorities. The provincial assemblies shall furnish any information required by the Constitutional Assembly and they shall be empowered to make suggestions to the provincial authorities. [End of edict.]

The important principles of constitutional government are (1) giving the people an insight into governmental affairs and (2) placing officials under the scrutiny of the people. All forms of constitutional government have deliberative bodies.

The idea of consulting the wishes of the people is not a new one to China. It is advocated in the Chinese classics. But such popular discussion must be strictly regulated to avoid leading to disastrous results.

The imperial command has been received to establish provincial deliberative assemblies in addition to the Constitutional Assembly in Peking. The Empire unites in praise of this act of the Throne. Foreign constitutional governments have parliaments of two houses in the capital which act in conjunction with local self-government bodies. But owing to the size of the Chinese Empire local administration centers in the viceroy and governor, thus marking a differentiation from the foreign type of government. The provincial authorities are under the direct control of the Throne, another point of difference. The provincial assemblies, while concerned with local government and designed to voice popular opinion, can not be held to diminish the supreme authority of the Central Government. It must not be forgotten that all deliberative bodies are restricted in their functions to debate. They have absolutely no executive powers. In foreign constitutional governments the powers of popular deliberative bodies are similarly restricted. In Germany the promotion and removal of officials is expressly reserved as a prerogative of the Throne, likewise in Japan. A parliament is an essential attribute of a constitutional government and a date must be set for the establishment of a parliament in China. As a start toward a parliament the Constitutional Assembly and the provincial deliberate assemblies are now established. Hereafter the Throne may set a date for the establishment of a parliament. The method of operation of the parliament and the provincial deliberative assemblies will be identical. The powers of the parliament must be defined in advance.

PROVINCIAL DELIBERATIVE ASSEMBLIES.

[Regulations approved by the Throne, July 22, 1908.]

ARTICLE I.—*General character.*

SECTION 1. The provincial deliberative assemblies shall conform with the imperial edicts and act as places where the public opinion of the respective Provinces may be ascertained; they shall also deliberate as to what would seem to be beneficial for the Province and shall advise their superiors of their opinions. The above shall be their principal function.

The provincial deliberative assemblies shall be held wherever the provincial viceroy or governor has his seat.

ARTICLE II.—*The members of the assemblies.*

SEC. 2. The members of the provincial assemblies shall be elected to the numbers set forth in the following table and shall have to be selected in two successive elections:

Members.		Members.	
Feng-t'ien	50	Anhui	83
Kirin	30	Kiangsi	66
Heilungchiang	30	Chekiang	114
Chihli (including Shun-t'ien)	40	Fukien	72
Nanking	55	Hupei	80
Hunan	82	Hsin-chiang	30
Shantung	100	Ssu-ch'uan	103
Honan	96	Kwang-tung	91
Shansi	86	Kwang-hsi	57
Shensi	63	Yunnan	68
Kansu	43	Kwei-chou	39
Kiangsu	66		

The Manchu bannermen shall be held to be residents of the places where they are stationed, whether it is in Peking or the Provinces. Up to the time the laws governing the bannermen are changed, however, the Peking bannermen shall be entitled to 10 exclusive representatives, who shall constitute an addition to the number permitted to Chihli (including Shun-t'ien). Bannermen stationed as garrisons in the Provinces shall be represented by from one to three additional members as determined by the viceroy, governor, and Tartar general acting jointly.

NOTE BY MEMORIALISTS.—The representation in the provincial deliberative assemblies would best of all be arranged strictly on a basis of population, but as China has not yet made a census, and to make one now would consume too much time, the statistics of the literary examinations and the tax rolls have been taken as a basis for reckoning the number of assembly members to assign each Province. Five per cent of the number of licentiates of each Province was fixed as the number of the members. But in Kiangsu, while the revenue yielded to the Throne in tribute rice is large, the number of licentiates is small. Accordingly one member has been added for every 30,000 piculs of rice yielded. On this basis there are 9 additional members at Nanking and 23 at Soochow. In Chekiang and other Provinces while much tribute rice is yielded yet the number of licentiates is also large, and there have been no additional members added. In Manchuria and the New Dominion, which places have not been created into Provinces for a very long time, it is difficult to learn definitely statistics of either the taxes or the examinations; accordingly an attempt has been made to set a suitable number irrespective of these facts. The number of members returned from each prefecture, independent subprefecture, department, and district will be arranged by the provincial authorities in accordance with the supplementary regulations.

In foreign countries a distinction is made between the direct election and the indirect election of the members of deliberative bodies. In the former case the members are chosen directly by the voters. In the second case the voters select electors, who in turn elect the members of the deliberative bodies. At this time, when a beginning is being made in the methods of election, nothing careless should be done. It is to be urged against a hasty adoption of the method of direct election that its operations are not very exact and make it possible for mere useless figureheads to be elected. In this article the second method described is selected with a view to caution.

In the last few years many edicts have been issued having for their aim the obliteration of the distinctions between Manchus and Chinese, and it is hoped that at some future time when the laws governing them have been altered that the bannermen may be accounted residents of the locality in which they live. But before these laws are changed and the Manchus merged in the Chinese population, if the bannermen in Peking and elsewhere are not provided with special representatives they will have no opportunity to become acquainted with governmental affairs. Accordingly, provision has been made for the temporary representation of bannermen by special members, etc.

ARTICLE III.

SEC. 3. Any man 25 years of age, or over, who is a native of a Province and conforms in any one respect with the requirements enumerated below has the privilege of voting in the election of members of the deliberative assemblies:

"(1) Having been successfully engaged for three years or more in teaching or in some other occupation conducive to the public good.

"(2) Having graduated from a middle school, or school of corresponding grade, in China or abroad, and possessing proof of the same.

"(3) Having the former literary degree of a senior licentiate (kung-sheng) or a higher one.

"(4) Having held any substantive official post of the seventh civil or fifth military rank or higher, and not having been degraded on impeachment.

"(5) Having any business capitalized for \$5,000 or possessing real estate to the value of \$5,000."

NOTE.—The franchise abroad may be classified as universal and restricted. In countries where universal franchise is the rule the Government makes no demands as to property; all male citizens who are of legal age may vote. In countries of restricted franchise, possession of property or the amount of taxes paid is the basis for granting or withholding the franchise. At the present time, when a beginning is being made in the establishment of elective offices, the universal franchise can not be granted. If a property qualification alone were demanded it would tend to inculcate money greed among the people and lead them to honor the rich. So various qualifications have been selected and the range has been widened to include other things besides material wealth. There have been added qualifications of reputation, learning, and official office, all of which are adjudged of equal importance with wealth, and any one of which will entitle a man to vote. And thus the admission of unqualified men to vote will be avoided and no partiality will be shown, etc.

SEC. 4. Any man of legal age (25) who, though not a native of a Province has nevertheless lived in the said Province 10 years and has the sum of \$10,000 or more invested in a business or in real property, is qualified to vote for members of the provincial deliberative assembly of the said Province.

SEC. 5. Any native of a Province or any one (30 years old) not a native, who has lived in the Province at least 10 years, is eligible to election to the provincial deliberative assembly.

SEC. 6. If under any of the following disabilities, no man shall be allowed to vote for or to be elected a member of the provincial deliberative assemblies:

- (1) Any turbulent or law-breaking person.
- (2) Any person who has suffered imprisonment or any more serious penalty of the law.
- (3) Any one who has been engaged in any disreputable business.
- (4) Any one who has been put under suspicion in a business matter and has not been exonerated.
- (5) Any one who uses opium.
- (6) Any insane person.
- (7) Any who himself or a member of whose family is engaged in any disreputable pursuit.
- (8) Any illiterate person.

SEC. 7. The following of the occupations named below during their continuance shall prevent a man from voting for or from being elected a member of a deliberative assembly:

- (1) Tenure of public office in the province or acting as private secretary to any official.
- (2) Enrollment as a soldier or in the first or second reserves.
- (3) Holding a commission as a police officer.
- (4) Being occupied as a Buddhist or Taoist priest or as a religious teacher in any other creed.
- (5) Being enrolled as a student in any school.

NOTE.—The disabilities mentioned in this section are not selected because they show necessarily any lack of those qualities which an elector or a candidate should have, or because they indicate a lack of accord with the character of such functionaries; but the officials of a province and their private secretaries are engaged in public affairs and occupied with the same business as is the provincial deliberative assembly, and it is to be feared that if the former are given the electoral or office-holding privileges misconduct and mutual interference may result, or criminal alliance. It is a universal law that soldiers shall have no right to concern themselves with matters of government and the principle applies to the police. Buddhist, Taoist, and other religious priests are concerned exclusively with the affairs of their respective religious organizations and do not interfere with mundane matters. Students in schools should put their attention on their studies, and naturally should not concern themselves with governmental matters. For the above reasons the classes enumerated are debarred from voting for or being elected members of the provincial deliberative assemblies.

SEC. 8. Teachers in primary schools shall not be eligible to election, for to hold office as members of the deliberative assemblies would interfere with the performance of their important duties. But they shall retain the right to vote.

SEC. 9. The regulations governing the method of voting will necessarily be very long and will consequently be embodied in a separate set of rules.

ARTICLE III.—*The chairman, vice chairman, and permanent committee of the deliberative assembly.*

SEC. 10. A chairman, two vice chairmen, and a number of permanent officials shall be selected from among the members of the assembly. The members on continuous duty shall be one-fifth of the entire number. The chairman and vice chairman shall be elected separately by ballot, but the members on continuous duty shall be elected en bloc. A majority of the votes cast shall elect. The detailed regulations shall be determined by each assembly.

NOTE.—The business of the province never ceases, and in order that the assemblies may not be obliged to be in session longer than is necessary the above permanent committee is provided for, etc.

SEC. 11. The chairman shall direct the business of the assembly assisted by the vice chairman. In the absence of the chairman a vice chairman shall act, and in the absence of all three a temporary chairman shall be elected.

SEC. 12. The members of the permanent committee shall conform to section 21, clauses 9 to 12, and when the assembly is not in session shall obey the orders of the chairman, giving account of their actions at the next subsequent meeting of the assembly. The members of the permanent committee shall be ready at all times to answer the inquiries of the viceroy or governor.

SEC. 13. The chairman, vice chairman, and members of the permanent committee shall be in their place of public business continuously, in order to avoid delay.

SEC. 14. With the exception of the above special functions the chairman, vice chairman, and members of the permanent committee shall have the same powers as the other members of the assembly.

ARTICLE IV.—*Terms of offices and filling of vacancies.*

SEC. 15. The chairman and members of the assembly shall hold office for three years, but the members of the permanent committee shall hold office for only one year. The term of office shall be reckoned from the first day of the meeting of the assembly next following upon the election.

SEC. 16. When the chairman for any reason irregularly vacates his office, the vice chairman shall take his place. When the vice chairmen for any reason irregularly vacate their office a successor for each shall be elected by the members of the assembly from among their number. If the vacancy occurs while the assembly is not in session the choice shall be made from among the members of the permanent committee. When an unexpected vacancy occurs in the permanent committee it shall be filled by the man highest on the list of the expectant members of the committee. If a vacancy occurs in the assembly it shall be filled by the one highest on the list of those who were elected to the assembly but were not appointed.

SEC. 17. Those appointed temporarily to fill vacancies shall hold office only until the conclusion of the term for which they were appointed.

ARTICLE V.—*Elections and resignations.*

SEC. 18. When his term of office has expired a member may be reelected, but only for one additional term. No member shall be removed before the expiration of his term on account of changes in the electoral districts.

SEC. 19. No member may resign except for the following reasons: (1) Sickness that makes impossible for him the performance of his duties; (2) unavoidable changes of residence to another province; (3) some other reason approved by the assembly.

SEC. 20. Any member reelected may resign if desirous of doing so.

ARTICLE VI.—*Powers and duties of the assembly.*

SEC. 21. The deliberative assembly shall perform the following functions: (1) Determine the policy of the province; (2) make preliminary estimates of the income and expenditure of the province; (3) settling the amount of the above; (4) determine the taxes to be levied and the funds to be borrowed; (5) decide as to innovations in the provinces (i. e., additional taxes, etc.); (7) decide as to changes in the administration of the provincial government; (8) elect delegates to the constitutional assembly; (9) to answer questions put by the constitutional assembly; (10) to answer questions put by the viceroy or governor; (11) to supervise the local self-government societies; (12) receive and consider the proposals of the local self-government societies and the people.

SEC. 22. Those measures advocated by the deliberative assembly they shall request the viceroy or governor to make official. If the viceroy or governor consider the said measures unwise he shall direct the deliberative assembly to reconsider them.

SEC. 23. When the deliberative assembly shall decide that any measures are unwise it shall appeal to the viceroy or governor to make the required changes. If the latter official disagrees with the opinion of the deliberative assembly the procedure outlined in section 22 shall be followed.

SEC. 24. If the deliberative assembly when instructed by the provincial authorities to reconsider any decision shall not alter said decision the provincial authorities may lay a full statement of the case before the constitutional assembly in Peking.

SEC. 25. In anticipation of the meeting of the assembly the viceroy or governor shall make a list of those topics enumerated under the first seven heads of section 21, which the assembly shall discuss at the coming session. With the exception of heads 2 and 3 the assembly is at liberty to discuss any of the topics mentioned.

SEC. 26. The deliberative assembly may appeal to the viceroy or governor in case of uncertainty, but if said official deems it necessary to maintain secrecy with regard to any matter he may inform the assembly of the general aspects of the case only.

SEC. 27. If the viceroy or governor of a province shall hinder the assembly in the exercise of its lawful functions or shall break the laws of the Empire, the deliberative assembly may accuse him to the constitutional assembly in Peking.

SEC. 28. In cases of bribery by the officials of the gentry of a province the deliberative assembly may acquaint the viceroy or governor of the facts of the case.

SEC. 29. If two provinces shall be engaged in a dispute the deliberative assembly may request the viceroy or governor to lay the case before the constitutional assembly in Peking for decision.

SEC. 30. When the constitutional assembly shall make any decision in accordance with the provisions of sections 24, 27, and 29, said decision shall be authoritative.

ARTICLE XII.—*Meeting of the assembly.*

SEC. 31. The sessions of the deliberative assembly shall be of two kinds, regular and special. The viceroy or governor shall summon the deliberative assembly to a session. The viceroy or governor shall attend the assembly in person the first day and explain the rules under which it will be conducted.

SEC. 32. The deliberative assembly shall have one regular annual session which shall last about 40 days, from the 1st of the 9th moon to the 11th of the 10th moon, but an extension of 10 days may be made in order to conclude unfinished business.

SEC. 33. Special sessions of the assembly may be held to settle important business at the order of the viceroy or governor, or at the petition of one-third of the members, or at the petition of the chairman and permanent committee.

SEC. 34. Notice shall be given to the members 30 days in advance of any meeting of the assembly of the topics to be discussed at the next session.

SEC. 35. A half of the members shall be present before the assembly shall be declared open.

SEC. 36. A majority of the members shall decide any question, and in case of a tie vote the chairman shall cast the deciding ballot.

SEC. 37. The viceroy or governor may attend the assembly to declare his views or he may send a deputy to do so, but he may not vote.

SEC. 38. When any topic coming up for discussion is one of personal importance to any member or to any member's family or relatives, or if it is a topic affecting any official prerogative of any member, said member shall not engage in the discussion nor participate in the vote in connection with said topic.

SEC. 39. No member shall be molested elsewhere for language used in the assembly, but if he shall repeat any sentiments outside of the assembly which are of an unlawful character he may be punished therefor.

SEC. 40. No member shall be arrested for any crime during the session of the assembly without the assent of the assembly.

SEC. 41. Except for the following special reasons, the public shall not be denied admittance to the sessions of the deliberative assemblies: (1) At the instruction of the viceroy or governor; (2) on the unanimous decision of the chairman; (3) at the instance of more than 10 of the members.

SEC. 42. Except when the chairmen unanimously consider that secrecy is imperative the transactions of the deliberative assemblies shall be communicated to the public, the provincial authorities, and the constitutional assembly in Peking.

SEC. 43. When any member shall transgress the rules of debate, the chairman may forbid him to continue discussion, and in the event of his refusal to obey may expel him from the hall, or if disorder arises in the assembly the chairman may dissolve the meeting.

SEC. 44. Spectators breaking the rules may be ejected by the chairman.

SEC. 45. The rules of debate and the rules governing the admission of spectators shall be drawn up by the deliberative assemblies and authorized by the viceroy or governor, and promulgated.

ARTICLE VIII.—*Regulations.*

SEC. 46. The highest provincial authority has the duty of supervising the election of the members of the deliberative assembly and controlling the meetings of the assembly; he shall also at his discretion authorize the decisions of the assembly.

SEC. 47. The following shall be sufficient reasons for the adjournment of the assembly by the viceroy or governor: (1) Transgression of the limits of their

functions and refusal to obey the viceroy or governor; (2) the arrival at any decision of an illegal character; (3) any disorder too serious to be controlled by the chairman.

SEC. 48. For the following reasons the viceroy or governor may memorialize the Throne to dissolve the assembly, but in this event he shall lay the case fully before the constitutional assembly: (1) The expression of sentiments reflecting unfavorably on the Throne; (2) any act calculated to disturb the peaceful rule of the country; (3) refusal to adjourn when ordered to by the viceroy or governor, or refusal to yield after having been adjourned several times; (4) the refusal of a considerable number of the members of the assembly to attend the meeting of the assembly after having been repeatedly summoned.

SEC. 49. When the assembly has been dissolved the viceroy or governor shall at the same time instruct the local officials to hold new elections, and the assembly shall convene within two months.

ARTICLE IX.—*Offices of the Assembly.*

SEC. 50. The assembly shall establish offices for the transaction of the correspondence and the keeping of the accounts of the assembly, said offices to be controlled by the chairman.

SEC. 51. The following officials shall be employed in the offices: A chief secretary and four secretaries, said officials to be selected by the chairman and the appointments to be confirmed by the viceroy or governor.

SEC. 52. The deliberative assembly itself shall determine the exact lines on which the offices shall be conducted.

ARTICLE X.—*Expenditures.*

SEC. 53. The viceroy or governor shall furnish funds to the assembly for the following purposes: (1) The traveling expenses of the members; (2) the expenses of the chairman and the members of the permanent committee; (3) the salaries of the secretaries; (4) miscellaneous expenditures; (5) an emergency fund.

SEC. 54. The viceroy or governor shall determine the amount of the expenses and salaries mentioned in the preceding section.

SEC. 55. The chairman shall audit the expenditures of the assembly monthly and shall draw up accounts of expenditures at the regular sessions and submit the same to the assembly.

ARTICLE XI.—*Discipline.*

SEC. 56. The discipline used in the deliberative assembly may be divided into the following two varieties: (1) Suspension from attendance at the assembly for a period not exceeding 10 days; (2) expulsion.

SEC. 57. Suspension shall require the unanimous decision of all the chairmen. Expulsion shall follow unanimous decision of the assembly.

SEC. 58. A member may be suspended for infraction of rules or for disorderly conduct; in case of serious offenses he may be expelled.

SEC. 59. If a member shall, without reason, absent himself for any period of 10 days from the meeting of the assembly he shall be expelled.

SEC. 60. If a member shall meddle in any outside affairs he shall be suspended or in case of unusual gravity expelled.

ARTICLE XII.—*Additional sections.*

SEC. 61. These regulations shall take effect from the date of arrival of the dispatch bringing news of the imperial sanction.

SEC. 62. In case of any deficiency in these regulations the provincial deliberative assembly may make suggestions to the provincial authorities, who will in turn communicate with the bureau for the collation of administrative methods and the constitutional assembly, who will together arrive at a decision with regard thereto.

File No. 1518/172-175.

Minister Rockhill to the Secretary of State.

No. 1005.]

[Extract.]

AMERICAN LEGATION,
Peking, September 12, 1908.

SIR: In the legation's dispatch No. 765, of October 22, 1907,¹ was forwarded to you a copy of an imperial edict of October 17, 1907, concerning the establishment of "provincial deliberative assemblies" and "councils of deliberation" in all the various prefectures, departments, and districts in the Empire. These bodies were to discuss matters relating to the reforms to be introduced in the administration of the country, so far as they affected local interests, and to make recommendations to the high provincial authorities.

On July 22 of the present year imperial sanction was given to a memorial submitted by the bureau for the collation of administrative methods and the constitutional commission jointly, containing a set of regulations, 62 in number, defining the duties of the provincial deliberative assemblies, their membership, the mode of election, the qualifications of voters, their organization, etc. The powers granted these assemblies (VI, sec. 21-30) would be ample to make them valuable aids to the Government in enlightening it on the wants of and conditions in the Provinces, especially as liberty of discussion and personal inviolability are insured the members (XII, 39-40), but the provisions (X, 46-54) place in the hands of the viceroys and governors absolute control over them and their deliberations.

On the same day as that which these regulations were published, July 22, last, there appeared another imperial edict ordering the convening of the provincial deliberative assemblies in every Province of the Empire before July 22, 1909, and directing the bureau for the collation of administrative methods and the constitutional commission to jointly report to the Throne on the question of the basic principles of the so-called constitution, on the methods to be followed in electing members to the Imperial Parliament (to be called in 1917), and on the general powers to be vested in it. The same edict called for a detailed scheme of the reforms to be put in force throughout the Empire prior to the calling of the Parliament, and the adoption of which is considered an indispensable prerequisite to its successful operation.

The edict and the memorial of the bureau and commission intrusted with this work, which was published on August 27 last, are inclosed, and form a document of the highest interest. The first part of the memorial lays down the fundamental principles which must be followed in shaping all future measures in the work of transforming the Empire, so as "to conserve the power of the Sovereign and protect the officials and people" by the grant to them of certain privileges and rights to be guaranteed by imperial decree. The principle, the only preoccupation of the memorialists has been to preserve undiminished the autocratic powers of the Sovereign, while bringing him in closer relation with the people through the medium

¹ See Foreign Relations, 1907, p. 197.

of the provincial assemblies and the Imperial Parliament, which are to be purely consultative bodies without any power whatsoever, not even that of choosing the subjects of their debates. It can not be doubted, however, that the calling into existence by the Government of these assemblies, that the encouragement now given to discussion by the people and their direct representatives of local and national issues, will have ultimately far-reaching effect on the future of the country.

The Government of China has rarely ignored popular opinion. It has accepted its conclusions, even when conflicting seriously with its wishes or interfering prejudicially with its plans.

The second portion of this long document contains the detailed program of reforms to be carried out by the imperial and provincial governments before the convening of the imperial parliament in 1917. They may be classed under five principal heads:

1. Measures dealing with the representative assemblies, local, provincial, and imperial;

2. Measures dealing with finances, including a general census, ascertainment of the revenues and expenses of the Empire, establishing rates of taxation, both local and provincial, and a general method of public accounting;

3. Preparation and revision and publication of codes and establishment of courts;

4. Extension of the national educational system; and

5. Reorganization of the various offices of government, of the banner corps and the imperial clan; also of civil service generally, and perfecting and extending the police forces throughout the Empire.

The year of 1916, the last before the convening of Parliament, will see the promulgation of the constitution, the fixing of a budget, the official system reorganized, and a president of council (or premier) chosen by the Throne; and with that the new era will begin, the rate of literacy being by that time brought up to 5 per cent.

It seems highly probable that before the beginning of the new era many changes in the program of the Government will take place, and that many new regulations will be compiled, sanctioned by the Throne, and published. However that may be, the present program clearly indicates the tendency of the statesmen in charge of the reform movement, the limitations they hope to impose on it, the object they seek to attain, which would seem to be no other than a perpetuation of the existing system under a thin veil of constitutional guarantees.

It is instructive to note that a fortnight after the issuing of the edict of July 22, but some days before its publication, another imperial edict appeared commanding the universal suppression of the political society (Chen-wen-ssu) which had come into existence little more than a year ago in agreement with the invitation from the Throne to the nation to submit to the Government schemes of prospective reform and enlighten it on the wishes and wants of the people.

I have, etc.,

W. W. ROCKHILL.

[Inclosure 1.—Translation.]

Memorial and edict on constitutional government, August 27, 1908.

A memorial in obedience to the imperial command selecting the important points, collecting the general principles of constitutional system, and all the methods of choosing members of a Parliament, together with the preparatory measures to be taken every year before a Parliament has been assembled, carefully planned in sequence and duly set forth awaiting the sacred inspection.

On the 24th day of the 6th moon of the 34th year of Kuang Hsü (July 22, 1908) an imperial edict was issued as follows:

"We have received the command of Ts'u-hsi-tuan-yu-k'ang-i-chao-yü-chuang-ch'eng-shou-kung-ch'in-hsien-ch'ung-hsi, Empress Dowager, that the bureau for the collation of administrative methods, the constitutional commission, and the Princes I-K'uang and P'u-lun, shall jointly memorialize, proposing the regulations for the organization of the provincial deliberative assemblies and the selection of members of Parliament. The provincial deliberative assemblies will choose the places for the deliberative assemblies to meet and the constitutional commission will arrange the different steps to be taken in choosing members of Parliament, and serve as a foundation for a parliament.

"The matter is of great importance and must be arranged with care. The regulations which the princes and ministers have presented have been carefully examined and found satisfactory. Action will be taken on the lines proposed for the manifestation of justice.

"As deliberative assemblies (Tzu I Chü) are to be established in every province for purposes of training, all our officials and people should together exert themselves, all actuated by loving loyalty, pointing out truly profit to be gained and abuses to be remedied in their respective localities. The people should earnestly fulfill all the duties incumbent upon them in the proper order without selfish reservations, which would hinder the public welfare, and without rash impatience which would confuse the regulation, not looking upon the matter as too easy, so that the deliberations become empty wrangling, not failing to understand the limitation of powers, so as to make laws which overstep authority. Above all we hope that our people will not try to keep anything back, but will understand how to respect the authority of the Government.

"Viceroys and governors ought also to cherish the spirit of 'concentrating thought upon the extension of advantages.' They must keep in sympathy with the people. They must investigate with unbiased mind and devote themselves to good works. When high and low are in practical unanimity right will gradually prevail.

"In regard to the election of members of Parliament it is important above all that the civil authorities of every place should supervise the matter faithfully, that proper selection may be made. On no account should men of low principles or bad conduct be allowed to hinder the peaceful establishment of government. The plan in these sections proposed by the princes and ministers is very acceptable. As to the sanction regarding the limit of time for the establishment of constitutional government it is an essential feature of the plan. Though it is impossible to force an exact identity with the constitutional arrangements of other nations, the important principle is that executive power belongs to the officials, and deliberative functions to the members of Parliament. And the great principle is that, above, power shall not be arbitrarily exercised, and below, there shall be no obedience. The establishment of constitutional government in China has been by the imperial will. It must be carefully prepared for. The beginning and the end must both be carefully planned. There must be no empty verbiage without real substance. The bureau for the collation of administrative methods and the constitutional commission, and the princes and ministers shall direct those who are skilled in the service of government in the bureau and commission to cull out the good features of other governments, to show discrimination in the establishment of constitutional government, announcing without delay the important features of the constitutional régime as regards the Sovereign and the method of choosing members of Parliament, collating the important points and deciding on the order of the preparatory measures to be taken every year until the time for the opening of Parliament, and memorializing in detail.

"After the imperial scrutiny the time for opening Parliament shall be publicly announced in order to arrange the action to be immediately taken by our officials and people and satisfy the aspirations of our people in the matter of

government, and in order to cause all the people to know that the proper time having arrived the court has the inflexible purpose to change the old methods."

We look up to our Empress Dowager and Emperor and see that they take the measure of heaven and earth as their measure, and the heart of the people as their heart, they consult the general welfare and ignore self-interests. With such motives all things must turn out right. The officials and people within the wide seas are reverently grateful.

The memorialists, in obedience to the imperial command, have directed those skilled in the science of government in the bureau and commission to select and consider carefully the proper measures to be taken. These experts have now made their report, which the memorialists have gone over with painstaking carefulness and they have come to a unanimous decision.

It should be noted that the nations of the East and the West all have established constitutional governments. Some have done so by pressure from below and some under influences from above. All have constitutions and parliaments. Those which have established their constitutions under pressure from below have commenced with strife between sovereign and people and have ended the work by mutual concessions between sovereign and people. Those that have established their constitutions under influences from above have first determined the ultimate authority of the court, and thereafter there has been granted to the people the advantage of inquiring about the affairs of government. The organizations of the various governments differ according as they have been fixed by the sovereign or by the people. Parliaments are single or in two houses. Now the court selects the merits of the different systems to form the rules of procedure. It must look within and study the nature of the government and down to examine the disposition of the people, and when the matured power of the throne is resistless then issue the order.

In most of the nations in which the constitution has been granted from above the origin of all power is in the court. The parliament must grow out of the constitution, not the constitution out of the parliament. The Government of China is to be constitutional by imperial decree. This is an unchangeable principle. Therefore in regard to establishing a parliament, the general principles of the constitution will be settled as a preliminary. When they are announced the parliament may be assembled. The principles of the constitution are the great laws which may not be discussed. Once fixed they may not be lightly altered. They are not like other laws, which may be changed according to circumstances. Therefore in first drawing up these constitutional laws, unless time is taken and unless they are minutely studied into, proper care will not be displayed.

In drawing up these laws, although they can not be finished hastily, yet the broad principles underlying them ought to be first settled, so that all rules drawn up afterwards may be in accord with these principles. Now, the constitution is the fundamental law of the government, to be respected by sovereign and people alike. From the Son of Heaven to the common people, all must respect it and not lightly violate it. The original government of other countries where constitutions have been granted to the people by the sovereign have not been alike, and so the constitutions differ, but if we consider the most important principles, they are only a few in number.

First. The sacred majesty of the sovereign may not be offended against.

Second. The sovereign has absolute power, which he exercises in constitutional forms.

Third. The officials and people, according to the laws, have privileges to which they are entitled to and duties which they owe. All other matters result from these principles as the root. For example, that the government (not this Government) may be criticized by the parliament grows out of the principle that the "sacred majesty of the sovereign may not be offended against." That the parliament may assist by advice in the making of laws and investigate the public finances grows out of the principle that the people are protected in the exercise of certain privileges and duties. That judges are appointed to exercise jurisdiction in legal matters and the administration of the laws grows out of the absolute governing power of the sovereign. All may be comprised in one sentence. The constitution is designed to conserve the power of the sovereign and protect the officials and the people. The memorialists, making this a fundamental principle, have drawn up articles to embody the general principles of the constitutional government. At the beginning the superior powers are enumerated to show that the sovereign is the basis of support for the officials. Next the privileges and duties of officials and people are enumerated to show

that the people are the foundation of the state. Although sovereign and people are included in the scope of the law, yet superior power centers in the court. Although the applicable parts of the laws of other countries have been culled out, yet the original governmental principles of China have not been violated. The rules for the election of members of parliament are an essential part of the constitutional arrangements. In respect to the limitation of the deliberative powers and the conditions of eligibility of election and candidates, unless there are fixed rules, it will lead to confusion as the time approaches, and they must be settled according to correct general principles to insure success. When the imperial sanction has been obtained the memorialists will instruct the officers engaged in this work to draw up detailed rules in accordance with these general principles. But the time must be long for the discussion of all points, that nothing may escape notice. When this work is finished it will be submitted to the imperial inspection, and after it has been approved it will be published. In regard to the preparation to be made for opening parliament there is great confusion and it is necessary to have a definite order of procedure. It is like building a house. Workmen and material must be gathered. The house may then be planned and worked out. The work must be watched day and night without intermission from the beginning to the end, and so it may reach completion. Or it is like making a journey. Clothing, food, boats, and carts must be got ready, and the traveler must press on day after day without stopping for rest, and so he will reach his destination. These are the general principles of action. Certain things must be done from above, as systematizing the government's finances, for which the census is of the utmost importance. Also the distinction between Manchus and Chinese must be swept away. Official duties must be defined. The laws must be codified. Courts of law in regular gradation must be established. Next, there are matters which must be prepared from below. Education must be extended. The increase of knowledge is of the greatest importance. Practice in self-government is next in importance. If all such important matters are not first attended to, but are left to be settled when parliament is opened, there will be no certain rules for parliament to proceed upon. If there are no statistics of population or wealth, how can the members of parliament be elected? If the laws are not codified, how can government affairs be discussed? If the education of the people is not complete how can they meet the requirements of electors or candidates? If local government has no fixed method, how can the people receive their powers and privileges and assume their duties? So parliament would be an empty name, and would be of no assistance to the government. It would not be built on solid facts.

In regard to the period of time required. From 3 to 5 years would be the shortest time for completing all this and 10 years would be the longest time necessary. The memorialists have agreed that, reckoning from the thirty-fourth year of Kuanghsu (1907-8) as a beginning to the forty-second year, these 9 years will be sufficient to get everything in readiness. They have respectfully prepared a schedule. The time for convening parliament should be fixed by imperial decree. The memorialists also earnestly beg that, as the condition of the country is perilous and the hearts of the people uneasy, trouble within and calamity from without, danger threatening, and no parliament at the side to investigate matters, urgent measures may be taken to overcome half-heartedness and procrastination, that there may be peace above and completion below. Nothing is more important than systematizing the laws of government, bringing about sincere mutual confidence.

The general principles laid down by the memorialists with the limitations of power may not be changed in the least particular. The program for the work of the nine years should be given to the officials in Peking and the provinces to be carried out honestly, without the least evasion. It is necessary to beg that an imperial edict warn officials and people throughout the Empire to respect the regulations and stimulate each other to move forward cautiously but perseveringly, each doing his utmost to secure good government. So there will be boundless daily improvement. The general principles of the constitution, rules for the parliament and for the election of members of parliament, and the preparatory work of each year are now respectfully presented for the imperial examination, and the imperial will as to the date for convening parliament is reverently awaited. May the "silken sounds" descend to inform the Empire and fix the road for ten thousand years, comforting the hopes of myriads who long for peace.

The memorialists have carried on their work with the greatest care. The bureau for the collation of administrative methods has revised the draft in consultation with the constitutional commission. This detailed report is drawn up in obedience to the Imperial order and respectfully submitted for the approval of Their Majesties the Empress Dowager and the Emperor.

The general principles of government, of the organization of parliament, and the general rules for the election of members of parliament, drawn up in obedience to the imperial will, are as follows (the detailed regulations will be issued when methods of government are considered). It is reverently noted that in the form of constitutional government established by the sovereign all power belongs to the sovereign making the laws, the executive work of the Government and the administration of the laws are all his general prerogative. In making laws the parliament will advise. In the executive work of government the Government (officials) will assist. The judiciary department will administer the laws in accordance with the statutes. From the Throne to the officials and common people, all will act in accordance with the constitution established by the imperial will. It is hoped that this will be observed forever without any encroachment of authority. With this idea as the root the following (constitutional) laws are respectfully submitted:

THE POWERS OF THE SOVEREIGN.

1. The Ta Ch'ing Emperor will rule supreme over the Ta Ch'ing Empire for one thousand generations in succession and be honored forever.
2. The sacred majesty of the sovereign may not be offended against.
3. Laws shall be made and promulgated by the sovereign, and he has the power to determine what may be assigned to others for deliberation. (Laws which have been passed by the parliament shall not become operative until approved and promulgated by the sovereign.)
4. The sovereign has the power to convoke, to open and to close, to suspend and to extend the time of, and to dissolve parliament. (On the dissolution of parliament the people shall be called upon to elect a new parliament. The members of the old parliament shall be classed with the common people. If any of them commit offenses they shall be punished by the proper court according to circumstances.)
5. The sovereign has power to appoint all officials and fix their salaries, and to degrade or promote them. (The power to use men rests with the Emperor. The parliament may not interfere with this.)
6. The sovereign has supreme command over the army and navy, with power to make all regulations concerning them. (The sovereign may dispatch armies and fix the number of soldiers. In this his power is absolute. The parliament may not interfere in military affairs.)
7. The sovereign has power to declare war and to make peace, to make treaties, to appoint and receive ambassadors. (Foreign relations will be controlled by the sovereign, without the advice of the parliament.)
8. The sovereign has power to take repressive measures, and in times of emergency to deprive officials and people of their personal liberty.
9. The sovereign has the power to confer distinctions and to issue pardons. (Mercy is from above. Officials, below, may not arrogate it to themselves.)
10. The sovereign has supreme power over the administration of the laws and the appointment of judges, but he will act in accordance with the imperially sanctioned laws, and not make changes arbitrarily. (Power to administer the law rests with the sovereign. Judges are appointed by the sovereign to act for him in the administration of the laws. Changes will not be made by the sovereign arbitrarily, because the interests at stake in law cases are important, so that imperially settled laws must be treated as final to avoid confusion.)
11. The sovereign has powers to issue "imperial orders" or to cause them to be issued, but in the matter of laws which have already received the imperial sanction he will not change or abrogate laws which have already received the imperial sanction without first obtaining the advice of parliament and acting on its memorial. (Statutes proceed from the power of the sovereign to administer the laws. Imperial orders proceed from the power of the sovereign to carry on government. The two powers are distinguished. Therefore "imperial orders" may not be used to abrogate statutes of law.)
12. When parliament is not in session, in case of urgent necessity, the sovereign may issue emergency orders to raise funds which may be necessary. But the next year when parliament meets he shall refer such matters to the parliament.

13. The expenses of the imperial household shall be fixed by the sovereign and taken from the national treasury without reference to parliament.

14. In the great ceremonies of the imperial household the sovereign shall have supreme authority over the imperial clan and shall appoint ministers to settle such affairs. The parliament may not interfere.

POWERS, PRIVILEGES, AND DUTIES OF THE OFFICERS AND PEOPLE.

1. All officers and people who have the qualifications prescribed by law are eligible for appointment as civil or military officials and members of parliament.

2. Officers and people who keep within the law will have freedom of speech, of the press, and of assembly.

3. Officers and people shall not be liable to arrest, restrictions, or punishments except as prescribed by law.

4. Officers and people may appeal to the judiciary officials to judge their cases.

5. Officers and people can be judged only by those specially appointed to act as judges.

6. Officers and people shall not be disturbed without cause in their possession of property, nor interfered with in their dwellings.

7. Officers and people have the obligation to pay taxes and render military service as the law may prescribe.

8. Officers and people shall continue to pay taxes at the rate now assessed until the law has been changed.

9. Officers and people have the duty of obedience to the law of the land.

GENERAL LAWS CONCERNING PARLIAMENT.

1. The parliament has only deliberative powers. It has no executive power. Measures which have been decided upon by parliament shall not be carried out by the Government until after the imperial sanction has been obtained.

2. Measures brought up for discussion in parliament must be such as relate to the welfare of the whole nation and not local matters affecting one Province only.

3. Regular annual expenditures which have been determined by imperial fiat, or which are required by law, shall not be abolished by parliament except in consultation with the Government. (The exact figures must be arrived at by proper accounting methods.)

4. Parliament shall assist in estimating the annual budget of revenue and expenditure.

5. If any higher officer of the Government is guilty of violating the law, parliament may impeach him only. The power to retain or dismiss rests with the sovereign. Parliament must not interfere with the right of the Throne to promote and degrade officials.

6. After measures have been agreed upon by the upper and lower houses of parliament they may memorialize the Throne and the measures will be put in force after they have received the imperial sanction.

7. When parliament memorializes the Throne it shall be done through the presiding officer of the parliament.

8. Members of parliament shall not speak disrespectfully of the court or slander others. Violation of this law will be punished.

9. When parliament is in session, the presiding officer shall have the power of directing, conducting judicial examinations, and keeping order. When any member offends against parliamentary rules the presiding officer may silence or expel him.

10. If any member of parliament does not have the proper qualifications, when the presiding officer shall have clearly established the fact, the name of the member shall be immediately expunged.

11. Societies for the study of parliamentary methods which may be organized in the Provinces shall respect the laws for societies and assemblies, and shall not take advantage (of their organization) to collect money and practice extortion. The local officials shall punish any violation of this rule.

GENERAL RULES CONCERNING ELECTIONS.

1. Elections for members of parliament shall be presided over by the prefects, subprefects, and department and district magistrates.

2. Those who lack the legal qualifications shall not vote nor stand as candidates. (These are, men of bad character, bullies, men who have been convicted

of crimes, men whose professions are not respectable, men who have been involved in dishonorable business transactions, men regularly accused of crime whose cases have not yet been adjudicated, users of opium, those having mental infirmity, those whose family record is not unblemished, and the illiterate.)

3. On election days inspectors shall be appointed, who shall strictly scrutinize the casting and counting of ballots, to prevent fraud.

4. Special penalties will be decided upon for election frauds (such as casting illegal ballots or falsifying the election returns) and fines will be imposed according to the gravity of the offense.

5. Election by ballot will be by plurality of the votes cast. Formerly the choice of head men has been called election, but whether the officials have handed down the decision or the influential gentry have recommended, there has been fear of giving offense, and no confidence that the wish of the people had been gained. Now the ballot system has been adopted and will be carried out strictly, in the hope that all these abuses may be done away with.)

6. Those who have not been residents of their native places for one year or more before the time of election shall not have the right to vote or to stand as candidates.

THE PROGRAM FOR THE MEASURES TO BE CARRIED OUT EVERY YEAR UNTIL PARLIAMENT IS CONVENED.

Kuanghsu 34th year (1908).

1. The establishment of provincial deliberative assemblies by viceroys and governors.

2. Publishing the rules for local self-government in all cities, market towns, and villages. (The board of the interior to cooperate with the constitutional commission.)

3. Publishing the rules for reorganizing the financial system. (By the board of revenue.)

5. Asking an edict for the establishment of a banner reorganization office, for devising means for the support of the eight banners, and the fusing of banner-men and Chinese. (By grand council.)

6. Composing lesson books for the easy learning of written characters. (By board of education.)

7. Composing lesson books for the compulsory use of the people. (By board of education.)

8. Revision of the criminal code. (By board of law.)

9. Publishing municipal laws, mercantile laws, rules of court procedure in civil and criminal cases. (By the commissioner for the revision of the laws.)

Kuanghsu 35th year (1909).

1. The election of members of the provincial deliberative assemblies to be carried on in every province. (By viceroys and governors.)

2. Publishing the rules for the constitutional commission and holding elections for the same. (Constitutional commission to cooperate with viceroys and governors.)

3. Establishing local self-government bureaus in every walled town, market town, and village. (The board of the interior to cooperate with viceroys and governors.)

4. Publishing rules for self-government for the independent subprefecture (T'ing), departments (chou), and districts (hsien). (The board of the interior and the bureau for the collation of administrative methods to cooperate.)

5. Taking a census of every province. (Board of the interior and viceroys and governors to cooperate.)

6. Estimating the annual revenues and expenses of every province. (Board of revenue and the viceroys and governors to cooperate.)

7. Determining the functions of the Peking officials. (The bureau for the collation of administrative methods to cooperate with the Government council.)

8. Fixing the rules for the examination of civil officials, appointments, and salaries. (The bureau for the collation of administrative methods to cooperate with the Government council.)

9. Publishing the methods of organization of the high law courts. (The bureau for the collation of administrative methods to cooperate with the commissioner for law revision.)

10. Arranging the law courts of the provincial capitals and the treaty ports. (The board of law to cooperate with the viceroys and governors.)

11. Drawing up the new criminal code. (The bureau for the collation of administrative measures.)

12. Publishing textbooks for the easy learning of characters, and establishing schools for the easy learning of characters in the subprefectures, departments, and districts. (The board of education.)

13. Publishing textbooks for the compulsory use of the people. (The board of education.)

14. Drawing up of general rules for the police in the subprefectures, departments, and districts. (The board of the interior to cooperate with the viceroys and governors.)

Kuanghsu 36th year (1910).

1. Collecting the members of the provincial assemblies and opening the assemblies. (The constitutional commission.)

2. Continuing the measures for self-government in the walled towns, market towns, and villages. (The board of the interior to cooperate with the viceroys and governors.)

3. Organizing self-government for the subprefectures, departments and districts. (The board of the interior to cooperate with the viceroys and governors.)

4. Reporting the census of every province. (Board of the interior to cooperate with the viceroys and governors.)

5. Devising methods for recording native place of all inhabitants. (Bureau for the collation of administrative methods to cooperate with the Government council.)

6. Reckoning again the annual revenues and expenditures of every province. (Board of revenue to cooperate with the viceroys and governors.)

7. Fixing the local taxation rate. (Board of revenue to cooperate with viceroys and governors and bureau for the collation of administrative methods.)

8. Trial of the system of estimated budget in every province. (Board of revenue to cooperate with the viceroys and governors.)

9. Fixing organization of provincial officials. (Bureau for collation of administrative methods to cooperate with the Government council.)

10. Publishing rules for the examination of civil officials, for appointments, and salaries. (Bureau for the collation of administrative methods to cooperate with the Government council.)

11. The establishment within the year of courts of law at the provincial capitals and treaty ports. (Board of law to cooperate with viceroys and governors.)

12. Publishing new criminal code. (Bureau for the collation of administrative methods to cooperate with the commissioner for the revision of the laws.)

13. Extending the schools for easy methods of learning characters in the subprefectures, departments, and districts. (Board of education to cooperate with viceroys and governors.)

14. Finishing preparations for police in the subprefectures, departments, and districts within the year. (Board of revenue to cooperate with viceroys and governors.)

Kuanghsu 37th year (1911).

1. Continuance of measures for self-government in the walled towns, market towns, and villages. (Board of the interior to cooperate with viceroys and governors.)

2. Continuance of measures for self-government in the subprefectures, departments, and districts. (Board of the interior to cooperate with viceroys and governors.)

3. Drawing up of the census of every province. (The board of the interior to cooperate with the viceroys and governors.)

4. Fixing methods of keeping public accounts. (Bureau for the collation of administrative methods to cooperate with the board of revenue.)

5. Estimating revenue and expenses for the whole Empire. (Board of revenue.)

6. Publishing laws for local taxation. (Bureau for the collation of administrative methods, the board of revenue and the viceroys and governors to cooperate.)

7. Fixing rules for imperial taxation. (Board of revenue, the customs administration, the viceroys and governors, and the bureau for the collation of administrative methods to cooperate.)

8. Putting in operation the rules for the examination, appointment, and salaries of civil officials.

9. Arranging for the establishment of courts of law of different grades in provinces, prefectures, subprefectures, departments, and districts. (Board of law to cooperate with viceroys and governors.)

10. Opening schools for easy methods of learning characters. (Board of education to cooperate with viceroys and governors.)

11. Arranging for the police in villages and market towns. (Board of the interior to cooperate with viceroys and governors.)

12. Drawing up the codes of municipal and commercial law and rules of procedure in civil and criminal actions. (Board of the interior to cooperate with viceroys and governors.)

Kuanghsu 38th year (1912).

1. Completing within the year the general arrangement for self-government in the walled towns, market towns, and villages. (Board of the interior to cooperate with the viceroys and governors.)

2. Continuation of measures for self-government in the subprefectures, departments, and districts. (Board of the interior to cooperate with viceroys and governors.)

3. Reporting the census of every province. (Board of the interior to cooperate with the viceroys and governors.)

4. Publishing methods for recording the native place of residents. (The Bureau for the collation of administrative methods to cooperate with the board of the interior.)

5. Publishing the taxation laws of the Empire. (Bureau for the collation of administrative methods, the board of revenue, and the customs administration to cooperate.)

6. Publishing new official organization for Peking and the Provinces.

7. Perfecting within the year the general arrangements for courts of different grades in the Provinces, prefectures, subprefectures, departments, and districts. (Board of laws to cooperate with viceroys and governors.)

8. Extending the schools for the easy learning of characters in the villages and market towns. (The board of education to cooperate with the viceroys and governors.)

9. Extending the police arrangements in the villages and market towns. (Board of the interior and the viceroys and governors to cooperate.)

Kuanghsu 39th year (1913).

1. Full carrying out of recording the native places of residents.

2. Trial of the budget of variable expenses for the Empire. (Board of revenue.)

3. Establishing the supreme court (?) (Hsing Cheng Shen Pan Yuan). (Government reform bureau to cooperate with the bureau for the collation of administrative methods.)

4. Establishing the courts of law for the prefectures, subprefectures, departments, and districts (located in principal city) of all the provinces. (Board of law to cooperate with viceroys and governors.)

5. Arranging for lower courts of law in the villages and the market towns. (Board of laws to cooperate with viceroys and governors.)

6. Full carrying out of the new criminal code.

7. Publishing the new codes of municipal and commercial law and the rules of procedure in civil and criminal cases. (The government council to cooperate with the bureau for the collation of administrative methods.)

8. Establishment of self-government in the walled towns and market places and villages. (Board of the interior to cooperate with the viceroys and governors.)

9. Settlement within the year of the general rules for self-government in the subprefectures, departments, and districts. (Board of the interior to cooperate with the viceroys and governors.)

10. Settlement within the year of the general rules for the police in the villages and market towns. (Board of the interior to cooperate with the viceroys and governors.)

Kuanghsu 40th year (1914).

1. Trial of the budget of fixed expenses for the Empire. (Board of revenue.)
2. Publishing of the system of national accounts.
3. Trial of the new official organization for Peking and the provinces.
4. Full establishment of self-government for the subprefectures, departments, and districts. (Board of the interior to cooperate with viceroys and governors.)
5. Settlement within the year of the general rules for the lower courts in the villages and market towns. (Board of laws to cooperate with viceroys and governors.)
6. The proportion of literacy should be brought up to 1 in 100.

Kuanghsu 41st year (1915).

1. Fixing the amount of the expenses of the imperial household. (The comptrollers of the imperial household to cooperate with the bureau for the collation of administrative methods.)
2. Arranging the organization of the banners. (Bureau for changing the banner organization.)
3. The establishment of the comptroller's office (?) (Shen Chi Yuen). (Government reorganization bureau to cooperate with the bureau for the collation of administrative methods.)
4. Putting into operation the system of public accounting.
5. Complete establishment of the lower courts of law in the villages and market towns. (Board of laws to cooperate with the viceroys and governors.)
6. Putting into complete operation the code of municipal and commercial law and the rules of procedure in civil and criminal cases.
7. Full completion of arrangements for the police of villages and market towns. (Board of the interior to cooperate with viceroys and governors.)
8. The proportion of literacy should be brought up to 1 in 50.

Kuanghsu 42nd year (1916).

1. Promulgation of the (full) constitution. (Bureau for the collation of administrative methods.)
2. Promulgation of the laws of the imperial clan. (The imperial clan court to cooperate with the bureau for the collation of administrative methods.)
3. Publishing parliamentary rules. (Bureau for the collation of administrative methods.)
4. Publishing rules for the election of members of the upper and lower houses of parliament. (Bureau for the collation of administrative methods.)
5. Putting into operation the rules for the election of members of the upper and lower houses of parliament. (Board of the interior to cooperate with the viceroys and governors.)
6. Determining the expenditures to be provided by consultation and the fixed annual charges. (Board of revenue.)
7. Making up the budget for the coming year to lay before parliament. (Board of revenue.)
8. Permanent establishment of the reorganized official system for Peking and the provinces.
9. Appointing a premier (?) (Pi Te Yuan Ku Wen Ta Ch'en). (The Government council to cooperate with the bureau for the collation of administrative methods.)
10. The proportion of literacy should be brought up to 1 in 20.

[Inclosure 2.—Translation.]

Imperial edict.

ISSUED AUGUST 13, 1908.

We now learn that on the rivers and seacoasts of the northern and southern Provinces there have been established societies called "Chung Wen She" (societies for investigating methods of government), which are seditious in intention, collecting funds and organizing into a party. In name the effect to

be for investigating current affairs, but in reality they are organized for rebellion and for overturning the Government. If these societies are not rigorously suppressed the public welfare will suffer. The board of the interior, the viceroys, and governors of each Province, the commandants and the governor of Peking, are ordered to search out secretly and vigorously these societies and suppress them. All members of these societies are to be arrested and punished without mercy, so as to avoid future trouble.

RAILWAYS IN CHINA.

File No. 5315/28.

Chargé Fletcher to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Peking, January 15, 1908.

(Mr. Fletcher reports that an agreement has been signed with an English-German syndicate for the loan of £5,000,000 at 5 per cent for 30 years for the construction of the Tientsin-Chinking Railroad, the ownership and control of which is entirely in the hands of the Chinese Government; the north section to be constructed under the supervision of a German engineer, the southern section under a British engineer, and German and British materials to be given preference. States that security is likin revenues of Chih-li, Shantung, and Nanking, and native customs revenues of Huaian; that if the likin taxation is abolished other security will be found, and if likin pledged prove insufficient the collection of same will be placed under the imperial maritime customs. Mr. Fletcher says that China may redeem the loan at any time between the tenth and twentieth year by payment of an extra $2\frac{1}{2}$ per cent interest, and after the twentieth year without extra interest. Adds that the construction is to commence and £500,000 of the loan to be available within six months, the line to be finished in four years.)

File No. 5315/43-44.

Chargé Fletcher to the Secretary of State.

No. 817.]

AMERICAN LEGATION,
Peking, January 17, 1908.

SIR: I have the honor to confirm my telegram of the 15th instant and to inclose herewith the text of the Tientsin-Pukow Railway agreement, which formed the subject of the telegram.

The agreement was signed on Monday last, the 13th instant, by Mr. Liang Tun-yen, representing the Chinese Government, and Mr. Bland, for the Chinese Central Railways, Limited, a British corporation, and Mr. Cordes, for the Deutsch-Asiatische Bank.

The road runs from Tientsin to Pukow, opposite Nanking, on the Yangtze. I have not had time to make a detailed study of the agreement, but the placing of the entire ownership and control of the road in the hands of the Chinese Government marks an important departure from the lines followed by the preceding railway agreements. This provision was made necessary by the outcry

against foreign control of Chinese railways, and, in view of the awakened national spirit, will likely be copied into all future railway agreements.

Article XX refers to the preliminary agreement for the construction of the Tientsin-Chingkiang Railway, ratified May 24, 1899 (Rockhill's Treaties, etc., 1894-1904, p. 355), and constitutes a payment of £200,000 (\$1,000,000) for China's release from the obligations of that agreement.

I have, etc.,

HENRY P. FLETCHER.

File No. 5315/79-80.

Chargé Fletcher to the Secretary of State.

No. 873.]

AMERICAN LEGATION,
Peking, March 13, 1908.

SIR: I have the honor to inclose copy of the Shanghai-Hangchow-Ningpo loan agreement, signed here on the 6th instant by representatives of the waiwu pu (board of foreign affairs) and the yu-chuan Pu (board of posts and communications) and the British and Chinese Corporation. The matter of the Chêkiang Railway loan, as it has commonly been called, and upon which I have heretofore reported, is thus adjusted.

The corporation is authorized to issue a 5 per cent gold loan for £1,500,000. The financial conditions are generally identical with those of the Tientsin-Pukow contract (see my No. 817, of January 18, 1908), but other clauses and modifications have been introduced where a compromise was necessitated by the fact that the rights of the British and Chinese Corporation under the preliminary agreement of 1898 conflicted with those subsequently conferred on the Chêkiang and Kiangsu Railway Bureaux. The terminus of the line will be at Shanghai and not at Soochow. The Chinese Government pledges the surplus earnings of the Imperial Railways of north China instead of the provincial revenues as security for the loan.

The corporation makes the loan under imperial guarantee to the yu-chuan pu, and this board is responsible for the economical and efficient construction of the line, of which accounts are to be published annually in Chinese and English.

The concession for the construction of this line was originally granted to the British and Chinese Corporation in 1898, in connection with the line from Shanghai to Nanking. Various causes contributed to delay the commencement of work under it, and in 1905 the Imperial Government sanctioned the building of the line by the local merchants and gentry, under the supervision of the provincial authorities of Chêkiang and Kiangsu. The corporation, having in the meantime commenced the construction of the main line to Nanking, asserted its prior rights to construct the Chêkiang Railway. A local outcry was raised, public meetings were held, memorials presented, and provincial delegations came to Peking to protest against the construction of the line by foreigners or with foreign capital. The corporation, supported by the British legation,

insisted upon its rights. The Central Government was thus put in an embarrassing position. The long negotiations which ensued have, however, resulted in the present agreement, which seems satisfactory to all.

I have, etc.,

HENRY P. FLETCHER.

File No. 5315/134-136.

Minister Rockhill to the Secretary of State.

No. 1024.]

AMERICAN LEGATION,
Peking, October 12, 1908.

SIR: Under the provisions of article 5 of the loan contract for the construction of the railway from Peking to Hankow made between the Chinese Government and the Société d'Étude de Chemin de Fer en Chine (Belgium), signed June 26, 1898 (see Rockhill's Treaties and Conventions, 234), the former had the right to pay off the whole of said loan (£4,500,000) after the 1st of September, 1907. A loan has now been negotiated by China, represented by the board of posts and communications (yu-ch'uan pu), and the Hongkong and Shanghai Banking Corporation (British), and the Banque de l'Indo-Chine (French), for the sum of £5,000,000 for this purpose. I inclose a copy of the new loan agreement, signed on October 8, and of the imperial decree sanctioning it.

I have, etc.,

W. W. ROCKHILL.

[Inclosure.]

Loan agreement between the board of posts and communications on the one part and the Hongkong and Shanghai Banking Corporation and the Banque de l'Indo-Chine on the other.

1. A loan of £5,000,000.
2. Eighty per cent to be employed in Europe by the Chinese Government to the complete redemption of certain railway loans.
3. Twenty per cent "will be employed by the board of posts and communications in productive works of public utility coming within the department and functions of the board."
4. The term will be 30 years.
5. The principal is payable to the bondholders in 20 equal annual installments of £250,000, commencing the eleventh (11th) year, but China has the right to redeem the whole loan by giving six months notice or to increase the regular redemption by extra drawings after the fifteenth year up to the twenty-third year, inclusive, by the payment of a premium of 2½ per cent upon the par value of each bond redeemed (£102.10 for each £100 bond) and have the right to redeem the whole or increase the redemption after the twenty-third year at par.
6. The loan shall be for 5 per cent for the first 15 years and 4½ per cent thereafter.
7. £2 per £1,000 commission for the expenses of transacting the payments of interest and redemption shall be paid to the banks concerned.
8. "The loan is secured by surplus revenues of various works of public utility controlled by the board of posts and communications. In case these are insufficient other revenues will be selected to make up the deficiency."
9. "The Imperial Government of China hereby unconditionally guarantees and declares itself responsible for the due payment of principal and interest of

the loan which is hereby secured by first charge, free from all encumbrances, upon the following provincial revenues."

10. "In Chekiang Province the house tax, wine tax, pawnshop tax, title deeds tax, and the old and new salt tax."

11. "In Kiangsu Province the new salt tax and the house tax."

12. "In Hupeh Province the old and new additional salt tax on salt from Szechuen and Kiangsu Provinces, the tobacco tax, wine tax, sugar tax, and house and land title deeds tax."

13. "In Chihli Province the tobacco tax, wine tax, and miscellaneous duties, the salt commissioner's treasury, the fund for the adjustment of prices, and the new and old tax on salt."

14. "The two banks shall take the loan at 94 per cent."

15. "£3,760,000 shall be held at the order of the board of posts and communications in Europe December 10, 1908."

"£940,000 shall be held to the order of the board in Europe February 5, 1909."

16. "The loan shall be floated by the two banks in equal shares in London and Paris."

Signed October 9, 1908.

HONGKONG AND SHANGHAI BANKING CORPORATION,
By E. G. HILLIER.
BANQUE DE L'INDO CHINE,
By CASENAVE.

[Inclosure 2—Translation.]

Imperial edict, October 6, 1908.

The board of posts and communications memorializes with reference to raising a Government loan for the redemption of the Pei-Han Railway.

The same board also forwards with approval the memorial of Chang Ming-ch'i advising that an attempt be made to raise a domestic loan for the same purpose.

Both proposals are sanctioned.

Imperial edict, October 8, 1908.

The board of posts and communications memorializes to the effect that it is proposed to make an agreement with the Hongkong and Shanghai Banking Corporation and the Banque de l'Indo-Chine for a foreign loan. The officials of the board of posts and communications are hereby authorized to sign the said agreement and the other proposals of the memorialists are approved.

File No. 5315/141-143.

Minister Rockhill to the Secretary of State.

No. 1028.]

AMERICAN LEGATION,
Peking, October 21, 1908.

SIR: In continuation of my No. 1024 of the 12th instant, in which I transmitted a copy of the memorandum of a loan for £5,000,000 contracted by the Chinese Government for the refunding of a Belgian loan of 1898, I have now the honor to inclose copy of the text of the agreement, signed on the 8th instant.

In a previous dispatch, No. 973 of July 30th last, I had referred to the present disposition of European capitalists to lend to China

only when guarantees were given that the money borrowed would be employed exclusively for the purpose for which the loan was contracted. Paragraph 2 of article 1 of the present agreement was inserted to this end and was considered sufficient guarantee by the contracting banks, as the only road which can be redeemed at present is the Pei-Han Railroad. Article 7, besides providing for an unconditional guarantee of the loan by the Chinese Government, secures the payment by a first charge upon certain provincial revenues, most of which are, however, new taxes, which will, it is believed yield much less than the amount estimated. This is, however, of small importance; the general guarantee is unquestionably all-sufficient.

I have, etc.,

W. W. ROCKHILL.

[Inclosure—Translation.]

Pei-Han redemption loan contract.

This agreement is made between the board of posts and communications, Peking, acting for and on behalf of the Imperial Government of China under the authority of an imperial edict dated the 8th day of October, 1908, hereinafter called the board, of the one part, and the Hongkong and Shanghai Banking Corporation and the Banque de l'Indo-Chine, hereinafter called the contracting banks of the other part.

1. The Imperial Chinese Government hereby authorizes the contracting banks, either by themselves or associated with others, to issue an imperial Chinese gold loan, in one issue, of the amount of five millions pounds sterling.

Of the proceeds of this loan the Imperial Chinese Government will employ 80 per cent in Europe to complete the redemption of certain railway loans; the balance of the proceeds, namely 20 per cent, will be employed by the board of posts and communications in productive works of public utility coming within the department and functions of that board.

2. The term of the loan shall be 30 years, and the principal shall be repaid to the bondholders in 20 equal annual installments of £250,000, commencing with the eleventh year; but the Imperial Chinese Government, on giving a previous notice of six months to the contracting banks, shall have the right to redeem the whole loan, or increase the regular redemption by extra drawings, after the fifteenth year and up to the twenty-third year, inclusive, by the payment of a premium of 2½ per cent upon the par value of each extra bond so redeemed—that is to say, by the payment of £102.10 for each £100 bond—and shall have the right to redeem the whole loan or increase the regular redemption by extra drawings after the twenty-third year at par. Any such extra drawings must take place in Europe on the date of an ordinary drawing provided for in the prospectus of the loan.

3. The loan shall bear interest during the first 15 years at the rate of 5 per cent per annum, and thereafter, from the sixteenth year, at the rate of 4½ per cent per annum on the nominal principal from time to time outstanding, and the interest shall be paid to the bondholders half yearly. The interest shall commence from the date on which the loan is issued to the public, and will cease upon complete redemption of the loan.

4. The service of principal and interest of this loan due to the bondholders shall be paid in equal shares to the contracting banks in Shanghai by the board, who will hand to those banks, 10 days before the due date of every yearly payment of principal and half yearly payment of interest, as calculated from the date of issue of the loan, funds in the Shanghai sycee sufficient to meet each such payment in gold in Europe, the exchange for which will be settled by the contracting banks on the same day on a fair basis after arrangement with the board; but the board will have the option of settling exchange in equal shares with the two contracting banks at any date or dates within six months previous to the due date of any payment. These payments may be made in gold in Europe should the Imperial Chinese Government have funds in Europe at its disposal, not remitted for the purpose, and desire so to employ them.

In reimbursement of expenses connected with the payment of interest and the repayment of principal of the loan to the bondholders, the board will pay to the contracting banks with each payment of the loan service a commission of two per mille on such payment; that is to say, a commission of £2 on every £1,000.

5. The service of principal and interest of this loan will be paid from the surplus revenues of the various productive works of public utility controlled by the board of posts and communications. In the event of these surplus revenues being insufficient, other revenues will be selected to make up the deficiency.

The board will further, from and after the date of the first coupon, and during the currency of this loan, leave on fixed deposit in equal shares with the two contracting banks in Shanghai the estimated silver equivalent of the payment of the interest next due. In like manner, from and after the end of the tenth year, the board will also leave on fixed deposit with the contracting banks in Shanghai the estimated silver equivalent of the installment of the principal next due. These fixed deposits will be renewed and adjusted half-yearly on the dates on which interest coupons become due to the bondholders, the silver equivalent of interest and of principal which they represent being calculated at the rate of exchange, or average rate of exchange, settled for the remittance of loan service made 10 days previously. Interest on these deposits shall be allowed by the contracting banks at their advertised rates for the time being for 12 months fixed deposits, subject to any change or rate from the date of such change, and will be payable half-yearly.

6. The contracting banks shall issue, and are hereby authorized to issue, to subscribers to the loan, bonds for the total amount of the loan in gold, in such languages and for such amounts as shall appear advisable to the contracting banks. The forms of these bonds shall be decided in consultation with the Chinese ministers in London and Paris, who shall seal the bonds with their official seals as evidence that the Imperial Chinese Government is bound thereby.

Canceled bonds will be handed by the contracting banks to the Chinese minister in London or Paris.

In the event of bonds issued for this loan being lost, stolen, or destroyed, the contracting banks shall immediately notify the Chinese minister in London or Paris thereof, who shall authorize the contracting banks to insert an advertisement in the public newspapers notifying that payment of the same has been stopped, and to take such other steps as required by the laws of the country. Should such bonds not be recovered after the lapse of time provided by the law, the banks will require from the claimants the requisite guarantees together with proof of loss in the usual form for examination by the Chinese minister in London or Paris, as the case may be, who will then, without further authority from the Chinese Government, seal and execute duplicate bonds for a like amount, and hand them to the contracting banks, by whom all expenses in connection therewith shall be defrayed.

Coupons and drawn bonds not presented for payment within 30 years after the date of their maturity shall be forfeited to the Imperial Chinese Government.

7. The Imperial Chinese Government hereby unconditionally guarantees and declares itself responsible for the due payment of the principal and interest of this loan, which is further hereby secured by a first charge, free from all encumbrances upon the following provincial revenues:

Province of Chekiang:		
House tax, wine excise, pawnshop licenses, title-deeds tax,	Taels.	
amounting per annum to.....	400,000	
Old and new additional tax on salt.....	600,000	
Province of Kiangsu:		
New additional tax on salt.....	700,000	
House tax.....	300,000	
Province of Hupei:		
Old and new additional tax on Szechuen and Hual.....	600,000	
Tax on tobacco, wine, and sugar, house and land title-deeds tax...	400,000	
Province of Chihli:		
Tobacco, wine, and miscellaneous duties.....	800,000	
Salt commissioner's treasury, revenue from additional salt tax...	200,000	
New additional tax on salt.....	250,000	
Total kuping taels.....	4,250,000	

It is understood that the security of this loan over the above annual revenues is limited to 4,250,000 kuping taels irrespective of collection. If more is collected, it will not be included in the security.

In the event of default of payment of any installment of provincial and of interest of this loan at due date, the Imperial Chinese Government will instruct the provincial authorities in control of the said revenues to hand them over to the contracting banks.

So long as this loan, or any part thereof, shall be unredeemed, it shall have priority, both as regards principal and interest, over all future loans, charges, and mortgages charged on the said security of the provincial revenues herein assigned. No loan, charge, or mortgage shall be raised or created which shall take precedence of or be on an equality with this loan, or which shall in any manner lessen or impair its security over the said provincial revenues as stipulated above, and any future loan, charge, or mortgage charged on the said provincial revenues shall be made subject to this loan, and it shall be so expressed in every agreement for every such future loan, charge, or mortgage.

8. All bonds and coupons and payments made and received in connection with the service of this loan shall be exempt from Chinese taxes and imposts.

9. All details necessary for the prospectus and connected with the service to the bondholders of the interest and repayments of the principal of this loan, not herein explicitly provided for, shall be left to the arrangement of the contracting banks, who shall issue a prospectus of the loan. The Imperial Chinese Government will instruct the Chinese ministers in London and Paris to cooperate with the contracting banks in any matters requiring conjoint action, and the Chinese ministers in London and Paris will approve and sign the prospectus of the loan.

10. The contracting banks hereby take this entire loan of £5,000,000 firm at the price of 94 per cent to the Chinese Government. Of the resulting net proceeds of this loan, namely, £4,700,000, the sum of £3,760,000 will be held to the order of the board in Europe on the 10th day of December, 1908, and the balance, namely, £940,000, will be held to the order of the board in Europe on the 5th day of February, 1909.

Transfers of the loan funds to China will be made by the contracting banks at the rates of exchange which will be settled on a fair basis after arrangement with the board. The board will give to the contracting banks 10 days previous notice of the transfer to China of any sum exceeding £20,000.

If any of the loan funds are left on deposit with the contracting banks in London or Paris, interest will be allowed at rates to be settled by mutual arrangement between the contracting banks and the board.

11. All expenses in connection with the flotation and issue of this loan, such as underwriting, commission and brokerage, telegraph charges, advertising, postage, printing of prospectus and bonds, stamp duty, and legal fees, shall be borne by the contracting banks.

12. In the event of any extraordinary political or financial crisis in Europe or elsewhere, by which the prices of Chinese, British, or French securities become so seriously affected as to render it impossible to float this loan on the terms herein named, the contracting banks shall have the right to withdraw from this contract, which in that case shall become null and void, subject to any arrangement between the contracting parties for an extension of time.

13. The Hongkong and Shanghai Banking Corporation and the Banque de l'Indo-Chine shall take the loan in equal shares without responsibility for each other.

14. This agreement is signed under the authority of an imperial edict dated the 8th day of October, 1908, which will be officially communicated by the Waiwu pu without delay to the ministers for Great Britain and France in Peking.

15. Quadruplicate sets of this agreement are executed in English and Chinese, one set to be retained by the board, one set by the Waiwu pu, and one set by each of the contracting banks. In the event of any doubt arising with regard to the interpretation of this contract, the English text shall rule.

Signed at Peking by the contracting parties this fourteenth day of the ninth month of the thirty-fourth year of the Emperor Kuang-Hsü, being the eighth day of October, one thousand nine hundred and eight, western calendar.

Minister Rockhill to the Secretary of State.

No. 1049.]

AMERICAN LEGATION,
Peking, November 25, 1908.

SIR: I have the honor to transmit herewith a translation from the Chinese text of the supplementary agreement signed on the 12th instant concerning the construction of the Kirin Ch'ang-chun Railway, here called the Chi-ch'ang Railway, in Manchuria.

I have, etc.,

W. W. ROCKHILL.

[Inclosure—Translation.]

Supplementary Agreement between Japan and China.

According to article 4 of the Hsin-Feng and Chi-Ch'ang Railway agreement between the two Governments of Japan and China, dated Ming Chih, fortieth year, fourth month, fifteenth day; Kuanghsü, thirty-third year, third month, third day (April 15, 1907), it was agreed that before settling the loan contract for the said railways, the two Governments should draw up a supplementary agreement regarding matters not settled in the original agreement.

Now, the two officials designated below have concluded the following agreement:

ARTICLE 1. It is agreed by articles 1 and 2 of the "Hsin-Feng and Chi-Ch'ang Railway agreement between the Governments of Japan and China" (hereafter to be called the agreement) that half of the capital needed for that portion of the Ching-Feng Railway lying east of the Liao River, amounting to 320,000 yen, and half of the capital needed for the Chi-Ch'ang Railway, amounting to 2,150,000 yen, should be borrowed from the Southern Manchurian Railway Company.

ART. 2. The interest on this loan shall be at the rate of 5 per cent per annum.

ART. 3. The actual rate at which the loan shall be realized shall be 93 for every 100 as agreed upon in article 6 of the agreement.

ART. 4. It is stipulated in article 3 of the agreement that during the term of the loan, the Chinese Government shall employ a Japanese engineer in chief for that portion of the Ching-Feng Railway, which lies east of the Liao River. For the present the Japanese engineers now in the employ of the Ching-Feng Railway may continue to act and as at present will continue to be under the control of the director and engineer in chief of the Ching-Feng Railway. If in future changes are made in the engineering staff, as provided in the agreement, application shall be made to the Southern Manchurian Railway Company, which will make appointments after full consultation. The status of these engineers shall be as stated above.

ART. 5. Since it is difficult for the Chinese Government to keep separate accounts for that portion of the Ching-Feng Railway which lies east of the Liao River, the Japanese Government consents that no Japanese accountants shall be specially appointed, and the Japanese Government consents that the Chinese Government shall set aside monthly a sum calculated to be sufficient for the monthly payment of capital and interest on the amount of the loan for the said section of railway. This sum shall be deposited on the 1st day of every month in some Japanese bank in China, designated by the Southern Manchurian Railway Company. This deposit shall be regarded as a sinking fund for the redemption of the capital and interest of the loan when due. The manner of making the payments of the capital and interest of the loan when due, and the interest which shall be allowed by the bank on the sums deposited shall be decided when the detailed loan contract is drawn up. The Chinese Government also consents that the monthly balance sheets for the whole Ching-Feng Railway line and the annual exact statement of accounts in English shall be sent monthly and annually to the South Manchurian Railway Company for inspection.

ART. 6. The engineer in chief and the accountants of the Chi-Ch'ang Railway should all be Japanese, as provided in article 3 of the agreement. The method

of appointment shall be as follows: The Chinese Government will select a well-trained and capable engineer in chief and appoint him, after full consultation with the South Manchurian Railway Company. The accountants shall be selected by the South Manchurian Railway Company, and after consultation with the Chinese Government the Chinese Government shall appoint them. If in the future it shall be necessary to change the engineer in chief or accountants, there must be consultation with the South Manchurian Railway Company according to the agreement, and the appointments must be made as arranged above.

ART. 7. The special loan contract must conform to the stipulations of the agreement and of this supplementary agreement. It will be drawn up between the South Manchurian Railway Company and an official appointed by the board of posts and communications.

This supplementary agreement will be in force when ratified by the two Governments.

Signed at Peking, Ming Chih, forty-first year eleventh month twelfth day; Kuang-has, thirty-fourth year tenth month nineteenth day (November 12, 1908).

MORITARO ABÉ,

First Secretary of Legation.

LIANG SHIH-I,

Director of the Head Railway,

Office of the Board of Posts and Communications.

File No. 1576/9-10.

Minister Rockhill to the Secretary of State.

No. 969.]

AMERICAN LEGATION,

Peking, July 27, 1908.

SIR: I have the honor to inclose herewith translation of an imperial edict, issued on the 18th instant, directing that his excellency Chang Chih-tung, grand councilor and member of the grand secretariat, shall assume absolute control of the Canton-Hankow Railway.

I have, etc.,

W. W. ROCKHILL.

[Inclosure—Translation.]

Imperial edict, July 18, 1908.

CANTON-HANKOW RAILWAY.

Ch'en Ch'i-tai (governor of Kiangsu) memorializes to the effect that the Canton-Hankow Railway should be carried through under the direction of a single policy and requests that a high official of probity and intelligence be appointed to have supreme control of the affairs of the line.

The Canton-Hankow Railway is of vital importance in that it affects so intimately the means of communication between the north and the south. Chang Chih-tung was in charge of the negotiations at the time of the redemption of this line and was untiring in his efforts at that juncture. But during the last few years the divergent policies advocated by officials, gentry, and financiers have prevented any substantial accomplishments. If this state of affairs continues, the consequent loss and delay in the progress of the road will be great. It is necessary, therefore, that we appoint an official who shall have supreme control of the affairs of the railway, so that they may be brought to a successful conclusion. We command that Chang Chih-tung, grand councilor and member of the grand secretariat, shall assume, in addition to his other duties, absolute control of the Canton-Hankow Railway. Let him act in consultation with the viceroys and governors of the three Provinces. Let him see that the officials, gentry, and financiers connected with the enterprise fulfill their

duties with integrity. The said official may at all times come to such decisions as shall seem to him best in view of the circumstances of the three Provinces. Let all dissensions now be terminated and unity of purpose prevail to the end that useless expenditures and delays to the vital interests of transportation may be prevented.

Respect this.

File No. 1576/12-14.

Minister Rockhill to the Secretary of State.

No. 1035.]

AMERICAN LEGATION,
Peking, November 5, 1908.

SIR: In continuation of my dispatch No. 969 of July 27 last, in which I inclosed a copy of an imperial edict giving Grand Councillor Chang Chih-tung absolute control of the construction of the Canton-Hankow Railway, I have the honor to transmit herewith another imperial edict of the 28th October on the same subject.

I have, etc.,

W. W. ROCKHILL.

[Inclosure—Translation.]

Imperial edict, October 28, 1908.

CANTON-HANKOW RAILWAY.

On the 4th of the tenth moon (October 28) the grand secretariat received the following imperial edict:

We have already, in view of the importance of the undertaking, specially designated Chang Chih-tung, grand councillor and member of the grand secretariat, as director general of the Canton-Hankow Railway. We have inquired of the said grand secretary concerning the plans he has in view with regard to this railway, and he has informed us that the responsibility for managing its affairs has been too much distributed, that there have been too many conflicting counsels, and that these conditions have impeded progress.

This railway is of the utmost importance in its influence on intercommunication. How can this delay be allowed? Hereafter let the raising of funds for the said project, the employment of men thereon, the determination of its policy, and all other matters in connection therewith rest absolutely with Chang Chih-tung, to be administered by him to the best of his powers and in sole responsibility; he must fix a definite time limit and he must determine all matters in connection with the line as circumstances of the three Provinces and the exigencies of the time require. The board of communications and the viceroys and governors of Hupeh, Hunan, and Kwangtung shall give him substantial aid and shall in no way obstruct his actions. All officials appointed by the three Provinces to direct the affairs of the railway, whether in principal or subordinate positions, shall hold themselves obedient to Chang Chih-tung, and if he shall discover that any official, member of the literati, or business man is wrongfully serving his own interests in the affairs of the line, spreading vilifying reports, or acting in an obstinate manner, to the impeding and injury of the several interests of the railway, let him memorialize against the said individual that he may be punished.

Let the director general and his subordinates henceforth unite their efforts toward the accomplishment of this project, and let them make all haste; thus, by unifying the responsibility, it is to be hoped that the delaying of this important work may be avoided.

COLOMBIA.

PROTECTION AFFORDED SWISS CITIZENS IN COLOMBIA BY THE AMERICAN LEGATION.

File No. 11960.

Minister Dawson to the Secretary of State.

No. 46.]

AMERICAN LEGATION,
Bogota, January 27, 1908.

SIR: A Swiss citizen who contemplates emigrating to this country has written me that his Government informs him that the United States Government will, upon application, afford protection to Swiss citizens in countries like Colombia where Switzerland has no representatives; also that his Government advised him to make such application directly to this legation.

I have answered that, with the permission of my Government, I would be glad to represent any interests he might have before this Government.

Awaiting the instructions of the department in this regard, I have, etc.,

T. C. DAWSON.

File No. 11960.

The Acting Secretary of State to Minister Dawson.

No. 22.]

DEPARTMENT OF STATE,
Washington, March 3, 1908.

SIR: I have to acknowledge the receipt of your dispatch No. 46, of January 27 last, in which you state that a Swiss citizen who contemplates emigrating to Colombia had written to you that this Government would, upon application, afford protection to Swiss citizens in countries like Colombia, where Switzerland has no representatives, and that his Government had advised him to make such application directly to your legation.

In reply I have to say that the question is still governed by the department's circulars of June 16, 1871 (F. R. 71, p. 28), December 15, 1871 (F. R. 72, p. 5), and June 28, 1877 (F. R. 77, p. 1). So far as the Swiss Government is concerned, not only did it in every case readily and thankfully accept the use of American good offices, but as early as 1864 made a proposition that the United States undertake the protection of its citizens by virtue of a treaty (F. R. 64, pp. 386-394), and in 1887 asked, through its legation at Washington, that the protection be as full as that accorded to the United States citizens (F. R. 87, p. 1074).

From this position Secretary Bayard dissented in a note (F. R. 87, p. 1076), in which he defined the extent to which American repre-

sentatives could act in behalf of Swiss citizens. The correspondence exchanged with the Swiss legation in connection with the latest case of protection sought by Swiss citizens is printed in full in the Foreign Relations for 1901, pages 504-508, and is interesting in that it establishes the positions of both Governments and elicited from Minister Lardy—note of July 25, 1901—(F. R. 1901, p. 507) the broad statement that "the federal council leaves each one of its citizens who may settle in a country where the Confederation has no diplomatic or consular agent entirely free to place himself under the protection of such power as he sees fit," and the reservation that "as the protection afforded by the United States of America is confined, when granted, to extending to them their unofficial good offices, while Germany and other powers make absolutely no distinction * * * it would be desirable that in each individual case Swiss citizens * * * be expressly warned of the fact that the protection of representatives of the United States is limited, and particularly that the latter are under no circumstances permitted to intervene officially in their behalf with the authorities of the country to which they are accredited."

As for the third Government concerned, the rule and practice of the department have been, as prescribed in the circular of December 15, 1871, to seek and obtain the consent of that Government to the use of good offices in behalf of any Swiss citizen who might request them.

I am, etc.,

ROBERT BACON.

CONVENTION BETWEEN COLOMBIA AND SPAIN REGARDING THE
RECIPROCAL RECOGNITION OF JUDGMENTS.

File No. 15927-2.

Minister Dawson to the Secretary of State.

No. 156.]

AMERICAN LEGATION,
Bogota, September 4, 1908.

SIR: I have the honor to inclose herewith a copy and translation of the recently ratified convention between Colombia and Spain in regard to giving effect in each country to the judgments of the courts of the other, and a copy and translation of the law of the National Assembly No. 7 of 1908 (August 13) approving the same.

I have, etc.,

T. C. DAWSON.

[Inclosure 1—Translation]

Convention between Colombia and Spain.

The Government of the Republic of Colombia and that of His Majesty the King of Spain, desirous of drawing each day closer the relations of friendship and good understanding happily existing between the two nations, have resolved to celebrate a convention for the carrying out of the civil judgments issued by the tribunals of both countries, and for this purpose have named:

The Government of the Republic of Colombia, his excellency Juan Evangelista Manrique, envoy extraordinary and minister plenipotentiary in this court; and

The Government of His Majesty the King of Spain, his excellency Manuel Allendesalazar y Munoz de Salazar, grand cross of the Order of Piana, of

Christ of Portugal, of the Order of Victoria of Great Britain, and the Legion of Honor of France, minister of state, etc., who, duly authorized, have agreed on the following articles:

ARTICLE 1. The civil judgments pronounced by the ordinary tribunals of either of the high contracting parties shall be executed in the other, providing always that they have the following requisites:

1. That they shall be final judgments and executable in law as may be necessary for their execution in the country in which they have been issued.

2. That they shall not be contrary to the laws in force in the state where their execution is asked.

ART. 2. The first requisite referred to in the previous article shall be proved by a certificate issued by the minister of government or of pardon and justice, his signature being legalized by the corresponding minister of state or of foreign relations and his in its turn by the respective diplomatic agent accredited in the place of the legalization.

ART. 3. Before execution of the judgment, the public prosecutor or attorney shall be heard, in accordance with the laws of the two contracting countries, and from the decree or judgment rendered by the tribunal applied to no appeal shall lie.

ART. 4. The present convention shall be ratified in conformity with the respective laws of the two countries, and the ratifications shall be exchanged in Madrid as soon as possible, and it shall remain in vigor until one year after the date in which one of the high contracting parties shall have denounced it in whole or in part.

In faith of which the undersigned have signed the present convention, placing their seals upon it.

[SEAL]
[SEAL]

JUAN E. MANRIQUE.
MANUEL ALLENDESALAZAR.

[Inclosure 2—Translation.]

LAW NO. 7 OF 1908 (13TH OF AUGUST) BY WHICH A CONVENTION BETWEEN COLOMBIA AND SPAIN IS APPROVED.

The national constituent and legislative assembly decree:

A convention between Colombia and Spain for the carrying out of civil judgments, signed at Madrid May 30, 1908, by His Excellency Juan Evangelista Manrique, Envoy Extraordinary and Minister Plenipotentiary of the Republic in said Court, and His Excellency Manuel Allendesalazar y Munoz de Salazar, Minister of His Catholic Majesty, is hereby approved.

Done in Bogota, August 12, 1908.

ALFREDO VAZQUEZ COBO,
President,
GERARDO ARRUBLA,
Secretary.
FERNANDO E. BAENA,
Secretary.

ARBITRATION TREATY BETWEEN COLOMBIA AND FRANCE.

File No. 17529.

Chargé Hibben to the Secretary of State.

No. 211.]

AMERICAN LEGATION,
Bogota, December 20, 1908.

SIR: I have the honor to report that a convention of arbitration was signed at this capital, the 6th instant, between France and Colombia, the terms of which are practically the same as those of the convention between the United States and France signed February 10, 1908.

I beg to report, also, that a similar agreement between Great Britain and Colombia is now only awaiting the formal authorization of the British Government to be signed. The British minister resident at this capital tells me that he has cabled for the authorization and expects to be able to sign the treaty in a few days.

I have, etc.,

PAXTON HIBBEN.

File No. 17529.

The Acting Secretary of State to Chargé Hibben.

DEPARTMENT OF STATE,
Washington, January 21, 1909.

SIR: I have to acknowledge the receipt of your No. 211, of the 20th ultimo, in which you report the conclusion of an arbitration treaty between Colombia and France similar to that concluded between the United States and France.

You add that one between Colombia and Great Britain is also projected.

The department is gratified to receive this information of these additional steps toward general affirmation of the principle of equitable arbitration.

I am, etc.,

ROBERT BACON.

TREATIES OF COLOMBIA WITH CERTAIN OTHER COUNTRIES.

File No. 16017.

The Colombian Minister to the Secretary of State.

LEGATION OF COLOMBIA,
Washington, October 7, 1908.

MR. SECRETARY OF STATE: I have the honor to inclose herewith a copy of note No. 972 of the Colombian minister of foreign relations under date of August 25 last, in compliance with instructions received from said minister.

I avail, etc.,

ENRIQUE CORTES.

[Inclosure—Translation.]

The Colombian Minister of Foreign Relations to the Colombian Minister at Washington.

FOREIGN OFFICE,
Bogota, August 25, 1908.

The National Legislative Assembly gave its approval to the following international agreements during its last session:

The boundary treaty between Colombia and Ecuador, signed at Bogota on May 24 last by Messrs. Batencourt and Adrade.

The agreement regarding the execution of civil judgments concluded between Colombia and Spain by the minister of the Republic at Madrid and the minister of state of His Catholic Majesty.

The convention between Colombia and Ecuador as an addition to the boundary treaty.

The convention revising the additional convention to the concordat concluded between the minister of foreign relations and the apostolic delegate and relative to the carrying out of article 25 of the concordat.

The treaty of amity and commerce concluded by you with Japan.

The treaty of amity and commerce with Switzerland concluded with the minister of foreign relations of that country by the Colombian minister, Mr. Quijano Wallis.

The convention regarding industrial property concluded with Great Britain last year.

The Washington Sanitary Convention, to which the Republic of Colombia adhered.

The convention regarding naturalized foreigners who renew their residence in the country of their origin concluded at the Mexican conference.

The convention for the submission of pecuniary claims to arbitration subscribed at Rio de Janeiro.

The treaty signed at Mexico on the same subject, and the convention on the exchange of official publications, also signed at Mexico.

As you will see, there appear among these agreements several of the conventions signed at the Pan American Congress of Mexico and two of those signed at the Pan American Congress at Rio de Janeiro. The latter two are those which determine the status of naturalized foreigners who return to the country of their origin and the one submitting pecuniary claims to arbitration. The convention on international law had already been ratified by the Government, and as regards the convention on patents, drawings, etc., the Government thought it more suitable to take it under further consideration. It is to be presumed that the American Government thought the same way, since the last congress did not ratify this convention as it did the rest.

I would beg of you to make the contents of this communication known officially to the Secretary of State of the United States and to the Director of the Bureau of American Republics.

With the highest regards, I am,

Your most obedient servant,

FRANCISCO JOSÉ UBRUTIA.

COSTA RICA.

INAUGURATION OF THE COURT OF JUSTICE FOR CENTRAL AMERICA, CARTAGO, COSTA RICA.

File No. 6775/459.

The Costa Rican Minister for Foreign Affairs to the Secretary of State.

[Telegram—Translation.]

SAN JOSE, COSTA RICA,
May 7, 1908.

It has been decided to install on the 25th of this month the Central American court of justice created by the convention which was signed to that effect in Washington on the 20th of December last, and my Government has the honor to invite Your Excellency's Government to be pleased to be represented, if agreeable, at the ceremonies of the inauguration of that tribunal.

We shall take great pleasure in receiving the delegate the enlightened American Government may be pleased to accredit for that purpose.

With distinguished consideration I am, Your Excellency's obedient servant,

LUIS ANDERSON.

File No. 6775/459.

The Secretary of State to the Costa Rican Minister for Foreign Affairs.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 7, 1908.

I have had great pleasure in receiving your telegram of to-day extending a very cordial invitation to the Government of the United States to be represented at the opening of the Central American court of justice at San Jose on May 25. The President deems it a high privilege that the Government of the United States will be represented on this important and auspicious occasion, which marks so great a step toward permanent peace, progress, and prosperity in Central America, and he has been pleased to send as his representative the Hon. William I. Buchanan, who will proceed to Punta Arenas on board the United States ship *Albany*.

Accept, Excellency, the assurances of my high consideration.

ELIHU ROOT.

File No. 6775/507.

Mr. Buchanan to the Secretary of State.

[Telegram.]

SAN JOSE, COSTA RICA,
May 27, 1908.

The judges here, representing Costa Rica, Guatemala, Honduras, Nicaragua, Salvador, have handed me telegrams from their Governments expressing appreciative thanks our Government for efforts Washington conference culminating in inauguration court.

As they referred to Mr. Creel and myself separately, I have acknowledged courtesy by telegraph in each case.

BUCHANAN.

File No. 6775/507.

The Secretary of State to the Costa Rican Minister for Foreign Affairs.¹

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 28, 1908.

Reference of your Government, in telegram to Costa Rican judge of Central American court, to assistance of Government of United States in efforts of the Washington conference culminating in inauguration of court is much appreciated by this Government.

ELIHU ROOT.

File No. 6775/540A.

The Secretary of State to Señor Don Enrique C. Creel.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 19, 1908.

Accept my sincere congratulations upon your safe return to your home and upon the great work for peace and civilization which you have accomplished by your mission to Costa Rica.

ELIHU ROOT.

File No. 6775/541.

Señor Enrique C. Creel to the Secretary of State.

[Telegram.]

CHIHUAHUA, MEXICO,
June 20, 1908.

I very highly appreciate the honor of your congratulations upon my return from Central America. Your excellent work is well understood, and your name is cherished by the people who are already enjoying the great benefits of peace, order, and civilization.

ENRIQUE C. CREEL.

¹ Mutatis mutandis to the Ministers for Foreign Affairs of Honduras, Guatemala, Salvador, and Nicaragua.

REPORT OF WILLIAM I. BUCHANAN, HIGH COMMISSIONER. REPRESENTING THE PRESIDENT OF THE UNITED STATES TO ATTEND THE INAUGURATION OF THE COURT OF JUSTICE FOR CENTRAL AMERICA.

Hon. ELIHU ROOT,
Secretary of State, Washington.

SIR: I have the honor to submit the following report covering the mission I had the honor to receive as high commissioner to represent the President of the United States at the inaugural session of the court of justice for Central America, which took place at Cartago, Costa Rica, at 1 o'clock on Monday, May 25 last.

In accordance with your instructions I first stopped at Chihuahua, Mexico, to confer with his excellency the Mexican ambassador to the United States, Señor Don Enrique C. Creel, who represented the President of Mexico in the Central American peace conference held in Washington during November of last year, at which the convention creating the proposed court was signed by the five Republics of Central America—Costa Rica, Guatemala, Honduras, Nicaragua, and Salvador—as it was your earnest wish that Ambassador Creel should accompany me on the mission undertaken.

I spent two days with the ambassador and then proceeded to Mexico, where I remained for two weeks, during which time the arrangements necessary for the participation of Mexico could be made and details completed for the trip of Ambassador Creel and myself to San Jose, Costa Rica.

These arrangements are completed, and on Monday, the 10th of May, the ambassador and myself left for Salina Cruz in the presidential train placed at our disposal by His Excellency President Diaz. His instructions were that every comfort, facility, and courtesy should be extended us and those accompanying us during our trip through Mexico. These instructions were more than fully carried out. At Orizoba we were met by a special committee. We spent one day there in visiting the city and then proceeded to Cordova, where we spent the night of the 12th, leaving there early on the morning of the 13th for Salina Cruz, which point we reached on the morning of the 14th.

We found there awaiting our arrival the officials of the port and of the municipality, together with the commander and officers of the Mexican gunboat stationed there. We were also met by Commander Mayo of the United States cruiser *Albany*, which had been placed at our disposition for our voyage on the Pacific side of the continent by the Navy Department of the United States.

After visiting the new docks and public works at Salina Cruz we went on board the *Albany* at 3 o'clock on the 14th. The Mexican ambassador was received with an ambassador's salute, and at 4 o'clock we were under way, headed for San Jose de Guatemala, our first scheduled stop.

Capt. Mayo and the officers of the *Albany* gave up their cabins in order that Ambassador Creel and myself and those accompanying us might be comfortably accommodated, while I took every step possible to see that the Mexican ambassador was made as comfortable as possible on board the ship.

We reached San Jose de Guatemala at 7 o'clock on the evening of Friday, the 15th. The shore battery began firing a salute of 21

guns immediately after the *Albany* had dropped her anchor, without waiting for a national salute to be fired by the *Albany*. Immediately thereafter a boat came off to the *Albany* bringing the subsecretary for foreign affairs and the captain of the port, together with the United States consular agent. The first bore letters from the President of Guatemala to Ambassador Creel and to myself, together with an invitation from his excellency the minister for foreign affairs, representing the President, to attend a banquet in our honor. In view of the fact that our arrival after sunset had made it impossible for the *Albany* to fire a national salute, together with the lateness of the hour and the heavy sea at the landing stage, making it not only difficult but dangerous to attempt to land by our small boats, we felt to our great regret unable to accept the invitation that had been so courteously extended us. I sent my secretary, Mr. Donald I. Buchanan, together with an officer of the *Albany*, detailed by Commander Mayo, ashore to present the ambassador's compliments and excuses and my own to his excellency the minister for foreign affairs and to invite him, with all the members of the commission who had been designated by the President to receive us, to visit the *Albany* on the following morning, immediately following the national salute we would fire at 8 o'clock. These instructions were followed. My secretary returned to the ship accompanied by his excellency Maj. William Heimke, the American minister to Guatemala, and by the Mexican chargé d'affaires, both of whom spent the night on board the *Albany*. They were accompanied by his excellency Señor Bustillos, the Honduran minister of finance, who had been in Guatemala on a special mission and who accompanied us on the *Albany* to his home at Amapala as our guest.

On the following morning—Saturday, the 16th—the *Albany* fired a national salute of 21 guns with the Guatemalan flag at the fore, and immediately thereafter the commission sent by President Cabrera to welcome us came on board the *Albany*, accompanied by his excellency Señor Licenciado Angel Maria Bocanegra, the Guatemalan judge designated for the new court of justice to be installed in Cartago. In accordance with the article of the convention of Washington creating the court, which gives to the members of the court the privileges and immunities of diplomatic offices, the *Albany* fired a salute of 15 guns immediately upon Señor Bocanegra boarding the ship. The commission sent by President Cambraera was headed by his excellency the minister for foreign affairs, Señor Barrios, who was accompanied by the minister of finance, the minister of public instruction, by subsecretaries of the other ministries, by representatives of the different branches of the Guatemalan army, the captain of the port of San Jose, and by the military commander of the port. Refreshments had been prepared and were served to our guests, during which toasts of welcome and of appreciation of the part being taken by the United States and Mexico in the organization of the new court were proposed by his excellency the minister for foreign affairs. Our guests remained on board for an hour and a half, and upon leaving the *Albany* a cabinet minister's salute of 17 guns was fired and the *Albany* immediately got under way for Acajutla, Salvador, where we arrived at 4.30 in the afternoon of the same day.

Immediately after the anchor had been dropped in front of Acajutla a salute of 21 guns was fired by the *Albany* and returned

by the shore battery, and a launch at once came off containing a reception committee sent by the President of Salvador to greet us, composed of his excellency the minister for foreign affairs of Salvador, Señor Rodriguez, his excellency the Salvadorean minister to the United States, Señor Mejia, and of representative officers of the Salvadorean army and of the port of Acajutla, together with United States Minister Dodge and the secretary of legation, Mr. Gregory.

The minister for foreign affairs, on behalf of the President, invited us to accept a banquet at San Salvador, but having been obliged to decline a similar courtesy extended by His Excellency the President of Guatemala, we were unable to accept this honor and courtesy. After a very pleasant visit the commission returned to the shore, Minister Dodge and Secretary Gregory remaining with us on the *Albany* over night.

At half-past 3 on Sunday my secretary and an officer of the *Albany* went on shore to receive his excellency Señor Dr. Don José Madriz, the judge designated by Nicaragua for the court at Cartago, who had arranged to meet us and accompany us from Acajutla. He was received on board with a salute of 15 guns and immediately thereafter the *Albany* proceeded to Amapala, Honduras, at which beautiful harbor we arrived at 9 o'clock on Monday, the 18th.

The water front and landing stage at Amapala was decorated with flags and flowers, and immediately after a national salute of 21 guns had been fired by the *Albany*, and answered by the fort, a boat from the *Albany* was sent ashore with my secretary and an officer of the ship, to accompany Dr. Bustillos, who landed there, and to present our compliments to the officers of the port and to receive the Honduran judge to the court at Cartago, his excellency Señor Dr. Don Carlos Alberto Ucles, who was to accompany us to San Jose. A few moments thereafter a launch put off from the shore containing his excellency the minister for foreign affairs of Honduras, Señor Don E. Constantino Fiallos, the minister of war, and officers of the port, who had come from Tegucigalpa, with instructions from His Excellency the President of Honduras to welcome us. They were accompanied by his excellency Magistrate Ucles, who was received on board with a salute of 15 guns.

After a very pleasant visit with the committee the *Albany* got underway and sailed for Panama, having abandoned our plan to stop at Punta Arenas, Costa Rica, and proceed from there to San Jose. We made this change owing to a report that reached us officially that yellow fever had been reported at Punta Arenas, and we deemed it safer, therefore, to proceed to Panama, cross the Isthmus to Colon, and from there to Port Limon, Costa Rica.

We anchored off Panama at 7.30 on the morning of Thursday, the 21st. After the visit of the health officer of the port, a launch was sent ashore from the *Albany* to ascertain what arrangements had been made to take us across the Isthmus. Shortly thereafter a launch from the shore reached the *Albany*, bringing the chairman of the Canal Commission, Senator Blackburn, and others, who came to welcome us and to extend the courtesies of the railway in accordance with the instructions of the War Department in order that we might at once cross the Isthmus and proceed on our way.

Before leaving the *Albany* a testimonial, acknowledging the constant courtesy that had been extended by the commander and officers of the ship and expressing the very great pleasure they had experienced during our trip, was signed by Ambassador Creel and the judges who had accompanied us as our guests, and left with Commander Mayo. We left the *Albany* with regret and with many expressions of gratitude on the part of all, to her commander and officers for the delightful and most comfortable voyage we had concluded on the ship.

Upon reaching the shore we found carriages awaiting us, and after calling upon his excellency the minister for foreign affairs, Señor Arias, we proceeded with him to pay our respects to His Excellency President Amador and thereafter to United States Minister Squires. Senator Blackburn then had the carriages containing our party drive about through Panama, in order that we might see the improvements that had been made in the city. After this we drove to the railway station, where a special train was waiting. We were met there by a large number of officers of the Canal Zone and of the Panama Government, whom I had pleasantly known and remembered.

His excellency the minister for foreign affairs, with Senator Blackburn and other officers of the Canal Commission, accompanied us and we started across the Isthmus. Col. Goethals, the engineer in charge of the construction of the canal, joined us at Culebra and pointed out to our party the different features and the interesting portion of the great work under his direction.

We reached Colon at half past 3 o'clock and found awaiting us an officer of the United States cruiser *Des Moines*, which had been ordered by the Navy Department to meet us at Colon and convey us to Limon and to remain there for such time as necessary, and thereafter convey Ambassador Creel and myself to such port in Mexico or the United States as I might decide upon. We were received on board the *Des Moines* by Capt. Potts, who extended a warm and generous welcome to our guests. Like the commander and officers of the *Albany*, Capt. Potts and his officers gave up their cabins in order that our party might be made comfortable, and extended to our guests every attention and kindness possible. After a salute fired in honor of his excellency the Mexican ambassador the *Des Moines* got under way at 4.30 and proceeded to Port Limon, Costa Rica, where we arrived at 10 o'clock on the morning of Friday, the 22d.

On our arrival at Port Limon we found the shipping in the harbor, the landing stage, and public and private buildings decorated with bunting and with flags of the United States and of Mexico in honor of the arrival of the *Des Moines* and our guests. After a national salute of 21 guns had been fired, which was promptly replied to by the port battery, and the visit of the port doctor had been concluded, we were waited upon by the reception committee that had been designated by the Government of Costa Rica to welcome us and to arrange for our trip to San Jose and for our comfort during our stay in Costa Rica. At the head of this commission were Señor Don Manuel Aragon, Señor Don Felipe Alvarado, and Mr. John Keith, whose constant courtesy met us at every step during our stay in Costa Rica, and can not be sufficiently recognized nor ever forgotten.

Accompanying the commission was his excellency Señor Licenciado Don José Astua Aguilar, the Costa Rican judge designated for the court to be installed at Cartago, together with the governor of the Province, the United States consul, and a number of prominent local officials who came off to welcome our party to Limon and to extend to the officers and men of the *Des Moines* every possible courtesy that would be serviceable to the ship or increase the comfort of her officers and men. After refreshments had been served we proceeded to disembark from the *Des Moines*, which fired a national salute to the flag of each of the judges who were leaving the ship and to the Mexican ambassador.

Upon reaching the landing stage we found a great crowd of people awaiting our party. We were received by military officers and members of the reception commission, the military band present playing the American and the Mexican national anthems. Comfortable quarters had been arranged for us in the headquarters building of the United Fruit Co., in Limon, and a banquet was tendered us on the same evening by the people of Limon, presided over by his excellency the governor of the Province. It was most enjoyable and marked the beginning of a constant succession of attentions and courtesies which followed each other during the entire time we were in Costa Rica.

On the morning of the 23d we left for San José in a special train, accompanied by the members of the reception committee and by many of the officials of the port of Limon.

Our train reached Cartago at 12 o'clock. We found the entire city beautifully decorated with flags, while in the center of the city arches had been erected and an elaborate scheme of street decoration carried out in honor of the inauguration of the court which was to take place on the following Monday. The streets through which the railway runs, especially those adjacent to the station, were packed with people, while the station platform was occupied by a military band and by a reception committee representing Cartago, headed by the governor of the Province and the mayor of Cartago, who welcomed our party with great cordiality.

Our party was met at Cartago by his excellency the minister for foreign affairs of Costa Rica, Señor Licenciado Don Luis Anderson; his excellency the minister of gobernación, Señor Licenciado Don Alfredo Volio; his excellency the minister of war, Señor Licenciado Don Vidal E. Quiros; his excellency Señor Dr. Don Salvador Gallegos, the judge designated by Salvador for the new court at Cartago, and who had reached San José a week in advance of our arrival, together with the other members of the reception committee, Señores Licenciado F. Aguilar, B. Licenciado Alberto Gallegos, and Dr. José María Soto, and by the special aids-de-camp who had been designated by His Excellency the President to attend each of our party during our stay in Costa Rica. The officers assigned to me were Col. Rafael Gonzalez, Col. Carlos Prestinary, and Lieut. Pisa, to whose never-failing courtesy and attention during my stay in Costa Rica I am indebted beyond words.

We left Cartago at 12.30 and at 1.30 reached San José. The station and station grounds were packed with people to welcome our party. We found carriages awaiting each of our party, and these were thereafter constantly at our service. Leaving the station accompanied

by the cabinet ministers, who had met us at Cartago, by members of the reception committee, and by the aids who had been assigned us, we turned into the street leading to the center of the city and to our surprise found it lined on both sides by 3,500 children from the different schools of San Jose, attended by their teachers. The children carried flags and bunches of flowers, which were thrown into the carriages as they passed, a striking and beautiful method to welcome the judges who had come to Costa Rica for the purpose of establishing an international court from which it is hoped peace and good relations may result for all of Central America.

We found that the Government had arranged for our stay in Costa Rica in a delightful and most commodious manner. Completely and excellently furnished houses, with servants, were assigned to Ambassador Creel and to your commissioner, while the judges were taken to a hotel in which ample and excellent provision had been made for their comfort. It is impossible to speak too highly of the great courtesy extended to your high commissioner and party by the Costa Rican Government in connection with the arrangements thus made for our stay in San Jose or with regard to their completeness and excellence. Nothing in connection with comfort had been omitted by the Government, and I desire particularly at this point to especially express my deep and lasting appreciation of this mark of courtesy and distinction shown by the Government of Costa Rica.

On the evening of our arrival we were taken to the Central Plaza, where a splendid band concert was given in honor of the judges of the court. The plaza had been especially decorated with bunting and lights and an enormous crowd of people were in attendance.

On Sunday, the 24th, Ambassador Creel and myself called officially on his excellency the minister for foreign affairs, who accompanied us on our official visit to His Excellency the President of the Republic, Señor Licenciado Don Cleto Gonzalez Viquez, during which we presented our credentials and were most delightfully welcomed.

The reception committee extended to Capt. Potts and the officers and men of the *Des Moines* the courtesy of a special train at any time and as often as they might desire to visit San Jose. This courtesy was greatly appreciated by the officers of the *Des Moines* and by the men, who were enabled through it to pass several delightful days in and about San Jose.

On Monday, the 25th, the day fixed for the inauguration of the court at Cartago, we proceeded to the railway station at 11 o'clock to join His Excellency the President of the Republic, his cabinet, the vice president, their excellencies the judges of the new court to be installed, the justices of the supreme court, the diplomatic and consular representatives accredited at San Jose, the presiding officers of Congress, the governor of the Province, the bishop of San Jose, and a large number of distinguished guests who had been invited by His Excellency the President to witness the installation of the new court. Capt. Potts and officers of the *Des Moines*, who had been specially invited to attend the inauguration of the court by His Excellency the President, accompanied me.

A special train carried us to Cartago, which we reached at 12 o'clock. The day had been declared a holiday by the municipality and throughout the Province by the governor, and an enormous crowd

was present at the station and in all of the streets leading to the building in which the inauguration of the court was to take place, to greet the President and our party.

The governor of the Province, the mayor of Cartago, and all the officials of the municipality were in attendance at the station in a body to welcome the President, the judges of the new court, and Ambassador Creel and myself.

Elaborate arrangements had been made for the reception of the President, the judges, and our party at the large Central School Building, in which the inauguration was to take place, and for their proper seating.

The building and the adjacent streets were profusely decorated with the flags of the five Republics and with the Mexican and United States flags. We noticed that wherever flags were displayed in Cartago or in San Jose or Limon the United States flag and the Mexican flag were conspicuous.

In view of the historic character of the ceremony of installation of the new court and for the purpose of record I attach hereto as an inclosure (2) a diagram showing the seating arrangements of the chamber in which the inauguration of the court took place.

Promptly at 1 o'clock the President, his cabinet, the vice president, and other national officers, Ambassador Creel and myself, the judges composing the court, the governor of the Province, and the other invited guests were ushered into the inaugural chamber and took our seats, that of the President being in the center of the group of seats occupied by the judges of the court.

The inauguration of this new international court, created through the patriotic efforts of the five Republics which signed the convention and treaties of Washington, and in which so great and so deep an interest had been and was being shown by the people of each of these Republics, was begun amid profound silence, in the presence of one of the most distinguished and representative assemblages that had ever convened in Costa Rica, and witnessed outside the building by a mass of people who packed every inch of available space in the adjoining streets.

The program of the inaugural ceremonies was as follows:

[Translation.]

Solemn inauguration of the court of justice for Central America.

1. The President declares the tribunal installed.
2. Speech by the minister for foreign affairs.
3. Speech by the governor of Cartago.
4. Speech by his excellency Señor Don Enrique C. Creel, high commissioner of the Government of the United Mexican States.
5. Speech by his excellency Mr. William I. Buchanan, high commissioner of the Government of the United States of America.
6. Speech by the president of the court of justice for Central America.

The court had held a preliminary session during the afternoon of the 24th and had elected president of the court his excellency Señor Licenciado Don José Astua Aguilar, of Costa Rica, and vice president his excellency Señor Dr. Don Salvador Gallegos, of Salvador, and as secretary Señor Licenciado Don Ernesto Martin.

In view of the historic interest attached to the installation of this new international court, I deem it well to insert here in the body of this report the entire proceedings of its inaugural session.

Following the declaration of the president of the court that it was open, his excellency the minister for foreign affairs, Señor Licenciado Don Luis Anderson, spoke as follows:

[Translation.]

Mr. President of the Republic; Your Excellencies the High Commissioners of Mexico and of the United States; Honorable Magistrates of the Court of Justice for Central America.

GENTLEMEN: The act which has brought us together to-day is surrounded by special solemnity, and will be noted throughout the world as one of the most splendid triumphs of justice and of human solidarity. We are assisting at the installation of the court of justice for Central America, the high tribunal to which five sister nations, wearied by the expenditure of the best of their blood, and the most virile of their forces in valueless strife, will in the future, guided by the sublime genius of civilization, come to render obedience to the precepts of divine law, to place their difference in the balances of justice.

This act, which constitutes the realization of that great humanitarian thought dear to philanthropists and to statesmen for many years past, will without doubt have greater transcendence in the history of the future than we can possibly attribute to it now.

The desire to arrange the differences between the nations by pacific means is one of the forms through which modern civilization has increasingly manifested its tendency to aspire to found on earth the reign of peace and law. Statesmen and men of science are at this moment persuaded that the intervention of violent measures, which unfortunately have been used so many times to solve international conflicts, must cease, for the reason that the triumph of arms does not always represent the truthful and legitimate triumph of right.

Arbitration has been contemplated as a sure means of arriving at pacific solutions, and those peoples who have been favored thus have accumulated strong proofs of its efficiency in their national life and have escaped in their history pages of sorrow.

In the history of the countries of Spanish America the noble idea has a glorious origin. It was born with their independence as though inseparable with liberty, and as a necessary element in their existence, since liberty surges from truthful force which resides in justice. It was thus comprehended by the genius of Bolivar at the very beginning of American emancipation, and, notwithstanding frequent and lamentable vicissitudes, is to-day, germinated by the deep desire of Central American patriotism developing itself, and will soon begin to give abundant and beneficent fruit.

I think it well to recall that glorious page of Latin-American history because it puts in evidence the fact that from the beginning of independence justice and concord were the deities to which homage was rendered by our forefathers, who in their political councils always invoked these and wished to place them in evidence through treaties and in their institutions; if they do not yet reign absolutely in the privileged soil of America it is our duty, and that of all good men, to procure incontestable good fruits by their planting.

Happily, all things tend to this generous end. The Pan-American conferences that have been celebrated and that will be celebrated in the future have for their primordial duty the finding of a formula for confraternity which will make the people of this continent happy and great through concord, peace, and work.

Civilization does not halt in its march while there is a step in advance to be taken, but day by day transforms ideas into doctrines and doctrines into institutions. All realized progress is crystallized into practical and fundamental form after the natural period of evolution of idealistic theory. For this reason great thinkers believe that the idea of international arbitration, a simple humanitarian doctrine contemplated by philanthropists as the base of a superior aspiration, must be carried farther and be converted into an institution which shall form an integral part of the organism of nations.

The glory of making the first attempt at such an institution, worthily represented by this court of justice for Central America, belongs to us, and our prayers, which will be accompanied without doubt by those of all thinkers in the

world, are that the results of this tribunal will reach the ideal and the legitimate hopes placed in it by our patriotism and humanity.

The success of this court of justice of five nations will be the success of their civilization; the purpose of the court will triumph in the end, notwithstanding the resistance that will be opposed to it by the reactionary spirit of some and the pessimism of others. It is a glorious thing for Central America to have purified its past errors by throwing to the winds to-day this new banner.

Patriotic hearts will in the future rejoice as they listen to the voices announcing success. The court of Cartago will in the future be the stone upon which those charged with realizing the magnificent destiny of Central America must build; and we have faith that the egotism of men will never reach here to destroy its purifying virtue. The interest of these people demand this; the ideal they have dreamed of, which in the person of this court is to dignify these countries before the other nations of the world, together with the aspiration of all among them who long for the coming of an era of peace and contentment, of liberty and justice upon which there is to be raised the future greatness of this rich section of the continent. For this reason we must never forget that there is incarnate in this court of justice for Central America the spirit of the old Patria; that Central America is united through the personality of its members, who have received their commissions from the representatives of the people of Central America and who thus form one body in which the soul of the old nationality is to be developed so that it may become the first step toward the union which all of us desire to see arise solidly and vigorously by virtue of peace and of the forces of work.

The present moment presents signs of a happy awakening for these countries agitated by disunion and revolutions. The hour has struck when arms must stand aside and make way for the toga. For the rude noise of battle there must be substituted the harmony of the workshop, and in place of making earth sterile by gutters torn by cannon balls it must be made fecund by the plow. In this way alone will we be great, and to this end we welcome peace, which to-day spreads its wings with a desire to cover all of the territory of the old Patria with international justice, whose throne is now raised in this chamber to carry to these peoples the good news of concord and of progress.

In this glorious day, gentlemen, I am sure there will not be a Central American heart that will not palpitate with thankfulness to the illustrious Presidents Roosevelt and Diaz, initiators of the conference of peace which created the court of justice for Central America, and to their worthy Secretaries of State, their excellencies Root and Mariscal, indefatigable apostles in the realization of that humanitarian ideal. It was not enough that Their Excellencies the Presidents of the powerful republics of the north should have proposed that conference as a resource against imminent shipwreck, but that in addition they should have followed its deliberations with lively interest, applauding its results, and at this inaugural session they honor us with their representation through two eminent men, their excellencies Señor Enrique C. Creel and William I. Buchanan, who in the same high character they bear here carried to the Central American conference at Washington their invaluable presence, placing at its service as prudent and fraternal councilors their vast fund of intelligence and their profound knowledge.

Magistrates: The Government of this Republic presents to you a most cordial and effusive welcome, and prays that the labors of this tribunal will correspond to the greatness of the idea which created it. Costa Rica welcomes you, full of pride, and greets in you an era of peace, of justice, and of progress of which you are the distinguished messengers.

Following the brilliant discourse of his excellency the minister for foreign affairs, the governor of the province, Señor Don Nicolas Jimenez, welcomed the court and other guests to Cartago in the following words:

[Translation.]

Mr. President of the Republic; Your Excellencies the High Commissioners of the United States and Mexico; Honorable Magistrates of the Court of Justice for Central America.

GENTLEMEN: In the Central American Conference of Peace which took place in Washington at the close of last year, the city of Cartago had the very high honor to be selected for the residence of the court of justice for Central America,

which in this solemn and splendid function, this moment brilliant for our destinies, this splendid aurora of right and of civilization for the sister peoples of the Isthmus, to-day begins its labors.

The noble and elevated mission confided to this august tribunal about to be installed, and from whose labors we look for such benefits in confraternity and in progress for our different nationalities, will, together with this memorable moment in which this occurrence is to take place, remain imperishable among Cartagonians because they symbolize the victory of peace in Central America and the consecration of the motto "fide et pace," which from remote times has been carried on the shield of Cartago.

As a representative of and in the name of the Province, I extend to you a respectful and hearty welcome, and I declare to you the immense pleasure, the legitimate pride, which all Cartagonians feel in reverently opening for you in this not-to-be-forgotten hour the doors of our humble hearths and in uniting our enthusiastic wishes and prayers for the success of your efforts in this new historical epoch in the life of Central America.

I am also extremely happy to be able to respectfully and cordially welcome their excellencies the representatives of the United States and of Mexico, who have taken so much interest in the peace of the sister Republics of Central America.

The governor's words of welcome were followed by the notable discourse of his excellency Señor Don Enrique C. Creel, high commissioner representing the Government of Mexico, who spoke as follows:

[Translation.]

Your Excellency, Mr. President; Your Excellencies, Magistrates of the Court.

GENTLEMEN: It is a very high honor for me to be present at this inaugural session of the court of justice for Central America representing the people and the Government of Mexico.

This occurrence, to-day registered in history, is the only one of its kind. It responds to the noblest of human aspirations; it means the conservation of peace in five Republics, and is the foundation stone of a new era of tranquility, progress, and good fortune for the heroic people of Central America.

Some months back a new manifestation of war disturbed public tranquility hereabouts. This, if serious and threatening, was neither new nor exceptional, since unfortunately political commotion, either internal or international, had been frequent in various portions of Central America and this chronic misfortune added gravity to the situation.

Under these circumstances Mexico and the United States of America tendered their good offices toward an endeavor to see if the questions which seemed almost certain to lead to war might not be adjusted within the field of reason and justice, instead of under the dominion of force, death, and extermination.

The invitation was accepted with wisdom and patriotism, and following this the preliminary protocol of Washington of September 17, 1907, was arranged and the Central American Peace Conference came together on the 13th of November of that year in the capital of the powerful Republic of the north and within the beneficent shadow of the monument of the great Washington.

In this conference Mexico and the United States of America were given posts of honor and we were witnesses of the noble, generous, patriotic, and eminently altruistic striving for good that took place. Its delegates were inspired for good, were sustained by affection for their country and for humanity, and made no effort whatever to secure advantages for one country to the detriment of others, but, on the other hand, endeavored with rectitude and honor to procure justice for all.

I will never forget the solemn declaration made by each of the delegations in that conference that their country had no claim of any kind to present against either of their sister countries of Central America. This breadth of view, this generous and magnanimous act, under the conditions which all of us remember, honored, and will always honor, the Governments which made them and the distinguished delegates who thus so worthily elevated their respective countries.

It was in addition the genuine expression of this patriotic people and illustrated the abnegation of this noble, generous, and heroic race.

While from all sides charges of lack of confidence were made, and while it was announced to the world that instead of being a conference of peace it would be but a reunion of discontent wherein the fires of passion might even bring about ridicule, the distinguished delegates answered these charges with the generous declaration to which I have referred and by a thousand evidences of culture and labor, which as a model might be presented anywhere with pride as a manifestation of the progressive evolution of humanity.

The conventions of Washington constitute a program of civilization of the greatest importance and of the highest order to the five Republics. The happiness of these people depend upon their faithful execution and exact compliance with their terms.

Without doubt the most important of these conventions is that which created this court of justice for Central America. Its juridical structure is solid and was worked out with wisdom and love, while its faculties are greater than have been delegated heretofore to any tribunal.

This work, magistrates of the court, is confided to you in this historic moment. The world fixes its eyes on you. Confiding to you its future, its national honor, and the prestige of its flag each Republic thus gives to you the highest testimony of its confidence and delivers to you the urn which contains its most sacred rights. You are elevated to be judges not of one but of five nations, and this establishes and fixes upon you an extraordinary responsibility.

Mexico and the United States of America have accepted a serious moral responsibility in this international undertaking. Their representatives were present in the conference of Washington and in the same capacity of two friendly nations they are found here at this moment as an evidence of their sympathy and of especial consideration for the people and Governments of Central America, and also to signify their faith and confidence in the success of this court. This faith and confidence, magistrates of the court, is placed by our Governments in you. You are not only the guaranty of this faith and confidence which two friendly nations have placed in you, but you also occupy this relation to the people of Central America and to the civilized world, being from this moment representatives of law and of justice in Central America.

Mexico and the United States have sent their high commissioners here on a mission of friendship and sympathy, and with the assurances of their highest respect for your heroic people, your governments, your autonomy, and your institutions; they come to this rich portion of the territory of America with the olive branch as messengers of peace. We must felicitate ourselves on the fact that on the American Continent there has been developed a policy of confraternity, of humanity, of political principles, of equal social aspirations, of respect for autonomy, of honor in complying with obligations, seeking high ideals, which by justice make nations rich through happiness and labor, through order and respect for law. In this work the five Republics of Central America should take that leading part which justly and legitimately belongs to them as free and sovereign peoples. Nature has covered them with riches; two oceans ask for their commerce; a noble and generous race awaits and asks for the benefits of peace; and it remains to their public men to take advantage of these elements and to give to the court of justice the high prestige and indorsement which it must have; to respect its decisions, thus adding new testimony of culture, and to surround it with respect and consideration of every kind in order that it shall come to constitute a new jewel of peace, a positive element of order and of progress, a center of justice and most solid international guaranty. May this honorable court, by its wisdom, become a lighthouse, whose rays of justice may be carried as a sublime lesson to the peoples of the earth.

The court of justice for Central America is neither an occurrence of the moment nor without antecedents. It is in the New World the seed sown by Simon Bolivar, which, by a happy coincidence, springs forth in these moments in which the plow of civilization breaks the earth where it was deposited in order that nations may be united for the good of humanity, and with beneficent influence upon the peace of the entire world. It is the result of the forces which for a great time past have been moving on the road toward international justice and toward the frank, cordial, and friendly unity of the Republics of the American Continent. It is the result of the labor of the Pan-American conferences; it is a consequence of the deliberations of The Hague; it is the national soul which palpitates in the Mexican people, always disposed to glorify justice; it is the fruit of the voyage of the distinguished Secretary of State, Mr. Elihu Root, that sincere friend of Latin America; it is the triumph of justice over passion and of principles over force.

In glorious hymns the blessings of peace will be sung by humanity as the most precious of its conquests, and this we find in a tangible manner in this beautiful country which overflows with hospitality toward us, and here is felt that tranquillity which produces order and labor and brings well-being and happiness to the people.

Magistrates of the court: There are white pages left for you in the great book of history. May you inscribe on these the success of the court of justice for Central America. That triumph will be the triumph of international justice, the success of humanity, and the triumph of justice in the highest tribunal which human intelligence has produced.

These are the fervent wishes of the people and of the Government of Mexico. I beg that you, magistrates of the court, will accept these as an offer of friendship for the peoples and for the governments of your beautiful countries.

Ambassador Creel's speech was most cordially received and loudly applauded. I then spoke, as follows:

Your Excellencies:

I am charged by the President of the United States to express to you, and through you to the Government composing this court, on this historic occasion, his congratulations on this new and marked evidence of advance in the international relations of your several countries, and to assure you of his confident expectation that peace and quiet and industrial progress will result to the people of Central America through the wise, patriotic, and elevated consideration and solution by this new court of questions that may arise between them.

The convention creating this court was an expression on the part of the Governments and people of Central America that a necessity existed for a more effective means than has heretofore been met with to conserve the peace and strengthen public confidence within Central America. That is the mission of this court, and the step thus taken is therefore one of grave responsibility and of transcendental importance.

While applauding this new movement toward the quiet, orderly, and judicial adjustment of international questions, the world will confidently expect that success will follow, and will not be satisfied with less than that.

To reach this splendid ideal it is necessary, however, that the conclusions of this court shall be of so high and of so impartial a character, and the acquiescence therein on the part of the Governments of Central America so full and prompt, that together they shall be morally recognized as an expression of the national conscience of Central America, as stated in article 13 of the convention creating this court.

To accomplish this there must be behind this court and its decisions an elevated, patriotic public conscience in each of the Republics that will lift and maintain the court in every way above the plane of political purposes or necessities.

This great and responsible work rests with you who compose this court and with the Governments and people of your several Republics.

The President and the Government of the United States believe fully in the deep and sincere purpose on the part of the Governments of Central America that this splendid step forward shall be maintained, and recognize the wisdom and appreciate the patriotism and the high ideals for which your excellencies are so well known. Believing this, they confidently look forward to your complete success.

It is a great pleasure for me, therefore, and a most distinguished honor, which I shall always recall with pride, to be present at this inaugural session as the representative of the President, and on his behalf and on behalf of the Government and people of the United States to extend to you on this historic occasion, and through you to the Governments and people of Central America, their cordial, heartfelt assurance of their sincere and deep interest in the peaceful, steady growth of progress in your several countries, and to assure you of their confident expectation that the new era of good relations between the Republics of Central America, founded on the conventions and treaties of Washington and put in action by the inauguration of this court, will be durable and lasting.

Toward the attainment of that goal the good wishes and godspeed of the President, the Government, and the people of the United States will always accompany you.

I concluded in Spanish as follows:

[Translation.]

Mr. President; Magistrates of the Court:

I have the honor and the great pleasure of bringing to the knowledge of your excellency, Mr. President, and of your excellencies the magistrates representing the Republics of Central America in the court of justice for Central America, that I have received a telegram from his excellency the Secretary of State of the United States, Hon. Elihu Root, instructing me to advise your excellencies that he has been authorized by Mr. Andrew Carnegie to offer the sum of \$100,000 for the construction in the city of Cartago of a temple of peace to be destined for the exclusive use of the court of justice for Central America, as a mark of his good wishes for the peace and progress of Central America and of his confidence in the success of the great work of humanity and justice which is to spring from this court, which is to constitute a new and splendid example of civilization, of peace, of justice, and of confraternity in the relations of the countries represented here.

Before concluding I also have the great pleasure to bring to your excellencies' attention the closing words of Secretary Root's telegram, which were as follows:

"To the distinguished magistrates: Long life, my best wishes, respect, and honor to the court."

As I closed there was a general manifestation of great gratification to Mr. Carnegie for his splendid gift.

Immediately thereafter His Excellency the President of Costa Rica, Señor Licenciado Don Cleto Gonzalez Viquez, replied as follows:

[Translation.]

Your Excellencies:

The information which his excellency Mr. Buchanan has just communicated to us calls for the highest gratitude on the part of all Central Americans.

The name of Andrew Carnegie, known to the literary world through the excellence of his productions, admired by the student of social and political science for his philanthropic works, for his charitable spirit and for his love of humanity, will remain associated with the work of peace and civilization which Central America to-day begins under such happy auspices.

We esteem this worthy gift of the philanthropist not alone because of its material character, but especially because it symbolizes and will stand as a proof of sincere sympathy and as a voice of encouragement directed to us from the north, where "triumphant democracy" is effective, by that man of generous impulses and of noble ideals rightly named an "apostle of peace."

I am sure that the other Governments of Central America will unite with this Government in signifying to Mr. Carnegie the great appreciation felt for his disinterested and splendid aid.

I am also sure that Mr. Carnegie, a sincere enthusiast for universal peace, will appreciate that the most eloquent as well as the most satisfactory testimony of our gratitude that can be given will be the fact that in the temple to be erected through his gift the differences which may arise between our countries are to be adjusted, thus avoiding hereafter the spectacle of fratricidal strife.

May many years remain to Mr. Carnegie in which he may honor humanity, and may it please Heaven that the world may be convinced through the decisions of this court, in which its magistrates are to act as the high priests of justice, that in Central America it is to become the substitute for the action of war, which leaves behind it nothing but sorrow for the family, desolation for the agriculturist, and ruin for those engaged.

May we be able to demonstrate to the world that armed combats, which are but backward steps, are henceforward to be definitively but things of the past in this portion of the New World, and that in place of the radiant but exterminating figure of war there shall reign as sovereign the majestic, serene, and immaculate figure of peace.

The inaugural session was closed by the president of the court, his excellency Señor Licenciado Don José Astua Aguilar, who spoke as follows:

Mr. President of the Republic; Your Excellencies the High Commissioners of the United States of America and of Mexico.

GENTLEMEN: Following the eloquent discourse to which we have just listened from the minister for foreign affairs for Costa Rica, and those from their excellencies Mr. William I. Buchanan and Don Enrique C. Creel, respectively, high commissioners of the Governments of the United States of America and of the United Mexican States, who bring us in these moments, ever to be remembered, the encouragement and good wishes of the eminent heads of the two powerful and illustrious Republics of the north; after listening to the grateful manifestation of welcome which has been given this court of justice by the noble city of Cartago, in which the first days of our democracy shone forth and in which there is now raised the first altar by the apostles of Central American confraternity, I have not words sufficient to express the greatness of the motive which has brought us here.

Whatever I may say will but feebly express to you the merit of the institution, without example in times past, which we initiate to-day under such auspicious circumstances and in which there is inherent the most advanced progress in international law by which international conflicts are to be resolved and the barbarous custom of sanguinary violence, whose aftermath of death has so many times darkened the earth, is to be proscribed from the human heart, and, as the walls of Jericho which were stormed one day by the barriers of the Ark of the Covenant and destroyed by the sound of their trumpets, so may those catastrophes in which military power strikes as lightning fall at the cry of the multitude filled with charity and with justice.

By virtue of the memorable act we are witnessing, carried out at this modest Spanish-American hearth, there is united the general voice which in the second conference of The Hague, warmed by the most holy links of Christian civilization, but without success, brought forward by the favorable vote of 31 States the principle of the adoption of obligatory arbitration as the only mode of conciliation in controversies arising between nations.

From this present moment there will eternally live in history, in letters of gold, the fact that the New World, in the labor of those spirits which have for their perspective the redemption of society from the horrors of war, has brought this court before the world, bathed in the splendors of justice, heroic with its investiture of a messenger of peace, anointed by faith and defended by the honor of a group of sister peoples which have placed in it their hopes of a happy evolution in their communal life.

It is a magnificent testimony to the fact that in the long and weary road of redeeming thought the mirage of supreme good is not a vision, even though along this road human society has made its pilgrimage, and will continue it, since thus from the remote times of the Greeks and Romans the ideal life beat its wings generation upon generation and century upon century, asking the concerted groups of individuals by their love of justice within each such constituted body should also bring about the coexistence of the separate States in one great body of humanity; that it should not be cruel strife nor the preponderance of those which could make themselves factors of destruction, but the high magisterial qualities of law that should decide the inevitable cases which alter the normal life of the world, and that there should thus be reunited the elements of harmony and of collaboration, which egotism and error had broken; to accomplish this society has, with a firm step, directed itself along the peaceful road of peace toward that happy era of our dreams wherein the majestic hymn of work would be the perpetual wave of echo surrounding the memory of the benefactor and the wise men of the world.

By its constitution, by its juridical powers, and by its juridical criterion the court of justice for Central America realizes in the most complete form the noble proposition that was lost in the world's congress in the hall of the knights of The Hague between the vacillation of statesmen, the resistance of traditional habit, and the suspicions of politics.

We must therefore look upon this result as a happy augury for the future, since it signifies that in the zone limited by the two oceans and the Isthmus of Panama and Tehuantepec fratricidal discord has been abolished; that the peoples who occupy this territory will not be taken, as were the sons of Rebecca

from the hearth of their mother, to engage in combat in this Central America, which, with an intelligent and virile race, with natural resources rich in wealth of every description, needs only peace and the opportunity to labor to raise it not only in its own eyes but in the eyes of the world.

This tribunal, gentlemen, and I state it with great satisfaction, constitutes the first political link—nay, even more—the first stable organism of the great and strong Patria, which as time passes will comprise under only one sovereignty, covered with one flag, the five nations which are grouped within it; it is indeed federation, to be constructed by utilizing the service of the highest social interests exemplified by this court to demonstrate justice, upon which without doubt other aspirations of unity will germinate and grow.

Before leaving this chamber in which we have gathered to celebrate this fiesta of the ideal triumphant, let us engrave in our memory of this glorious day as a symbol of the transcendental reforms which are to redeem Central America and fix upon it the admiration and respect of the world, a manifestation of gratitude to their excellencies Presidents Roosevelt and Diaz, who through their sentiments of pan-Americanism, by their enthusiastic belief in everything that tends toward the betterment of the nations of his hemisphere, and by their friendly aid contributed so much to the happy results obtained in the conference at Washington and who now honor us so much by their participation in this solemn function through the medium of two of their best-known diplomats and statesmen.

Let us also express to the worthy American philanthropist, Mr. Carnegie, who has been good enough, as we have just learned, to make an offering for the construction of the palace destined to be the home of the new power of justice, our sincere recognition, and let us inscribe at the close of the record of this inauguration the words of profound faith which Baron de Staal, the first delegate of Russia in the conference of The Hague in 1899, left as an epilogue of the labors of that memorable assembly: "We await the harvest."

Gentlemen, the court of justice for Central America appreciates highly the welcome which has been extended to it by the minister for foreign affairs of Costa Rica in the name of the Government over which the patriotic and worthy statesman, His Excellency Señor Licenciado Don Cleto Viquez, presides.

I also comply with a deep sense of obligation by directing myself in the same sense to the other public powers of the State and extend my most fervent wishes for the prosperity of this Nation, where labor, order, and liberty live in never-disturbed harmony.

At the close of his address the president of the court declared the session ended. The President of the Republic requested us to join him at luncheon, during which toasts were drunk to the success of the new court, while innumerable expressions of pleasure and of deep appreciation of Mr. Carnegie's gift were heard.

Certainly none of the many splendid philanthropic acts that have so worthily marked the life of Mr. Carnegie have done or will do more good than will this one. In view of their importance, I desire at this point to include your cable instructions carried out by me in my address to the court, together with translations of the record of the inaugural session of the court, of the communication addressed to me by the municipality of Cartago, and of all telegrams connected directly with Mr. Carnegie's generous and public-spirited action. These are as follows:

The Secretary of State to Mr. Buchanan.

WASHINGTON, May 23, 1908.

HON. WILLIAM I. BUCHANAN,

In care United States Legation, San Jose, Costa Rica:

Say to Dr. Anderson, minister for foreign affairs, with my compliments, that I am authorized by Mr. Andrew Carnegie to pledge the sum of \$100,000 in gold for the construction of a courthouse for the new Central American court at Cartago if there is no obstacle to the immediate acceptance of the offer, as to which Mr. Anderson has already assured me.

The announcement may be made in such a manner and at such time as Dr. Anderson and you think expedient.

Best wishes to you all. Long life, respect, honor, and usefulness to the court.

(Signed) Roor.

[Translation of the record of the court of justice for Central America, covering its first session, officially transmitted by the secretary of the court, in accordance with its unanimous action, to Mr. Buchanan, the high commissioner representing the President of the United States.]

José Astua Aguilar, president of the court of justice for Central America, certifies that on pages 1, 2, and 3 of the record of this tribunal the following record of the inaugural session is found:

In the city of Cartago at 1 o'clock in the afternoon of the 25th day of May of 1908.

Present: The members of the court of justice for Central America, Licenciado Don José Astua Aguilar, Dr. Don Angel Maria Bocanegra, Dr. Don Carlos Alberto Ucles, Dr. Don José Madriz, and Dr. Don Salvador Gallegos, with the secretary of the court, Licenciado Don Ernesto Martin, present:

Having before them the record of the preparatory session celebrated in the city of San Jose at 3 o'clock in the afternoon of the 23d of the present month, and at which time, in conformity with Article XII of the "Convention for the establishment of the court of justice for Central America," celebrated in Washington the 20th of December of 1907, there was elected president of the tribunal Licenciado Don José Astua Aguilar by 4 votes, the magistrate for Costa Rica having voted for Dr. Don Salvador Gallegos; for vice president, Dr. Don Salvador Gallegos by 4 votes, the magistrate for Salvador having voted for Dr. Don Angel Maria Bocanegra; and for secretary, Licenciado Don Ernesto Martin by 5 votes, the court of justice for Central America agrees to ratify and to incorporate in the records of the present session the election made of Señores Licenciado Don José Astua Aguilar as president, Dr. Don Salvador Gallegos as vice president, and Licenciado Don Ernesto Martin as secretary.

To-day having been designated for the solemn installation of the court it was effected in the following form and manner.

I. The president of the tribunal, Licenciado Don José Astua Aguilar, said: "In the name of the Republics of Central America, in compliance with the convention celebrated in Washington the 20th of December of 1907, and in accordance with the wishes and agreement of the five magistrates here present, I declare the court of justice for Central America installed."

II. His excellency Señor Licenciado Don Luis Anderson, secretary of state for foreign affairs, in the name of the Government of Costa Rica, and Señor Don Nicolas Jimenez, governor of Cartago, in the name of the Province, addressed the court, expressing their wishes for its great success in the exercise of its transcendental functions.

III. Their excellencies Señor Don Enrique C. Creel, high commissioner of the United Mexican States, and Mr. William I. Buchanan, high commissioner of the United States of America, presented to the tribunal testimony of the sympathy of their respective Governments, and his excellency Mr. Buchanan manifested in addition that he had instructions from his excellency Hon. Elihu Roo, Secretary of State of the United States, to announce to the court that Mr. Andrew Carnegie had given \$100,000 for the construction in the city of Cartago of a palace for the tribunal.

IV. His excellency Señor Licenciado Don Cleto Gonzalez Viquez, President of Costa Rica, extended the thanks of the Republic for the generous gift of the North American benefactor.

V. The president of the tribunal, Licenciado Don José Astua Aguilar, in the name of the court, replied to the above-mentioned discourses and make known the thanks of the tribunal for the lofty views that had been expressed and for the philanthropic gift made by Mr. Carnegie.

VI. The court of justice for Central America, in testimony of its recognition of the important gift which Mr. Andrew Carnegie had been good enough to make, agreed to extend a vote of grateful thanks to Mr. Carnegie.

VII. The court of justice for Central America, in order to consecrate the remembrance of its solemn installation, agreed to invite their excellencies the presidents of the highest authorities of Costa Rica and their excellencies the high commissioners of the United States of America and of the United Mexican

States, who had honored the act with their presence, to be good enough, if they deemed it well, to sign the present record of the court jointly with the magistrates and with the secretary of the court.

VIII. This record is definitely approved. A legalized copy is to be delivered to their excellencies the presidents of the five sections of Central America and to their excellencies the high commissioners of the United States of America and of the United Mexican States and to Mr. Andrew Carnegie.

At 3 in the afternoon the session was closed.

JOSÉ ASTUA AGUILAR.
ALBERTO UCLES.
SALV. GALLEGOS.
JUAN B. QUIROS.
WILLIAM I. BUCHANAN.
ANGEL M. BOCANEGRA.
JOSÉ MADRIZ.
CLETO GONSALEZ VIQUEZ.
A. ALVARADO.
ENRIQUE C. CREEL.

ERNESTO MARTIN, *Secretary*.

This is a copy.

JOSÉ ASTUA AGUILAR, *President*.

A seal reading: Court of Justice for Central America. Cartago, Costa Rica.
Before me—

ERNESTO MARTIN, *Secretary*.

[Translation of an official note transmitted by the municipality of the Province of Cartago, Costa Rica, to Mr. Buchanan on May 26, 1908.]

REPUBLIC OF COSTA RICA.

[SEAL.]

OFFICIAL.

CARTAGO, COSTA RICA, *May 26, 1908.*

SIR: The municipality of the central canton of the Province of Cartago, appreciating as the highest honor the distinction extended to the Province by Mr. Andrew Carnegie, the notable North American philanthropist, the beneficent protector of science and of peace, who by his charitable acts has made for himself a prominent place in the history of humanity, and who in accordance with the express statement made by his excellency Mr. William I. Buchanan, high commissioner representing the President of the United States of America in the solemn inauguration of the Court of Justice for Central America in Cartago yesterday, has given the sum of \$100,000 for the construction of a Central American palace of peace;

And whereas this gift is of deep meaning to the noble and faithful Cartago, the old metropolis of Costa Rica, both by reason of the honor conferred and because of the fact that the building of this palace gives definitive stability in Cartago to the high tribunal which is to put an end to dissensions between the sister Republics; thus constituting the corner stone upon which may be reconstituted the Central American fatherland.

This corporation, expressly assembled for the purpose, unanimously agrees, in the name of Cartago:

To render through his excellency Mr. William I. Buchanan public testimony of appreciation and thanks to Mr. Andrew Carnegie for the important help he has lent toward the upbuilding of this Province, by which he will be forever remembered for his splendid and significant gift.

With assurances of my highest and most distinguished consideration, I am,
Mr. Minister,

Your attentive servant,

JORGE ORTIZ E.,

Secretary of the Municipality.

His excellency Mr. WILLIAM I. BUCHANAN,
High Commissioner Representing the President of the United States of America at the Inauguration of the Court of Justice for Central America, San Jose.

His excellency Señor Licenciado Don Cleto Gonzalez Viquez, the President of Costa Rica, to their excellencies the President of Nicaragua, the President of Salvador, the President of Honduras, and the President of Guatemala.

[Translation.]

SAN JOSÉ, COSTA RICA, *May 24, 1908.*

THE PRESIDENTS OF THE REPUBLICS OF SALVADOR, GUATEMALA, HONDURAS, AND NICARAGUA:

His excellency Mr. Buchanan, high commissioner of the United States at the inauguration of the court of justice for Central America, has just informed me that the philanthropist, Mr. Andrew Carnegie, associating himself with our work of peace, has given the sum of \$100,000 for the construction in Cartago of an edifice for the court.

I hasten to communicate to your excellency this fact, which calls for the gratitude of all Central Americans.

With assurances of my distinguished appreciation, I am,

Your excellency's attentive servant and friend,

CLETO GONZALEZ VIQUEZ.

To the above telegram the following replies were received by the President of Costa Rica:

From the President of Nicaragua.

[Translation.]

DIAMANTE, NICARAGUA, *May 26, 1908.*

THE PRESIDENT,

San Jose, Costa Rica:

I have received your attentive telegram in which you have been good enough to advise me that his excellency Mr. Buchanan has communicated to you the fact that the philanthropist, Andrew Carnegie, has donated the sum of \$100,000 for the construction in Cartago of an edifice for the court of justice for Central America.

This great philanthropist, whose name is almost universal, merits on the part of Central Americans recognition of their profound gratitude, and we must congratulate ourselves that the step we have taken in favor of law and of the well-being of these peoples merits the appreciation and sympathy of persons so renowned and distinguished as Mr. Carnegie.

I beg of you to signify to his excellency Mr. Buchanan the gratitude of my Government for the philanthropy of his illustrious compatriot, and at the same time I beg you to accept my most sincere thanks for the happy notice which Your Excellency has been good enough to communicate to me.

With particular appreciation, I am,

Your Excellency's most attentive and faithful servant and friend,

J. S. ZELAYO.

From the President of Honduras.

[Translation.]

TEGUCIGALPA, *May 28, 1908.*

THE PRESIDENT, *San Jose, Costa Rica:*

I have read with the greatest satisfaction your appreciated telegram in which you are good enough to inform me that his excellency Mr. Buchanan has communicated to Your Excellency the fact that the millionaire philanthropist, Mr. Andrew Carnegie, has given the sum of \$100,000 for the construction of an edifice for the court of justice for Central America.

The peoples of Central America, aside from their gratitude to the United States and to Mexico for their friendly efforts in favor of peace, must deeply thank Mr. Carnegie for his generous act in wishing that the edifice for the court shall be worthy the high ideals which created the court, and of the hopes which this body holds out for the well-being of Central America.

In thanking Your Excellency for this happy news I beg of you to make known to his excellency Mr. Buchanan the gratitude of the people and Government of Honduras.

With the assurances of my appreciation and most distinguished consideration, I am,

Your Excellency's attentive servant and friend,

M. R. DAVILA.

From the President of Salvador.

[Translation.]

SAN SALVADOR, *May 28, 1908.*

The PRESIDENT, *San Jose, Costa Rica:*

The people and Government of Salvador associate themselves with the people and Government of Costa Rica in recognition to Mr. Carnegie for his gift.

I reiterate to Your Excellency the assurance of my high esteem and subscribe myself,

Your friend and servant,

F. FIGUEROA.

From the President of Guatemala.

[Translation.]

GUATEMALA, *May 29, 1908.*

The PRESIDENT, *San Jose, Costa Rica:*

I comply with a sense of deep obligation in thanking Your Excellency for the information you have communicated to me that Mr. Andrew Carnegie has been good enough to give the sum of \$100,000 for the construction of a palace destined for the court of justice for Central America.

This act calls for recognition by the five Republics of the Isthmus and speaks in the highest manner for the elevated moral qualities which distinguish that philanthropist, to whom, through the medium of your worthy self, I send my deepest thanks.

With sentiments of high consideration, I am pleased to subscribe myself,

Your Excellency's very attentive servant and friend,

M. ESTRADA C.

The following telegrams were sent to Mr. Carnegie by the minister for foreign affairs of Costa Rica, Señor Licenciado Don Luis Anderson, by the governor of the Province, and by the municipality of Cartago:

The Minister for Foreign Affairs of Costa Rica to Mr. Carnegie.

CARTAGO, COSTA RICA, *May 25, 1908.*

Mr. ANDREW CARNEGIE, *New York:*

I have the greatest pleasure in advising you that the court of justice for Central America was inaugurated in this city to-day at 1 o'clock with every solemnity. I am sure that you, one of the most fervent apostles for universal peace, will rejoice in this undertaking, with which you have so closely associated yourself by your generous gift for a building for the court, of which we have been informed by Secretary Root through the honorable high commissioner, Mr. Buchanan.

Your name will always be associated with this work, from which we hope will spring perpetual peace for Central America.

LUIS ANDERSON.

The Governor of the Province and the Municipality of Cartago to Mr. Carnegie.

[Translation.]

Mr. ANDREW CARNEGIE, *New York:*

The municipality of Cartago, deeply thankful for your splendid gift for the construction of a palace of peace for Central America, salutes you with the highest respect and expresses confidence in the ultimate success of this supreme tribunal.

Your attentive servants,

NICOLAS JIMENEZ,
Governor of the Province.
MANUEL ECHEVERRIA,
President of the Municipality.

The general interest shown in the installation of the new court by the Governments and people of Central America can not be better illustrated than by the inclusion here of a translation of the telegraphic correspondence that took place subsequently between his excellency the minister for foreign affairs of Costa Rica and the ministers for foreign affairs of the other Central American Republics.

The correspondence began with the following telegram announcing the inauguration of the court of justice for Central America sent to the respective ministers for foreign affairs of Nicaragua, Honduras, Salvador, and Guatemala by the minister for foreign affairs of Costa Rica, Señor Licenciado Don Luis Anderson:

[Translation.]

CARTAGO, *May 25, 1908.*

MR. MINISTER: I have the honor and at the same time the satisfaction to communicate to your excellency that to-day, at 1 in the afternoon, the court of justice for Central America was solemnly inaugurated.

I am sure that such a worthy undertaking will be a matter of great satisfaction for your excellency's illustrious Government, since the sentiments and proofs of deep love for Central America which your excellency's Government have always given are well known, as also the hearty response it has always accorded everything tending to the advantage of these sister countries.

With my distinguished consideration,

I am, your excellency's obedient servant,

LUIS ANDERSON.

To the above the following replies were received by the minister for foreign affairs of Costa Rica:

From the Minister for Foreign Affairs of Nicaragua to the Minister for Foreign Affairs of Costa Rica.

[Translation.]

MANAGUA, *May 26, 1908.*

THE MINISTER FOR FOREIGN AFFAIRS,
San Jose, Costa Rica:

I have had the honor to receive your excellency's esteemed telegram of yesterday in which you are good enough to advise me that at 1 o'clock on that day the court of justice for Central America was solemnly inaugurated.

My Government heartily celebrates this auspicious happening, which initiates an era of peace and concord between the peoples of Central America.

The sentiments of confraternity which animates Nicaragua are well known, together with the efforts and good will with which she sought in the Washington conference and on all other occasions to make effective the principle of arbitration for the solution of all differences between the countries of Central America.

This Republic therefore rejoices at the opening of this high tribunal, in which are held the highest hopes, since without doubt it represents the truthful interests of the five sister countries which now give forth the highest note in the spirit of civilization.

I repeat to your excellency the assurances of my distinguished esteem.

RUDOLFO ESPINOZA.

From the Minister for Foreign Affairs of Guatemala to the Minister for Foreign Affairs of Costa Rica.

[Translation.]

GUATEMALA, May 27, 1908.

The MINISTER FOR FOREIGN AFFAIRS,
San Jose, Costa Rica:

We have learned with special satisfaction, through a telegram from Señor Bocanegra, of the solemnity and enthusiasm with which the court of justice was inaugurated.

We felicitate Central America and the people and Government of Costa Rica, and we felicitate ourselves, for this great undertaking, which will contribute to the conservation of peace and prosperity among the Republics of Central America.

I reiterate to your excellency my high consideration.

JUAN BARRIOS.

From His Excellency the President of Honduras to His Excellency the Minister for Foreign Affairs of Costa Rica.

[Translation.]

TEGUCIGALPA, May 26, 1908.

His Excellency the MINISTER FOR FOREIGN AFFAIRS,
San Jose, Costa Rica:

I have read with satisfaction your excellency's attentive telegram in which you are good enough to make known to me that on the 25th the supreme court of justice for Central America was solemnly organized.

This occurrence has filled the peoples of Central America with joy, since they see in that tribunal a guaranty of peace, and this is true especially of my Government, which is interested in seeing terminated the period of fratricidal disputes in Central America.

In thanking your excellency for the attention which you have been good enough to show me in this, I am honored in subscribing myself,

Your excellency's attentive servant and friend,

MIGUEL R. DAVILA.

From the Minister for Foreign Affairs of Honduras to the Minister for Foreign Affairs of Costa Rica.

[Translation.]

TEGUCIGALPA, May 28, 1908.

The MINISTER FOR FOREIGN AFFAIRS,
San Jose, Costa Rica:

I have read with the deepest interest your excellency's telegram in which you are good enough to advise me that the court of justice for Central America has been inaugurated.

The people and Government of Honduras celebrate this event, considering it as the beginning of an era of lasting peace that is to benefit the five Republics of Central America.

I thank your excellency for your courtesy and reiterate the assurances of my highest esteem.

E. CONSTANTINO FIALLOA.

From the Minister of War of Honduras to the Minister for Foreign Affairs of Costa Rica.

[Translation.]

TEGUCIGALPA, May 28, 1908.

THE MINISTER FOR FOREIGN AFFAIRS,
San Jose, Costa Rica:

I have had the honor to receive your valued telegram of the 26th, in which you are good enough to inform me that on the 25th the court of justice for Central America was inaugurated.

In reply I am gratified to manifest to your excellency that my Government is highly pleased with this auspicious event.

It is believed that the institution of this court will bring about advantageous results and that its work will lead to peace in the Central American States and thus strengthen their relations.

With best wishes and the assurances of my respect and consideration,

I am, your attentive servant,

JOSÉ A. MATUTE,
Minister of War.

From the Minister for Foreign Affairs of Salvador to the Minister for Foreign Affairs of Costa Rica.

[Translation.]

SAN SALVADOR, May 29, 1908.

THE MINISTER FOR FOREIGN AFFAIRS,
San Jose, Costa Rica:

I have learned by your kind telegram of the 25th that on that day the court of justice for Central America was inaugurated.

In thanking your excellency for this good news, I have the honor to reiterate the patriotic wishes of my Government to assist toward obtaining through this high tribunal the best success for peace, the destinies of which are in the hands of this distinguished body in matters wherein it is called upon to proclaim the principles of justice and law in the relations between the five Isthmian States.

Will you be good enough to accept the homage of my highest consideration?

SALVADOR RODRIGUEZ.

In addition to the above the following telegrams were received by the minister for foreign affairs of Costa Rica, by the judges of the court, and by me. These possibly more fully show the popular feeling of satisfaction throughout Central America than do the above official telegrams.

[Translation.]

TEGUCIGALPA, May 24, 1908.

HIS EXCELLENCY MAGISTRATE A. UCLES:

I am glad to advise your excellency of the great satisfaction with which the Government of Honduras has seen the day arrive on which the court of justice for Central America is to be inaugurated. Celebrating this important occurrence, the day has been declared a national holiday, and all of the people of the Republic are preparing spontaneously to manifest their rejoicing.

By instructions of the President I beg your excellency in the name of Honduras to present to Their Excellencies Mr. Buchanan and Señor Creel and the magistrates of the court the sentiments of respectful consideration which exist for them here and the gratitude and cordial appreciation for Their Excellencies President Roosevelt and President Diaz and the profound faith which is had in a bright future of peace guaranteed by the existence of so noble an institution.

E. CONSTANTINO FIALLOS,
Minister for Foreign Affairs.

[Translation.]

MANAGUA, May 25, 1908.

DR. DON JOSÉ MADRIZ:

Nicaragua, which with enthusiasm sees in the Central American court of justice, which is to-day to be installed in the city of Cartago, the beginning of the realization of great ideals for Central America, these peoples giving the highest note of civic duty and of culture in recurring to obligatory arbitration as the only medium by which to resolve the misunderstandings which may arise between them in the future, putting thus into practice one of the beautiful conquests of modern law which synthesis peace in the future, which augurs under the auspices of the most perfect harmony the longed-for fusion of peoples called to constitute one sole nation by their customs, tendencies, aspirations, and necessities.

Now that two generous nations, strong in their elements, and, more than all, by the respect which their institutions assure to the liberty and sovereignty of the weak, have placed at the side of this cause their friendly influence, which assures the stability of the high court of Cartago.

The Government of Nicaragua has decreed, as an evidence of rejoicing for such a happy occurrence, that to-day shall be declared a national holiday. The celebration of this date will be carried out in an unusual manner because the people thus glorify peace, the sole fountain of progress.

In order, if possible, that your excellency may know of this decree at the moment of the installation of the court, it gives me pleasure to transmit it herewith, together with the program of the festivities agreed upon:

The President of the Republic considering:

That the installation of the court of justice for Central America is a glorious and transcendental occurrence, signifying the stability of peace and of close and of cordial union between the five Republics, and that it is a debt of patriotism to give public testimony of the jubilee with which Nicaragua associates itself with the inauguration of that high tribunal, decrees:

I. To declare the 25th of this month a national holiday, it being the date on which there will be installed the court of justice in the city of Cartago.

II. Ample facility is given to the minister for foreign affairs to make such disposition as he may deem best for the most complete manner of celebrating so worthy an occurrence.

III. To urge the municipal corporations of the country to worthily celebrate the same occurrence in each locality.

Given in the Hacienda El Diamante the 23d day of the month of May of 1908. National palace.

J. S. ZELAYA.

SACASA, *Minister of the Interior.*

The program to celebrate the solemn inauguration of the Central American court at Cartago on the 25th will be as follows:

Official reception at 8 p. m., presided over by the minister for foreign affairs, Dr. Don Rodolfo Espinoza R., with the assistance of the other members of the cabinet, the supreme court and other judges, the consular corps, the jefe politico, the comandante, and other high functionaries and persons.

The official discourse will be pronounced by Señor Dr. Don Manuel Maldonado. The exercises will take place in the hall of Congress.

At 9 p. m. there will be a grand concert in Central Park.

At 6 a. m. the national flag will be raised and a salute of 7 guns, fired hourly, will take place.

At 1 p. m. a salute of 21 guns will announce the moment of the installation of the court and at 6 p. m. the national flag will be lowered and a salute of 7 guns fired.

The Minister for Foreign Affairs.

RODOLFO ESPINOZA R.,
Minister for Foreign Affairs.

MANAGUA, May 23, 1908.

[Translation.]

SAN SALVADOR, May 25, 1908.

Señor Dr. DON SALVADOR GALLEGOS,
San Jose, Costa Rica:

I have the honor to hereunder transmit to you the decree issued yesterday by this Government in order that you may, if possible, place it within the knowl-

edge of the court of justice for Central America at the moment of its inauguration to-morrow.

The decree is as follows:

"The Executive power of the Republic of Salvador, considering the establishment of the court of justice for Central America as an act calling for congratulations and one for many motives worthy of being consecrated in the memory of the peoples of Central America, constituting an appreciable progress of great value in the victory of civilization and justice, whose importance goes beyond the limits of the interests of the peoples of Central America, since it is the first tribunal of its kind which has been established in permanent form for the decision, in conformity with the principles of equity and of law, of the misunderstandings which can take place between five independent and sovereign nations.

"On the other hand, it is an obligation of the Government to fix in the spirit of the Salvadorean people the noble idea that this tribunal represents the incarnate and tangible life of international justice, to be realized throughout the civilizing and specific medium of arbitration. Therefore, it is decreed:

"ARTICLE I. The 25th day of the present month, the date on which there is to be inaugurated in the city of Cartago the court of justice for Central America, created by the Central American Peace Conference celebrated in Washington during last year, is hereby declared to be a national holiday.

"ART. II. The Executive power interpret the sentiments of the Salvadorean people and in the name of the nation extends a vote of thanks to His Excellency the President of the United States of America, Mr. Theodore Roosevelt, and to His Excellency the President of the United Mexican States, Gen. Porfirio Diaz, for the noble and efficient cooperation lent by them toward reaching the satisfactory result obtained by the conference at Washington in the deliberations of which they were represented by the distinguished and well-known statesman, Hon. William I. Buchanan, and his excellency Señor Don Enrique C. Creel.

"ART. III. The minister for foreign affairs will place the present decree within the knowledge of the Governments of the United States and of Mexico, and will also communicate it to the court of justice for Central America on the day of its installation.

"ART. IV. The minister for foreign affairs and the minister of war are charged with carrying out this decree.

"Given in the Executive Palace in San Salvador on the 23d day of the month of May, 1908.

"FIGUEROA.

"SALVADOR RODRIGUEZ,

"The Secretary of State for Foreign Affairs, Justice, and Benevolence."

I am, with all consideration and regard, your attentive servant and friend,
SALVADOR RODRIGUEZ G.

MANAGUA, May 26, 1908.

HON. WILLIAM I. BUCHANAN,

*High Commissioner of the President of the United States,
San Jose, Costa Rica:*

I desire that the moment at which the court of justice for Central America is being organized to express to your excellency in the name of my Government the sincere recognition of the Republic of Nicaragua to the great North American nation and to your excellency for the noble interest it has taken and for the aid it has given in the creation of this high tribunal in which this people places their hopes of peace and concord for the future.

RODOLFO ESPINOZA R.,
Minister for Foreign Affairs.

[Translation.]

CHINANDEGA, May 25, 1908.

His Excellency THE PRESIDENT,

San Jose, Costa Rica:

The municipality and the multitude of neighbors of this city are at this moment celebrating the inauguration of the court of justice for Central America, and through me they desire to felicitate Your Excellency upon this happy under-

taking, predicting that, while foreign intervention was necessary to bring about the treaty of peace between the five sections of Central America, it will never be necessary for its maintenance.

ROBERTO GONZALES, *Alcalde.*

[Translation.]

ESPARANZA, *May 25, 1908.*

His Excellency THE PRESIDENT,
San Jose, Costa Rica:

The municipality and people of the city of Esparanza, enthused by the great undertaking which has been verified to-day through the installation of the supreme court of justice for Central America, begs to present to Your Excellency their most sincere felicitations upon this auspicious occurrence.

ROMUALDO FIGUEROA,
Governor and Comandante.
JOSÉ MARIA SANTOS, *Alcalde.*
COL. GONZOLO NEJIA NOLOSCO.
COL. RAFAEL PINEDA,
Lieut. Col. FEDERICO M. NOLAZCO.
GREGORIO MEJIA NOLASCO.

[Translation.]

LEON, *May 25, 1908.*

His Excellency MR. BUCHANAN,
San Jose, Costa Rica:

The deep booming of cannon announce here from the four quarters of the Republic the great solemnity of this day, the installation of the court of justice for Central America. This signifies in itself peace and progress and the highest and most generous efforts of Central America, which I feel are consecrated through the altruistic cooperation of the high Governments of the United States of America and that of Mexico, so wisely governed by Presidents Roosevelt and Diaz, and represented by their worthy ambassadors, Buchanan and Creel, through whose wise help, which was extended in this matter, American life has been honored and broadened.

With all consideration, I am,

Your excellency's very attentive servant,

FERNANDO SANCHEZ.

[Translation.]

TEGUCIGALPA, *May 28, 1908.*

His Excellency the MINISTER FOR FOREIGN AFFAIRS,
San Jose, Costa Rica:

I am highly honored in acknowledging the receipt of your excellency's courteous telegram of the 25th in which you are good enough to advise me that at 1 o'clock the court of justice for Central America was inaugurated in Cartago. As your excellency well says, such an auspicious occurrence, marking an era of peace and of progress in historic Central America, is a motive of grateful and lively satisfaction for the Government and the people of Honduras, who have given proofs of their love for Central America, who have always adhered with enthusiasm to every great and noble idea that looked toward the good of these countries.

The Government of Honduras has faith in the results that will be produced through the court of justice for Central America and for this reason congratulates itself upon its inauguration and cordially felicitates their brothers of the Isthmus.

I subscribe myself, with distinguished consideration,

Your excellency's very attentive servant,

ALBERTO RODRIGUEZ.

The Minister for Foreign Affairs of Costa Rica to His Excellency Señor Licenciado Don Ignacio Mariscal, Minister for Foreign Affairs of Mexico, and to His Excellency Hon. Elihu Root, Secretary of State of the United States.

[Translation.]

CARTAGO, May 25, 1908.

His Excellency the MINISTER FOR FOREIGN AFFAIRS,
Mexico:

To-day, at 1 in the afternoon, the court of justice for Central America, whose functions will be of such transcendental importance for these countries, was solemnly inaugurated in this city.

The illustrious Mexican Government, which with very much sympathy has looked upon the establishment of this institution of international justice, will, I am sure, receive with pleasure the occurrence which I am thus communicating to your excellency.

The assistance of his excellency Señor Creel, high commissioner of your excellency's Government, carries with it the deep recognition and gratitude of Central America.

With distinguished consideration, I am, your excellency's attentive servant,
LUIS ANDERSON.

[Translation.]

CARTAGO, May 25, 1908.

His Excellency the SECRETARY OF STATE,
Washington:

To-day, at 1 in the afternoon, the court of justice for Central American, whose functions will be of such transcendental importance for these countries, was solemnly inaugurated in this city.

The illustrious Mexican Government, which with very much sympathy has looked upon the establishment of this institution of international justice, will, I am sure, receive with pleasure the occurrence which I am thus communicating to your excellency.

The assistance of his excellency Mr. Buchanan, high commissioner of your excellency's Government, carries with it the deep recognition and gratitude of Central America.

With distinguished consideration, I am, your excellency's attentive servant,
LUIS ANDERSON.

To these telegrams the following replies were received by the minister for foreign affairs of Costa Rica:

[Translation.]

MEXICO, May 25, 1908.

His Excellency the MINISTER FOR FOREIGN AFFAIRS,
San Jose, Costa Rica:

I have read with lively satisfaction your excellency's telegram of to-day relative to the solemn inauguration of the court of justice for Central America, an occurrence which the Government of Mexico cordially celebrates, animated by sentiments which it has always shown in favor of the confraternity of the countries of Central America.

I repeat to your excellency my very distinguished consideration.

IGNACIO MARISCAL.

[Translation.]

WASHINGTON, May 27, 1908.

His Excellency Señor Don LUIS ANDERSON,
Minister for Foreign Affairs, San Jose, Costa Rica:

The Government of the United States is highly gratified to receive your telegram announcing the inauguration of the Central American court of justice.

I renew to you and to the members of that important body my best wishes and belief in its good, helpful influence for peace and prosperity.

ELIHU ROOT.

To the above I deem it valuable and important to insert here a translation of the following telegrams exchanged between the editor of *El Comercio* of Managua and His Excellency the President of Costa Rica. In these the statesmanlike and patriotic broad views of President Gonzalez Viquez are clearly shown as they refer to the new court.

[Translation.]

MANAGUA, *May 25, 1908.*

His Excellency the PRESIDENT,
DON CLETO GONZALES VIQUEZ,
San Jose, Costa Rica:

El Comercio desires to learn the personal opinion of Your Excellency at the historic moment of the inauguration of the court of justice for Central America concerning its civilizing influences upon the destinies of these peoples. I venture therefore to beg Your Excellency to be good enough to telegraph me your reply in order that I may honor the columns of my newspaper with your views.

I am, Your Excellency's attentive servant,

JOSÉ MARIA CASTILLO.

[Translation.]

SAN JOSE, COSTA RICA, *May 26, 1908.*

The EDITOR *EL COMMERCIO, Managua:*

I comply with great pleasure to your courteous invitation.

I have the most firm conviction that the court of justice for Central America will be a certain factor for peace between the sister States of Central America.

Aside from the fact that the existence alone of a superior tribunal, to which they can go with the right to demand justice, will much reduce the beginning of suggestions dangerous for their tranquility, I also think that even with claims occurring none of the Governments will fail to submit them to judgment in order to avoid steps that might lead to war; and that a decision of the court having been given, none of these Governments would be ready to take upon themselves the grave responsibility of declining to abide by it, not only because national honor would thus be compromised—a thing which no citizen ever desires to see—but because the decision, coming from a permanent tribunal composed of conscientious judges of the highest character, who have not been sent to constitute themselves into attorneys for their respective nations, there can be no thought that the decisions may have been reached through irregular or political influences and that in this way the "amor propio" of a people has been in some form hurt.

The most elemental prudence counsels appeal to this tribunal and submission to its decision; and, more still, when it is remembered that the court has not been formed for one determined case and will therefore not bring to anyone humiliation. I therefore see no danger that the resolutions of the court will be in any way evaded, and this being the fact I consider the possibility of an international Central American conflict as being avoided.

On the other hand, the most evident interest of all of us Central Americans is to give to the tribunal, to which we ourselves have consented and which we have constituted, the highest prestige and consideration. With it we will gain tranquility and our credit before the civilized world.

I am, sir, affectionately, your servant,

CLETO GONZALEZ VIQUEZ.

Following the inaugural session we returned to San José, where we remained until June 2. During this time the judges of the new court and Ambassador Creel and myself were the constant recipients of courtesies on the part of the Government of Costa Rica. Special exercises were arranged for in our honor by the different colleges and schools of the city, whose excellence and extended use is a

source of justifiable pride to the people of San José. A special railway trip toward the Pacific was arranged in order that we might see the character of the country on that side of the Republic. We were taken to see their modest but excellent museum, their insane asylum—which, we were told, in the percentage of its cures, occupies one of the first places among similar institutions in the world—and the new penitentiary, being built upon the most modern and advanced plans known for such institutions.

On the evening of May 28 His Excellency the President gave a large banquet in honor of the judges of the court, Ambassador Creel, and myself, and on the evening of the 30th one of the most elaborate balls that had ever taken place in Costa Rica, we were told, was given in our honor.

On Sunday evening, the 31st, Ambassador Creel and myself gave a dinner at the International Club to His Excellency the President. We were also honored with the presence of his cabinet, the judges of the new court at Cartago, representatives of the different divisions of Government, the governor of Cartago, the governor of Costa Rica, the bishop of Costa Rica, the United States chargé d'affaires, the dean of the consular corps, Capt. Potts and officers of the *Des Moines*, the members of the reception committee who had done so much to make our stay delightful, and the aides who had been assigned us.

At both dinners the President, in proposing or replying to toasts, spoke with earnestness concerning the court that had been installed, and expressed the fervent hope felt by all interested in the welfare of Central America that it would justify the expectations of those who had created it and satisfy the expectation properly and justly, he said, felt in these regards by the Governments of the United States and of Mexico, who by the presence of their high commissioners at the installation of the court had assumed a moral responsibility that should be, and he believed would be, amply justified by Central America.

We arranged to sail on the *Des Moines* on June 2, and I ventured in that connection to express to His Excellency the President the great honor and pleasure it would be to us if he would accompany us to the *Des Moines* on that day, so that he might be officially received on board the cruiser, and in order that Capt. Potts and myself might have a slight opportunity to show him our deep appreciation of the innumerable courtesies that had been extended to us by him and by his Government.

The President heartily accepted this invitation, and arrangements were at once made for his reception, invitations being sent in my name and in that of our chargé d'affaires and of Capt. Potts of the *Des Moines* to the vice president, the cabinet, the judges of the new court at Cartago, the justices of the supreme court, the bishop of Costa Rica, the governor of Costa Rica, the governor of Cartago, the governor of Limon, the members of the reception committee, the Mexican consul at San Jose, the United States consuls at San Jose and Limon, and to the port officials at Limon, all of whom did us the honor to accept our invitation.

We left San Jose at 9 o'clock on the morning of Tuesday, the 2d of June, in a special train, accompanied by His Excellency the President and our other guests.

We reached Port Limon at 2 o'clock and were met by officers of the *Des Moines* in full uniform. After our guests had been placed on board the *Des Moines*, which had been beautifully dressed with bunting and palms, His Excellency the President, the vice president, and the cabinet left the shore in the 10-oared barge of the *Des Moines*. The day was a beautiful one, and as the ship had been brought in close to the shore the mass of people who lined the entire water front were treated to the brilliant spectacle presented when the President was received on board the *Des Moines*. The ship's rail was manned, all her officers were in full uniform, and every honor and courtesy possible were shown him.

After luncheon had been served the President and our guests accompanied Capt. Potts on an inspection tour over the ship.

At 4 o'clock good-bys were said, and the President left the ship, followed by our guests, and at 5.30 we sailed for Veracruz, Mexico, accompanied by his excellency the Costa Rican minister to the United States, Señor Dr. Don Bernardo Calvo, who had graciously accepted my invitation to go with us to Washington.

We reached Veracruz at 2.30 on Sunday, the 7th. Our voyage had been most pleasant; Capt. Potts and the other officers of the *Des Moines* having devoted themselves to make it so, and I can not say too much in commendation of the officers and men of the *Des Moines*, who added so much to the success of our mission, and who by their courtesy, attention, and tact left in Costa Rica the most delightful recollections of the visit of the *Des Moines* to her waters.

We found a special committee of military and civil officials at Veracruz, who had been designated by President Diaz to receive us on our return, and the President's special train in charge of a representative of the foreign office awaiting us to convey us to Mexico, where we arrived on the morning of the 8th, and were met at the station by the subsecretary for foreign affairs and by other officials of the foreign office and by a large number of personal friends.

On Tuesday, the 9th, Ambassador Creel and myself called upon his excellency Minister for Foreign Affairs Mariscal, and immediately thereafter upon His Excellency President Diaz at the Castle at Chapultepec. We went over the points of our mission with His Excellency and I took the opportunity to express the deep sense of appreciation felt by our Government for the honor he had done us through his designation of Ambassador Creel as high commissioner to accompany me and of the great measure of praise that was due to him for whatever success had attended our mission.

The President, in reply, said that it was not only a delight to him to have done so, but that it had always been and was his fixed purpose and hope to constantly maintain the close and cordial relations with the United States that had been evidenced in the mission Ambassador Creel and myself had just concluded. He wished me especially to assure you, and through you His Excellency President Roosevelt, of the deep and lasting appreciation felt by him for the courtesy and attention that had been extended to Ambassador Creel during our trip. To these sentiments Ambassador Creel added that it would be impossible for him ever to properly give expression to the depth of his appreciation and gratitude toward your high com-

missioner and toward the officers of the *Albany* and of the *Des Moines* for the constant courtesies and consideration that had been shown him during our trip.

On the evening of the 9th His Excellency President Diaz gave a banquet in the National Palace in honor of Ambassador Creel and myself. Sixty guests were present, including the vice president, all members of the cabinet, his excellency Minister Calvo, and his excellency the American ambassador, Mr. Thompson. A military band was stationed in the patio of the palace, while a large orchestra played during the banquet. The entrance and stairways of the palace were elaborately decorated with flowers and evergreens. Gen. Diaz at the close of the banquet proposed the health of the President of the United States and of those of Central America, and in doing so complimented Ambassador Creel and myself upon the success that had attended our mission, and expressed his hope and confidence that the work that had been begun at Cartago would be fruitful in good results.

On the evening of Wednesday, the 10th, Minister Calvo and I left Mexico for Veracruz in the President's train, accompanied by a representative of the foreign office, and at 9 o'clock on the morning of the 11th we sailed on board the *Des Moines* for Habana, where we arrived at 2 o'clock on Sunday, the 14th.

On Monday Minister Calvo, Capt. Potts of the *Des Moines*, and myself were guests at a breakfast given in our honor by Gov. Magoon. At 4 in the afternoon we said good-bye to the *Des Moines* and sailed for Knights Key on the *Miami*. We reached Knights Key on the morning of the 16th and immediately proceeded by train, reaching Washington on Thursday, June 18.

CONCLUSION.

It remains to be seen to what degree and the extent to which the new court at Cartago will act as a deterrent by preventing the appearance of disputes between the different Republics and the character of support that will be given its decisions.

It will be no doubt difficult, on the part of the five Republics, for a time to harmonize that unity of purpose that must form the underlying necessary stratum upon which the success of the court depends, with the national individualism that has been the rule in Central America.

The creation of this court does not, however, solve one important question affecting the peace of these Republics, namely, how to avoid internal outbreaks against existing authority in the Republics signatory to the convention of Washington. While it is true that if these are believed to have been aided or countenanced by a neighboring Government the case comes within the jurisdiction of the court, it is equally true that even these are likely to give rise to misunderstandings before the case reaches the court and thus to add to its difficulties.

On this point I venture to express the belief that if the excellent work represented in the organization of this court is not to be jeopardized as to its future usefulness, the greatest prudence, tact, and statesmanship must be shown by each of the five Republics in every-

thing even remotely likely to reach the court. An entire absence of business for the court would be the highest justification for its creation.

The part that has been taken in connection with the court by its host, Costa Rica, has been a most important one and more than creditably carried out. A special building has been fitted up and furnished for the use of the court and the utmost hospitality extended to its judges, and every effort put forth to show them and the Republics of Central America how deeply Costa Rica appreciates the honor that was done her through the selection of Cartago as the seat of the court.

Costa Rica is an evidence of what peace and quiet can accomplish in the upbuilding of a country. She is not burdened with expense for an army; her agriculture is extending; no complaints are heard as to the operation of justice within her limits; her schools are full and are increasing in number, and her people quietly and contentedly go about their labors and occupations free from any preoccupation as to disorder within their country. There seems to be no reason why this should not be the fact in each of the Central American Republics, and it was the confident hope and belief of officials of the different Republics whom I had the honor and pleasure to meet during my voyage that the new court at Cartago was a first step to that end, and that from it other aids toward the happiness and content of the people of Central America would come.

Let me in conclusion express my deep thanks for the honor conferred upon me by my designation as high commissioner representing the President at the inauguration of this new court and the great pleasure and satisfaction I derived in connection with that memorable and historic occurrence.

I have the honor to be, sir, very respectfully,
Your obedient servant,

WM. I. BUCHANAN.

BUFFALO, N. Y., July 21, 1908.

MESSAGE OF THE PRESIDENT OF COSTA RICA TO THE COSTA RICAN CONGRESS.

File No. 2755/7-9.

Chargé Weitzel to the Secretary of State.

No. 1332.]

AMERICAN LEGATION,
San Jose, May 11, 1908.

SIR: I have the honor to advise that the Congress of Costa Rica met in regular session on Friday, May 1, 1908.

After the new deputies, 21 in number, or half the total membership, had taken the oath of office, the organization was effected and Juan B. Quiros was chosen president of the Congress.

Mr. Quiros is about 56 years old, of considerable ability and long legislative experience. He was educated in England, and seems to be well fitted to carry out the Government's legislative program.

On the opening day the President's message was read and referred to the proper committees. A résumé thereof is appended hereto, and three copies of the original are being transmitted to you under separate cover.

I am, etc.

GEORGE T. WEITZEL.

[Inclosure.]

Summary of the President's Message to the Congress of Costa Rica, May 1, 1908.

The President congratulates the country that there has been no disturbance of the public order, but, on the contrary, a complete satisfaction with existing conditions. He comments on the peaceful elections of April, but proposes changes in the election laws so as to shorten the duration of the campaign period.

Of the peace treaties, signed at Washington, and of the court of justice therein named, he says:

"This tribunal, the first of the kind organized in the world, is called to exercise a powerful and beneficent influence on the tranquillity and cordial relations of the Central American States. The unique establishment of such an international organization will constitute for Central America a matter of legitimate pride; but greater will be our glory if the court becomes in fact a sure means of terminating peacefully whatever controversy may arise between two or more of the nations engaged, and if, as is fervently to be desired, we all regard with fidelity its sentences, not only by reason of the respect which is due from us to the judgments of a tribunal agreed upon and constituted by ourselves, but especially by the natural desire and, it may be said, by the unutterable satisfaction of showing to the world that the Republics of Central America, held for many years and by many people as turbulent countries lacking in judgment, can, when the case occurs, give also an example of prudent and good government. I ought not to miss taking advantage of this opportunity to signify once more to Their Excellencies Presidents Roosevelt and Diaz the gratitude of the Government and people of Costa Rica for the solicitous mediation with which they have procured the guaranty of peace in Central America, and for the efficacious collaboration in preparing for these Republics a new era of tranquillity and progress. Costa Rica is ready for its part, and I fervently hope that on their part our sister nations will soon be prepared to do everything possible, so that the noble purpose of our new order of Central American policy will not have vain results."

The Executive then speaks of his conference on January 10, 1908, with President Zelaya, of Nicaragua, and signifies his intention to send to the Congress a treaty the terms of which were agreed upon at said meeting.

He states that the value of exports has decreased somewhat, on account of a shortage in the coffee crop, caused in part by inopportune rains; that the deficiency, amounting to about one-half, will be recompensed in part by the increase of prices and by the prospect of an unusually large crop for the coming year; and that this deficiency, united to the American financial crisis worked an alarming effect on the money circulation that might have had lamentable consequences.

He recommends internal improvements and the building of bridges and roads as the best means to promote agriculture, notes the increase in extent and importance of the production of cacao, and promises later to submit a contract made with the Messrs. Peralta and Bryant for the cultivation and treatment of fiber plant and the manufacture of bags and cordage therefrom.

He is pleased to report that by a decision of the Holy See eight feast days have been converted into days of labor, a result containing much import for the welfare of the country, which 20 years of civil law could not bring about in the habits of the faithful.

He says that public hygiene will continue to be the favorite theme and the particular solicitude of the Government.

The message contains the following financial statement:

FINANCES.¹

Revenue:

Customs duties (increase 25 per cent)-----	¢5,058,375.25	
Liquor receipts-----	1,884,579.18	
Government railroad, mail, and telegraph---	572,487.51	
	<hr/>	
Total (increase of ¢965,285)-----		¢7,515,441.94
All other sources-----	401,033.03	
	<hr/>	

Disbursements:

Extension of Pacific Railroad-----	556,741.45	
Construction of public buildings-----	458,275.22	
All other expenditures-----	8,176,432.84	
	<hr/>	
Total (increase of ¢167,768)-----		9,191,449.51
	<hr/>	
Annual deficit-----		1,676,007.57

To meet this deficit in part the internal debt was increased from ¢8,592,086.77 to ¢9,752,684.73.

As to the external debt, the Government has entered into direct negotiations with counsel for the bondholders, and has a good prospect of making satisfactory arrangements, and for that purpose counts on the export tax on bananas, now under consideration, as offering a solid basis on which to reassume the obligation of the debt.

He recommends the requisition of telephone lines and the extension of the Pacific Railroad for the short distance necessary to make a continuous road from ocean to ocean, which project is favorably reported on by the American engineer who was employed to investigate the matter.

He pleads for the further development of the system of primary education and for the permanency of tenure of school teachers without reference to political affiliations.

His final word is for the revision of the penal code.

¹ ¢1.00= \$0.46.

CUBA.

DEATH OF EX-PRESIDENT PALMA, OF CUBA.

File No. 16387/1.

Minister Morgan to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Habana, November 4, 1908.

Ex-President Palma died at 11 o'clock to-night at Santiago de Cuba.

MORGAN.

File No. 16378/1.

The Acting Secretary of State to Minister Morgan.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 5, 1908.

(Mr. Bacon instructs Mr. Morgan to convey, by direction of the President, sincere condolence and regret at the death of the distinguished ex-President Tomas Estrada Palma. Mr. Morgan is directed to express to the family Mr. Bacon's personal sympathy.)

File No. 16387/1.

The Secretary of State to Minister Morgan.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 7, 1908.

(Mr. Root instructs Mr. Morgan to convey to the family of the late Don Tomas Estrada Palma an expression of deep sorrow and sympathy in their bereavement. Mr. Root states that he mourns the death of Don Tomas Estrada Palma as the loss of a personal friend as well as a noble pure minded lover of his country.)

File No. 16387/7-12.

The Acting Secretary of State to Minister Morgan.

No. 210.]

DEPARTMENT OF STATE,
Washington, November 19, 1908.

SIR: I have to acknowledge the receipt of your No. 801, of the 7th instant,¹ inclosing newspaper clippings and the Official Gazette

¹ Not printed.

announcing the death of Señor Don Tomas Estrada Palma, lately President of Cuba.

As you have been advised by telegraph, the report of the death of this patriotic and enlightened statesman, the first President of the Republic of Cuba, was received by the President, the Government, and the people of the United States with sincere regret, and the President expressed in his telegram to Señora Palma the sentiments of sympathy widely felt throughout the United States.

The department specially charged with the intercourse between the United States and Cuba now avails itself of this opportunity to convey to the Government and people of Cuba its respectful sympathy.

I am, etc.,

ROBERT BACON.

ELECTION OF JOSE MIGUEL GOMEZ AS PRESIDENT OF CUBA.

President-elect Gomez to President Roosevelt.

[Telegram.]

HABANA, *November 16, 1908.*

Allow me to express to you our congratulations and heartfelt thanks for the absolute impartiality, tact, and ableness observed by Governor Magoon and subordinates during the elections, thus giving the people of Cuba an opportunity to cast their votes with entire liberty.

JOSÉ MIGUEL GOMEZ.

President Roosevelt to President-elect Gomez.

[Telegram.]

THE WHITE HOUSE,
Washington, November 16, 1908.

Pray accept my hearty congratulations on your election as President of the Republic of Cuba. I have not cabled before because I desired to receive full official reports of the election. These are at hand, and I rejoice at the orderly and law-abiding manner in which the election was carried on; the rigid observance by all the officers not merely of the law, but of the demands of propriety and the loyal acceptance of the result by the people of Cuba.

The conduct of this election shows in impressive fashion the seriousness with which the Cuban people have now prepared themselves once more to assume the duties of a free and independent Republic. In two months from this date your Government will assume complete control and the United States authorities will once more turn over to the representatives of the Cuban people the beautiful and fertile island of which you are so justly proud. I most earnestly wish you and your colleagues in the Government the greatest measure of success, and assure you of the genuine and lasting friendship of the United States.

THEODORE ROOSEVELT.

File No. 1943/181A.

The Secretary of State to Governor Magoon.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 17, 1908.

The President has received from Gen. Gomez a message of congratulations and thanks for the impartiality, tact, and ability shown by you and your subordinates during the elections, whereby the people of Cuba were insured entire liberty in casting their votes. The President directs that you make suitable acknowledgment in his name, assuring Gen. Gomez and his fellow countrymen of the no less cordial gratification of the President and the people of the United States, that the last act of their recent temporary trust in Cuba has demonstrated their high purpose to leave the government and control of the island of Cuba to its people.

ELIHU ROOT.

File No. 1943/182.

President-elect Gomez to President Roosevelt.

[Telegram.]

HAVANA, November 18, 1908.

I have received your telegram of congratulations on my election as President of the Republic and I am profoundly grateful for the honor; I express to you my sincere acknowledgment. The justice you do to my people for the solemn demonstration of its ability to assume the duties of a free and independent Republic affords me the greatest satisfaction. The rigid observance of the law and the enthusiasm of the two contending parties, which led the people of Cuba and their authorities in the same path, achieved the earnest purpose of carrying out an honest election. I am confident that on assuming in two months the Government of the Republic we Cubans will continue to give evidence of the full consciousness of our international duties and of the high appreciation in which we hold the genuine and lasting friendship of the United States of which you nobly assure us. It gratifies me once more to recognize in you the great friend of Cuba, who, since your personal intervention in the armed struggle for independence until your paternal counsel in the days of sorrow, have always cherished in your soul the pure sentiment and firm purpose of seeing our nation free in its institutions and in the full control of its destinies.

JOSE MIGUEL GOMEZ.

EXTRADITION PROCEDURE.

File No. 11343.

The Cuban Minister to the Secretary of State.

No. 429.]

CUBAN LEGATION,
Washington, January 24, 1908.

EXCELLENCY: I have the honor to ask that Your Excellency's Government grant the extradition of Rafael Barbato, a fugitive from the

justice of the Republic of Cuba, against whom proceedings have been instituted before the examining magistrate of East Habana on the charge of larceny exceeding the sum of 1,000 pesos.

This man was arrested at Tampa on the 9th instant as the result of researches instituted by the police of that place at the request of the consul of Cuba, who was in due time advised by this legation of the description of the fugitive and of the charge lying against him, and he has been detained there since that date.

The Cuban consul at Tampa reports to me that Barbato has asked to return to Cuba and formally waived, before the extradition commissioner or magistrate, the rights conferred upon him by the law of this country without waiting for the production of the proof of the crime charged against him. If upon the favorable decision of the commissioner or magistrate extradition may be granted under the circumstances, I should be greatly pleased so to inform my Government, which will, in any case, be ready to present within the time fixed by the treaty the formal request of extradition supported by the documents required by the said treaty.

I improve, etc.,

ARTURO PADRO Y ALMEIDA.

File No. 11343.

The Secretary of State to the Cuban Minister.

No. 237.]

DEPARTMENT OF STATE,
Washington, January 28, 1908.

SIR: I have the honor to acknowledge the receipt of your note of the 24th instant, in which you state that one Rafael Barbato, who has been arrested and held at Tampa on a charge of larceny committed in Cuba, has waived extradition proceedings, and you ask whether, under the circumstances, extradition can be granted without waiting for the evidence required by treaty.

I have the honor to say, in reply, that the department can not give a definite assurance as to what its action will be in any case of extradition in advance of the report from the examining magistrate committing the fugitive for surrender. If upon the receipt of the magistrate's commitment it appears that the fugitive voluntarily waives his right to an examination and consents to return for trial to the country where the offense was committed, the department will under ordinary circumstances let the case take its customary course.

Accept, etc.,

ELIHU ROOT.

SANITATION OF CUBAN CITIES.

[For previous correspondence, see Foreign Relations, 1907, p. 301.]

File No. 8327/3-4.

Chargé Tarler to the Secretary of State.

No. 773.]

AMERICAN LEGATION,
Habana, September 29, 1908.

SIR: For the information of the Public Health and Marine Hospital Service, Treasury Department, I have the honor to inclose in duplicate copy of the provisional governor's decree, No. 935, issued on the 26th instant, appropriating \$100,000 to carry on the sanitary service in the municipalities, especially the campaign against yellow fever.

I have, etc.,

G. CORNELL TARLER.

[Inclosure 1.—Translation.]

[From the Official Gazette, Sept. 28, 1908.]

Gobierno Provisional.

Decree No. 935.]

HABANA, *September 26, 1908.*

Whereas it is necessary to continue preventative work against yellow fever in the Republic, I, Charles E. Magoon, by virtue of the authority vested in me as provisional governor of Cuba,

Resolve, That the sum of \$100,000 is hereby appropriated from the balance in the treasury, to carry on the sanitary services in municipalities, and for material and personal services required for the special work against yellow fever in the localities where necessary.

CHARLES E. MAGOON,
Provisional Governor.

[Inclosure 2.—Translation.]

[From the Official Gazette, Sept. 28, 1908.]

Decree No. 938.]

HABANA, *September 27, 1908.*

Whereas the Government has received information that in the city of Sancti Spiritus, Province of Santa Clara, and at the time that a political meeting was taking place, a serious disturbance of order occurred, resulting in the death of one man and in the wounding of others;

Whereas the Government deems proper, in order that the investigation may be promptly conducted and the facts ascertained, in order that the proper liability may be enforced against the violators of the law, to detail a special judge to go to said city and continue the preliminary proceedings already instituted:

Therefore availing myself of the powers vested in me,

I Resolve, To appoint Mr. José Manuel Guerrero y Dueñas, judge of examination of the western district of this city to proceed, as judge on a special detail, to Sancti Spiritus, with the subordinate personnel that he may consider necessary and continue the conduction of the preliminary proceedings referred to and to give him jurisdiction to act throughout the territory of the Republic, and instructing him to leave for said city to-night.

CHARLES E. MAGOON,
Provisional Governor.

MANUEL LANDA,
Acting Head of the Department of Justice.

DENMARK.

ISSUANCE OF EMERGENCY PASSPORTS.

File No. 10054/32.

Minister Egan to the Secretary of State.

AMERICAN LEGATION,
Copenhagen, June 18, 1908.

SIR: Referring to the department's circular instruction of April 19, 1907,¹ I notice that paragraph 150 of the instructions, as amended by the Executive order of April 6, 1907, permits the issuance of a passport (emergency) "Where inconvenience or hardship would result," etc. Paragraph 2, page 3 of the instruction, reads in part: "Emergency passports may be issued only when it is clearly shown that the person applying for the passport is about to proceed to a country to obtain admission into which a passport is obligatory."

This last paragraph would seem to restrict the issuance of emergency passports beyond the language of the instructions, and I therefore have the honor to inquire if, for example, I would be authorized to issue emergency passports to persons desiring to enter Germany, where, I am informed, the lack of a passport is a decided "inconvenience."

I have, etc.,

MAURICE FRANCIS EGAN.

File No. 10054/32.

The Acting Secretary of State to Minister Egan.

No. 23.]

DEPARTMENT OF STATE,
Washington, July 8, 1908.

SIR: I have to acknowledge the receipt of your unnumbered dispatch of the 18th ultimo, in which, referring to the department's circular instruction of April 19, 1907, you inquire whether you are authorized to issue emergency passports to Americans desiring to enter Germany, in cases in which the lack of a passport would be inconvenient.

In reply I have to say that you may issue an emergency passport if the inconvenience of not having it would be serious; but the department desires to restrict their issuance, so far as it can be done without hardship, to citizens traveling abroad.

I am, etc.,

ROBERT BACON.

¹ See Foreign Relations, 1907, p. 13.

DOMINICAN REPUBLIC.

ELECTION OF GEN. RAMÓN CÁCERES AS PRESIDENT OF THE DOMINICAN REPUBLIC.

File No. 27/226.

Minister McCreery to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
San Domingo, July 1, 1908.

Present Executive inaugurated this morning for a new term of six years to which he was elected in May under the new constitution.

McCREERY.

File No. 27/228-229.

Minister McCreery to the Secretary of State.

No. 103.]

AMERICAN LEGATION,
Santo Domingo, July 8, 1908.

SIR: Referring to my No. 94 of May 13 last,¹ stating that the electors chosen on May 1 would meet on the 30th of the same month to elect a President of the Dominican Republic, senators, deputies, and alternates, as provided by the constitution of 1908, I have the honor to inform you that Gen. Ramón Cáceres was elected President for a term of six years.

The new Congress, which assembled in special session on the 20th ultimo, adjourned on the 2d instant.

On the 1st instant Gen. Cáceres took the oath of office before the Congress. Copy and translation of the inaugural address are herewith inclosed.

The address contains a careful statement of the economic and political situation of the country. It announces that the present administration will bend its especial efforts toward the encouragement of agriculture and immigration, the improvement and extension of ways of communication, the building of irrigation systems and betterment of the system of public education. The President sounds a note of warning against granting, out of impatience to hasten development, concessions, which may become burdensome to the country.

I have, etc.,

FENTON R. McCREERY.

¹ Not printed.

[Inclosure.—Translation.]

Address of the President of the Dominican Republic before the National Assembly, July 1, 1908.

CITIZEN REPRESENTATIVES: When I swore to respect and to cause the constitution to be obeyed, my mind, reverently bowing before the fatherland, proclaimed the obligation contracted with the Dominican people to labor strenuously for their progress and for their glory.

The presidential period which has just ended has been an era of stern struggles and of successful experiments, whose results form the triangular stone upon which the political and economic work of the future will be builded. We have opened up a way, and we are going to pursue it with a resolute spirit and with the faith of conviction. The vote of the citizens has approved the acts of that period, and this approval is also an imperative command to persevere until the work is crowned with success. The present hour is one of those solemn hours of history which mark the renaissance of a nationality. There will never be another moment so propitious for the extirpation, root and branch, of the causes which produced the past errors, to ennoble the passions, and purify ambitions, and, binding in one strong union the wills of all, to direct them systematically to the removal of all obstacles which have delayed the coming of civilization in the Republic.

The present is not without its dangers, and the greatest of all, the results of which would be almost ir retrievable, would be that the fear of the past would start us impetuously on a false path, wasting thereby fruitlessly time and energies. Reflection, careful study, scrutiny of each act, and a wise distrust of our ardent enthusiasm will be the efficient means of discovering the right road and of traveling it guided by science.

Before taking the first step it is necessary to store up a good supply of patience, because the work is not one of those which are completed in one year, nor in one presidential period; it needs the aid of more than one generation in order to be beneficial. The impatient are wont to repeat many times the same task without results or they arrive too early; but it is helpful that the dreamers sow the ideas in the public mind and invigorating them so that they take root and become indispensable to the people; that ideas come in contact with realities, thereby acquiring the vital conditions which enable the statesman to transform them into progress. It is not well to forget that inertia is a force, and much less to forget the importance of its effect in our situation.

Until to-day, citizen representatives, my care has been for peace. Now order reigns, without which liberty is a fiction, and it gives me satisfaction to know that my name has gathered Dominicans in amity about the electoral urns, to grant me the most honoring proof of confidence. In the future the administration over which I preside will devote itself principally to the encouragement of agriculture. It is my most firm conviction that only the development of our agricultural resources will make the peace lasting. In agriculture lies the welfare for which we long.

My initiatory actions will be directed toward the substitution of scientific methods for routine, the increase of production by means of intensive cultivation, and the value of products by improving their quality; awarding success; aiding efforts putting in circulation the existing riches and those which are unexploited. But we must carefully try new methods and improvements and the manner of increasing workmen by immigration, when the census has revealed to us the social and economic forces of the country; when we know exactly the advantages which we can offer to the immigrant and the advantages in blood and ideas which he brings to us and his capacity for advancing civilization in our climate. And at the same time with equal diligence shall I see to the establishment of public education within the reach of all and adapted to the preparation of useful citizens; impartial justice; the guarantee of moral and material interests; a vigilant police; means of communication; railroads, wagon roads, and ports; irrigation and drainage of lands. But before we lay a rail we must reckon its results. We need railroads to transport the wealth which already exists and railroads to develop regions unproductive in spite of their fertility and wagon roads for the easy and cheap transportation for the small farmer. Impatience, the desire to quickly attain the commonweal, may counsel us to grant concessions which if at the time appear of little importance are in reality burdens for the future. Railroads which are constructed by private enterprises ought to be subjected to the watchfulness of the

administration in order not to put into the hands of foreigners with these mighty civilizing agents the power of regulating the progress of the Republic.

If the Dominican soil does not contain in its bowels sufficient elements to nourish an intense industrial life, it does have in exchange forces sufficient to fill the needs and luxuries of a dense population and to send an excess to the markets of the world. The possession of all the gifts which the earth offers us will strengthen independence; it will make us a peaceful and cultured people who will maintain order in its house and inspire friendly respect beyond its frontiers; the international relations of the Republic will be perpetuated by the feelings which arise from the community of interests; the soldier will be the champion of the law; the credit of the State will rest upon a firm base; and utilizing the nature of our coasts and our privileged geographical position we shall receive the abundant benefits which our proximity to the most frequented commercial route offers us when the waters of the two great oceans mingle in the Panama Canal.

Citizen representatives, I make no other promise than that of sowing day by day with sincere faith the good seed. We Dominicans ought to give to the soil for each drop of blood shed in fratricidal strifes two drops of sweat; work alone offers to us a life worthy and prosperous such as is fitting for freemen. By discharging our duty of exploiting the riches which our indifference has kept inactive and by scattering them throughout the world we shall lay the foundation for the progress and the glory of the fatherland.

R. CÁCERES.

SANTO DOMINGO, July 1, 1908.

MESSAGE OF THE PRESIDENT OF THE DOMINICAN REPUBLIC TO
THE DOMINICAN CONGRESS.

File No. 27/219-220.

Minister McCreery to the Secretary of State.

No. 83.]

AMERICAN LEGATION,
Santo Domingo, March 5, 1908.

SIR: I have the honor to inclose copy and translation of the message¹ of President Cáceres to the Congress which assembled on the 29th ultimo. It is customary for the Congress to meet on February 27, but a quorum did not arrive until the 29th.

The President states that there is peace throughout the Republic, a peace gained by the power of legal authority. He refers to the new constitution adopted by the constitutional convention which adjourned on the 22d ultimo.

Reference is made to the cordiality of international relations, especially with Haiti; to the participation of the Republic in the Second Hague Conference; and the names of the four members of the Permanent Tribunal of Arbitration appointed by the Dominican Executive are mentioned.

It is stated that the Haitian minister notified the Dominican foreign office, on January 29 last, that the Haitian Government would limit the right of asylum to the Dominican legation at Port au Prince since the Dominican Government recognized the right as appertaining only to legations. The Dominican foreign office accepted the Haitian position provided the same rule be applied to all foreign government offices in Haiti and provided refugees at that time in Dominican consulates be safely transported from Haiti or transferred to a legation or consulate having the right of asylum.

Improvement of the consular service is recommended.

¹ Not printed.

The exchange of ratifications of the Dominican-American convention on July 8, 1907, is mentioned.

The revenues for 1907 were given as \$3,964,626.92; the amount on hand December 31, 1907, as \$4,217,173.33, of which \$3,932,572.44 was deposited in the National City Bank of New York.

Mention is made of the participation of the Republic in the Jamestown Exposition; and of the successful National Exposition inaugurated in this city on August 16, 1907.

The necessity for improvement in the quality of native products is pointed out, and a law relative to the division of communal lands.

The Government will soon begin the construction of irrigation works in the Province of Monte Cristi and will consider the construction of similar works in the Province of Azua.

Much effort will be devoted to improvements in the administration of justice and the public school system.

The revenue from the post offices was \$24,000 for 1907, a number of new offices having been established; the issuance of postal orders for small amounts is recommended, and the amendment of the postal laws. An extension of Government telegraph and telephone lines is suggested.

Reference is made to the needs of the army and the necessity for a gunboat or small cruiser.

The harm to the country of concessions carrying special privileges is pointed out and it is recommended that none be granted in the future.

Sane and conservative policy regarding expenditures and appropriations is recommended, and a careful consideration of encouragement to immigration. Owing to the difficulties in the way of keeping the mouth of the Ozama River open so that even small ships may tie to the wharves, it is recommended that a port be established in the Bay of Las Calderas some 50 miles to the west, and a railroad built to the city of Santo Domingo. This is recommended as being the cheapest and most certain port for this city.

I confirm my telegram of the 1st instant as follows:

The President's message delivered to the Congress yesterday refers to domestic peace and cordial international relations, especially with Haiti. Reference is made to the notice given by Haiti that asylum in consulates will not be recognized. The enactment of a consular law under which commerce may be encouraged is recommended as well as encouragement of agriculture and immigration, building of irrigation systems, reforms in administration of justice and public education, and care in making expenditures. It is also recommended that no concessions creating special privileges be granted.

Slight reference made to financial arrangements as report of minister of finance not yet available.

I have, etc.,

FENTON R. McCREERY.

CONSTITUTION OF THE DOMINICAN REPUBLIC.

File No. 27/224-225.

Minister McCreery to the Secretary of State.

No. 99.

AMERICAN LEGATION,
Santo Domingo, June 2, 1908.

SIR: Referring to my No. 61, of November 23, 1907,¹ inclosing a copy of the constitution of the Dominican Republic, promulgated

¹ See Foreign Relations, 1907, p. 363.

on September 9, 1907, and reporting that a constituent convention had assembled for the revision of that constitution, I have the honor to inclose copy and translation of the constitution adopted by the convention on February 22, 1908, and published in the "Gaceta Oficial" on March 21, 1908.

Under the new constitution the legislative power is vested in a Congress composed of a Senate and House of Deputies. Senators are elected for six years, deputies for four. Heretofore the Congress consisted of a House of Deputies.

The judicial power is vested in a supreme court, courts of appeal, and tribunals and courts of first instance, the judges of which are elected by the Senate from lists made up by the electoral colleges.

The executive power, which under the old constitution was vested in the President and the secretaries of state, is now vested in a President who is elected for a period of six years. There is no vice president. In case of the incapacity, resignation, removal, or death of the President the Congress shall authorize a person to exercise the executive functions until the incapacity ceases or a new President is elected.

The Republic is divided into Provinces and communes. The President appoints the governors of the Provinces and the communal chiefs. He also appoints the alcaldes or justices of the peace.

Municipal councils are elected by the people. Contracts made by the municipalities affecting the property or revenues of the communes must be submitted to the House of Deputies.

A board of accounts, composed of five members appointed by the Senate from lists submitted by the House, shall examine the accounts of the Republic and report annually to Congress.

The new Congress will assemble in special session on the 20th instant and proceed to the election of judges and other functionaries.

On the 1st proximo the President will take the oath of office before the Congress and on the same date the other functionaries elected will be installed.

A census of the Republic will be taken within two years.

I have, etc.,

FENTON R. McCREERY.

[Inclosure.—Translation.]

[From the "Gaceta Oficial," March 21, 1908.]

CONSTITUTION OF THE DOMINICAN REPUBLIC OF FEBRUARY, 1908.

The constituent assembly in the name of the people has adopted the following constitution:

TITLE I.

SECTION 1.—*The Nation and its Government.*

ART. 1. The Dominican people constitute a free and independent nation called the Dominican Republic.

ART. 2. Its Government is essentially civil, republican, democratic, and representative.

It is divided into legislative power, executive power, and judicial power. These three powers are independent in the exercise of their respective functions. Those invested with the authority of these powers are responsible and

may not delegate their powers. These powers are limited to those expressly determined by this constitution.

SECTION 2.—*The territory.*

ART. 3. The territory of the Republic is and shall be inalienable. Its boundaries, which comprise all that called the "Spanish part" of the island of Santo Domingo and the islands adjacent thereto, are, therefore, the same which, by the treaty of Aranjuez of 1777, separated in 1773 the Spanish from the French part on the west, and they shall suffer no modifications except those legally authorized and those which may be derived from the plebiscite of the 1st and 2nd of June, 1895.

ART. 4. The territory of the Republic is divided into Provinces, and these in turn are divided into communes.

§ The number and boundaries of the Provinces as well as those of the communes into which they are divided shall be determined by a law.

ART. 5. The city of Santo Domingo is the capital of the Republic and the seat of the Government.

TITLE II.

SECTION 1.—*Individual rights.*

ART. 6. The nation guarantees to all the inhabitants of the Republic:

1. Freedom of labor, industry, and commerce.
2. Freedom of worship.
3. Freedom to teach.
4. Freedom of expression of thought, either orally or by means of writing or printing, without previous censorship.
5. Freedom to associate and meet lawfully without arms.
6. Property with all its rights: It shall be subject only to the taxes established according to law, to judicial decisions, or to be taken for the public good after just compensation adjudged by experts, or, when there is disagreement in the appraisal, by judgment of a competent court. The compensation need not be given previously in time of war.
7. Inviolability of private correspondence and papers except in case of a judicial investigation, in which case absolute secrecy shall be maintained relative to matters foreign to the matter which is being investigated.
8. The right of free transit. No person shall be prevented from entering and departing through the entry ports of the Republic nor from traveling in its territory without a passport.
9. The sole right, for a limited time, to inventions and discoveries, as well as scientific, artistic, and literary productions.
10. Individual security; therefore no one shall be arrested for debts not incurred through misdemeanor, nor be obliged to lodge and quarter soldiers in his own house.
11. Nor be tried by special courts or commissions, but only by the regular judges except when the competency of the judge is questioned.
12. Nor be imprisoned nor arrested without a warrant assigning the reason and written by a competent functionary, except in case the person be caught in the act. Every prisoner shall be interrogated within forty-eight hours after his detention, and the hearing and trial of the case shall take place without undue delay.
13. A dwelling house shall not be entered except in cases when a crime is being committed, or on competent authority, with the formalities established by law.
14. The right to petition any authority and to obtain action on the petition.
15. No one shall be tried twice on the same charge, nor be obliged to testify against himself.
16. The right to accuse any public official whatever for errors committed in the discharge of his duties and to question the constitutionality of the laws.
17. The death penalty shall never be imposed for crimes of a political character: political crimes shall be defined by a law.

TITLE III.—*Political rights.*

SECTION 1.—*Nationality.*

ART. 7. The following are Dominicans:

All persons who now enjoy this right by virtue of former constitutions and laws.

All persons who shall be born in the territory of the Republic, no matter what the nationality of their parents may be, except legitimate children of foreigners who reside in the Republic in the diplomatic service, or who may be passing through the country.

Persons born in foreign countries of Dominican parents, provided they have not become naturalized according to the laws of the country in which they have had residence or domicile.

Persons naturalized according to this constitution and the laws.

§ A Dominican woman married to a foreigner may adopt the nationality of her husband.

SECTION 2.—*Citizenship.*

ART. 8. All male Dominicans over 18 years of age and those who are or have been married, although they may not have reached that age, are citizens.

ART. 9. The Nation guarantees to citizens the following rights:

1. The right to vote.
2. The right to be elected to elective positions with the restrictions indicated in this constitution.

ART. 10. Rights of citizenship are lost:

1. For taking up arms against the Republic or for lending aid in any attempt whatever against it.
2. For having been condemned to any corporal and infamous punishment or infamous punishment alone and for as long as the punishment lasts.
3. By judicial interdiction.
4. For accepting while in Dominican territory employment from any foreign government without consent of the House of Deputies.

SECTION 3.—*Naturalization.*

ART. 11. Naturalization shall be granted by a decree of the President of the Republic to applicants over twenty-one years of age provided they have been authorized two years previously to fix their domicile in the country, have a good reputation and have lawful means of support, and the applicants shall have to take the oath of allegiance to the Republic before the governor of the Province in which they reside.

ART. 12. Children born of Dominican parents in a foreign country who have obtained another nationality may become naturalized by simple residence in the country provided they renounce their former nationality and fulfill the conditions required by the foregoing article.

TITLE IV.

SECTION 1.—*Sovereignty.*

ART. 13. The people alone are sovereign.

TITLE V.—*The legislative power.*

ART. 14. All legislative powers conferred by this constitution are entrusted to a Congress of the Republic composed of a Senate and a House of Deputies.

ART. 15. The election of senators as well as of deputies and of the alternates of these latter shall be made by the electoral colleges.

ART. 16. The office of senator and deputy is incompatible with all other public employment.

ART. 17. When vacancies occur in the representation of a Province, the electoral college thereof shall have power to fill them, and shall proceed to that end within sixty days after the vacancy occurs, upon convocation of the executive power.

SECTION 2.—*The Senate.*

ART. 18. The Senate shall be composed of senators elected, one for each Province, and their term shall be for a period of six years, a third part of the Senate being renewed every two years.

§ Immediately after the first assembly the Senate shall be divided into three equal sections determined by lot. At the expiration of the second year the seats of the senators of the first section shall be vacated; at the expiration of the

fourth year the seats of the second section shall be vacated; at the expiration of the sixth year the seats of the third section shall be vacated, so that a third part of the Senate shall be elected every two years.

ART. 19. To be a senator it is required: To be a Dominican by birth or parentage, to enjoy the civil and political rights, and to be over thirty-five years of age.

ART. 20. The following are the powers of the Senate exclusively:

1. To appoint the magistrates of the supreme court of justice, of the courts of appeals and of the tribunals, and courts of first instance from the lists made up of citizens legally qualified, and which the electoral colleges have sent to it.

2. To appoint the members of the board of accounts.

3. The Senate alone shall have cognizance of the accusations formulated against the President of the Republic and against the magistrates of the supreme court of justice. The Senate upon impeachment shall not impose other penalties than removal and disqualification to hold any office of honor, trust, or profit under the Republic. But the responsibility of the convicted party shall not end here; he shall be, in fact, liable to indictment, trial, judgment, and punishment according to the laws.

SECTION 3.—*The House of Deputies.*

ART. 21. The House of Deputies shall be composed of members chosen every four years by the people of the Provinces in proportion to the number of inhabitants and in the manner prescribed by law.

§ Half of the House of Deputies shall be chosen every two years, and this election shall be made in the same manner as prescribed for the Senate.

ART. 22. To be a deputy it is required:

1. To be a citizen over twenty-five years of age.

2. To be a native of the Province which elects him, or to reside or to have resided at least one year in it.

§ Naturalized citizens cannot be elected to the office of deputy until eight years after having become naturalized.

ART. 23. To be alternate the same qualifications are required as to be deputy. These alternates shall replace the deputies in case of death, resignation, removal, or disqualification in order according to the number of votes they have received. In case they have obtained an equal number of votes, the House shall make the choice by lot.

ART. 24. To the House of Deputies belong:

1. The exercise of the right to impeach before the Senate the President of the Republic and the members of the supreme court of justice for infractions of the law.

2. The approval or disapproval of the contracts which the municipalities make whenever they affect the property or revenues of the communes.

3. To grant authorization to Dominican citizens to exercise foreign public offices.

SECTION 4.—*Provisions applicable to both Houses.*

ART. 25. When the first legislature convenes, each of the Houses shall examine the credentials of its respective members, and in the successive renewals each House shall examine the credentials of the new members.

ART. 26. The two Houses shall convene in a national assembly whenever it shall be necessary, and for this purpose at least two-thirds of the members of each House must be present.

ART. 27. Each House shall make all rules governing its proceedings and the order of business which belongs to it exclusively; it may in its disciplinary regulations establish punishment of its members according to the offences which they commit.

ART. 28. The Senate and the House of Deputies shall hold their sessions in different places, except when they meet in the National Assembly.

ART. 29. In each House the presence of two-thirds at least of its members shall be necessary for the validity of its resolutions, and the decisions shall be taken on an absolute majority of votes, except in matters previously declared important, which shall be decided by a two-thirds vote.

§ A majority assembled can, of course, organize and pass resolutions. A minority can adjourn from day to day and compel the attendance of absent members, in the manner and under the penalties which each House shall determine.

ART. 30. The members of both Houses shall enjoy the most complete immunity from punishment for the opinions which they may express in the sessions.

ART. 31. As to violations of common law which they may commit, they may not be held nor arrested during the sessions except with the authorization of the House to which they belong or in case they are caught in the act itself. When they are already in custody the same House may require, if it so considers advisable, the imprisonment for as long as the sessions of that legislature last.

ART. 32. The Houses shall assemble ordinarily on the 27th of February of each year and their session shall last ninety days, which period may be extended up to sixty days.

§ The Houses shall also convene extraordinarily upon convocation by the executive power.

ART. 33. Each House shall choose from among its members for the session of the year a president, vice president, and two secretaries.

§ When the two Houses meet as a National Assembly, the president of the Senate shall exercise the presidency and the president of the House of Deputies the vice presidency, and the secretaries of both Houses the secretaryship.

ART. 34. It shall be the duty of the National Assembly to examine the record of the election of the President of the Republic, count the votes, certify to the election which results from the general election returns, proclaim the election thereof, administer to him the oath of office, and accept his resignation, if offered.

TITLE VI.

SECTION 1.—*The Congress.*

ART. 35. The Congress shall have power :

1. To levy general taxes and imposts and to determine the manner of their collection and lawful expenditure.

2. To approve or disapprove, after examination of the report of the board of accounts, the statement of collection and disbursement of revenues which the executive power must present to it annually.

3. To take cognizance of the observations which the executive power may make on the laws.

4. To pass, before adjourning, the annual budget.

5. To determine all that is advantageous for the preservation and profitable use of the national property, and for the transfer of the property of the Nation.

6. To grant amnesty for political offences.

7. To determine everything relative to the preservation of ancient monuments and to the acquisition of all kinds of historic and prehistoric objects which will help to make up the national archeology.

8. To decree the creation or suppression of Provinces and communes and everything relative to their boundaries and organization.

9. To make uniform the use of weights and measures according to the decimal metric system.

10. To determine the periodic taking of the census of the Republic.

11. In case of disturbance of the public peace, to decree the state of martial law and to suspend, as long as the disturbance lasts, the fourth, fifth, eighth, and twelfth guarantees of the sixth article, which read as follows :

“4. Freedom of expression of thought, either orally or by means of writing or printing, without previous censorship.

“5. Freedom to associate and meet lawfully without arms.

“8. The right of free transit. No person shall be prevented from entering and departing through the entry ports of the Republic nor from travelling in its territory without a passport.

“12. Nor be imprisoned nor arrested without a warrant assigning the reason and written by a competent functionary, except in case the person be caught in the act. Every prisoner shall be interrogated within forty-eight hours after his detention, and the hearing and trial of the case shall take place without undue delay.”

12. To decree everything relative to immigration, the formation of the list of national property, and to the establishment of agricultural schools.

13. To make such regulations as may be necessary for the customs service.

14. To increase the number of courts of appeal, and to create or suppress such lower tribunals as may be necessary.

15. To vote extraordinary public expenses for which the Executive may request credit.

16. To raise loans on the credit of the Republic through the executive power.

§No loan for which the revenues necessary for the budget are given as security shall be contracted.

17. To approve the international treaties and conventions which the executive power may make. In case it disapproves them, it must state the bases upon which they may again be made.

18. To regulate the services of communication by railways, telegraphs and telephones, highways, canals, and ports, and to regulate the boundaries of the maritime, river, and military zones, as well as all that tends toward the development of the Republic in all its manifestations.

19. To make all laws concerning the national debt.

20. To decree the amendment of the constitution.

21. To determine everything relative to the equipment of ports and seacoasts.

22. To promulgate ordinances for the land and naval forces and to fix every year the force of the standing army.

23. To grant authorization to the President of the Republic to absent himself from the territory of the country.

24. To interpellate the secretaries of state regarding matters entrusted to them.

25. To examine annually all the acts of the executive power and approve them, if they are in accordance with the constitution and the laws.

26. To approve or disapprove the contracts which the executive power may make.

27. When the Provinces, through their municipalities, request the establishment of local legislatures, or provincial councils, to decree the creation thereof and to give them powers by means of a law.

28. To create and suppress secretaryships of state, according to the needs of the public service.

29. To grant letters of marque and reprisal, to regulate captures in time of war, to define acts of piracy and the offences against the laws of nations, determining the penalties therefor.

30. To approve or disapprove the excise taxes which the municipalities may levy.

31. To decree the removal of the legislative Houses to a place other than the capital of the Republic, for reasons of force majeure duly justified.

32. To take cognizance of and resolve on all matters which do not belong to the province of another power of the State or which are not contrary to the text of the constitution.

TITLE VII.

SECTION 1.—*Making of the laws.*

ART. 36. The following have the right of initiative in the making of the laws:

(a) The senators and the deputies.

(b) The executive power.

(c) The supreme court of justice in judicial matters.

ART. 37. Every bill introduced in one of the Houses, shall be submitted to three different discussions with an interval of one day at least, between each discussion. In case it should be previously declared urgent, it may be discussed in three consecutive sessions.

ART. 38. After a bill has been approved in either of the Houses, it shall pass to the other for its discussion at the proper time, the same formalities being observed. If this House should modify the bill, it shall be returned with the observations to the House in which it originated; and, if the observations are accepted, the law shall be sent to the executive power; but if the observations were rejected, the bill shall be returned to the other House with observations and if this House approves them, the law shall be then sent to the executive power.

ART. 39. When a law has been passed by both Houses, it shall be sent to the executive power for its promulgation; if he does not make objections to it, he shall order it to be promulgated; but if he finds objections to its execution,

he shall return it with observations to the Congress within the fixed period of eight days, counting from the date on which it was sent to him, if the matter has not been declared urgent, in which case he shall make his observations within the period of three days.

ART. 40. The Congress shall discuss the observations of the executive power and shall act according to them if it considers them well founded. In this case, after the bill has been amended, the Congress shall return it for promulgation.

ART. 41. If the Congress, in the judgment of two-thirds of the members present in each House, does not consider the observations of the executive power well founded, it shall again send the law to be promulgated and for no reason may the executive power refuse to promulgate it in this case.

ART. 42. The laws, after having been published, are obligatory on all the inhabitants of the Republic if the lawful time has elapsed so that they may be considered as known.

ART. 43. All laws, decrees, regulations, and acts contrary to this constitution by that fact shall be invalid.

ART. 44. Bills defeated in one House may not be introduced in the other nor again in either of the two, except in the following Congress.

ART. 45. The laws have no retroactive effect except in case they be favorable to the person under judgment or undergoing punishment.

ART. 46. The laws shall be headed thus: "The National Congress in the name of the Republic."

TITLE VIII.

SECTION 1.—*The executive power.*

ART. 47. The executive power is vested in the President of the Republic, who shall perform these duties for six years and shall be elected by indirect ballot and in the manner determined by law.

ART. 48. To be President it is required:

1. To be a Dominican by birth or parentage and to have resided twenty years at least in the Republic.

2. To be at least thirty-five years of age and to be in full enjoyment of the civil and political rights.

ART. 49. In case of the incapacity, resignation, removal, or death of the President of the Republic the Congress by a law shall appoint the person who shall exercise presidential functions until the incapacity ceases or a new President shall be elected.

§If the Congress should not be in session when such a case occurs as is provided for in the foregoing article, the secretaries of state shall convoke it immediately for this sole purpose.

ART. 50. The President of the Republic can not resign except before the National Assembly; in case the Houses are not in session they shall be convoked expressly for the purpose of receiving the resignation.

ART. 51. In the regular elections the President-elect of the Republic shall take possession the day on which the period of the outgoing President expires; and in the special elections eight days at the latest after being officially informed of his election if he should be in the capital, and within the period of thirty days if he should be in any other part of the Republic.

ART. 52. The President of the Republic before entering upon the discharge of his duties shall take before the National Assembly the following oath: "I swear before God and the fatherland to comply and to cause others to comply with the constitution and the laws of the Republic, to maintain and defend its independence, respect its rights, and faithfully fulfill the duties of my office."

ART. 53. The President of the Republic is commander-in-chief of the army and navy and his duties are:

1. To appoint the secretaries of state, accept their resignations, and remove them.

2. To preserve the nation against all foreign attack.

3. To promulgate the laws and resolutions and have them published and to see that they are faithfully enforced, issuing decrees, instructions, and regulations when necessary.

4. To see that the national revenues are properly collected and managed.

5. To administer the property of the nation.

6. To appoint all public employees whose appointment is not entrusted to any other power and to appoint the members of the diplomatic corps with the approval of the Senate.

7. To receive the chief magistrates of foreign countries and their representatives.

8. To preside at all public ceremonies of the nation, to grant pardons for political crimes, to direct diplomatic negotiations and make treaties with foreign nations, submitting them to the approval of the Congress, without which approval they shall not be valid and binding on the Republic.

9. In case of disturbance of the public peace, and if the two Houses are not assembled, he may decree a state of martial law, and suspend the guarantees, which, according to article 35, part 11, of this constitution, the Congress is permitted to suspend.

10. To fill ad interim the vacancies which may occur, while the Congress is in recess, among the members of the board of accounts and the judicial magistrates, reporting these acts to the next legislature, so that the latter may make the permanent appointments.

11. To make contracts of public interest and submit them to the Congress for ratification.

12. To fill the vacancies which may occur in the municipal councils, when the latter are in minority and the number of alternates has been exhausted.

13. To issue sailing licenses to national vessels.

14. To station the regular forces in time of peace or war for the purposes of the public service.

15. To declare war, after it has been decreed by the Congress, and to make peace, when necessary, subject to the approval of the same body.

16. To commute the sentence of death when a pardon is petitioned for, the prisoner being subject to the next less severe penalty.

17. In case of war with a foreign country the President may cause to be arrested and expelled from national territory citizens of the nations with which the Republic should then be at war.

18. To request the Congress for the necessary credit to carry on war.

19. To change the place of his official residence in exceptional circumstances and for causes duly justified.

20. To submit to the Congress within the first fifteen days of the month of March of each year the proposed budget of public expenses and the account of the expenditures of the nation.

ART. 54. The President of the Republic shall be present the 27th of February of each year at the opening of the sessions of the Congress and shall present to that high body a message accompanied by the reports of the secretaries of state, in which he shall render account of his administration during the year and shall submit to the consideration of the same body whatever else he may think fit.

SECTION 2.—*The secretaries of state.*

ART. 56. For the transaction of the business of the public administration there shall be the secretaries of state which the law may establish.

ART. 57. The following qualifications are required to be a secretary of state:

1. To be a Dominican citizen, and to be over twenty-five years of age.

§ Naturalized citizens may not be secretaries of state until eight years after their naturalization.

ART. 58. The secretaries of state shall be bound to give all reports that the Congress may ask of them and to attend its sessions when they are summoned as well as also to present to the President of the Republic, at the end of each fiscal year, a report containing their official acts, and also whenever the President may request it of them, a report on any matter in their department.

TITLE IX.

SECTION 1.—*The judicial power.*

ART. 59. The judicial power is vested in the supreme court of justice, the courts of appeal and the other tribunals which the law may establish.

§ The magistrates of the supreme court of justice, of the courts of appeal and of the tribunals and courts of first instance shall hold office for four years, and may be reelected indefinitely.

SECTION 2.—*The supreme court of justice.*

ART. 60. The supreme court of justice shall be composed of seven justices, at least, and one attorney general; and for its deliberations a quorum of five justices exclusive of the attorney general shall be necessary.

ART. 61. Only Dominicans over thirty years of age who are in full enjoyment of their civil and political rights and who are lawyers in the courts of the Republic may be justices of the supreme court of justice.

§ Naturalized citizens may not be justices of the supreme court of justice until eight years after they have become naturalized.

ART. 62. The office of justice of the supreme court of justice is incompatible with all other public employment and office whether temporary or permanent.

ART. 63. The supreme court of justice has the following exclusive powers:

1. To take cognizance, in the first and last instance, of the cases presented against the judges and prosecutors of the courts of appeal, and members of the diplomatic and consular corps, national and foreign, and against the members of the board of accounts, and in the last stage against the magistrates and prosecutors of the courts of first instance and governors of Provinces.

2. As a court of cassation, to take cognizance of the judgments in last instance, pronounced by the courts of appeal and lower tribunals, in the manner prescribed by law.

3. To take cognizance in the last instance of cases of maritime captures.

4. To take cognizance in the last instance of cases, cognizance of which in first instance belongs to the court of appeal.

5. To give final decision upon constitutionality of the laws, decrees and regulations in all cases in which they are subject of judicial controversy between parties.

6. The supreme court of justice is endowed with the highest disciplinary authority over all high functionaries and assistants of the judicial order.

SECTION 3.—*The courts of appeal.*

ART. 64. There shall be, for the present, two courts of appeal for the entire Republic. One shall have its seat in the city of Santo Domingo and the other in the city of Santiago.

§ The judicial districts which belong to each court shall be determined by law as shall also the number of judges which shall make up the courts.

ART. 65. The following are the powers of the courts of appeal:

1. To take cognizance of appeals from sentences given by the courts and tribunals of first instances, and as courts-martial to take cognizance of appeals from the councils of war.

2. To take cognizance in first instance of cases against the magistrates and prosecutors of the tribunals and courts of first instance and governors of Provinces.

3. To take cognizance in the first instance of the cases of maritime captures.

4. To exercise the other functions which the law entrusts to them.

ART. 66. The following qualifications are required to be a member of these courts: To be over thirty-five years of age, and to have the other qualifications which are required to be a justice of the supreme court.

ART. 67. In each court of appeal there shall be a prosecuting attorney, who must have the same qualifications as the judges of the same court.

SECTION 4.—*The lower courts.*

ART. 68. For each judicial district there shall be tribunals and courts of first instance with the powers which the law shall confer upon them.

§ The law shall determine the number of the judicial districts.

ART. 69. The following qualifications are required to be president of the tribunal or judge of first instance:

To be a Dominican, to be in full enjoyment of the civil and political rights, and to be a lawyer practicing in the tribunals of the Republic.

ART. 70. The associate judges in the tribunals of first instance, prosecuting attorneys, and primary judges must have the same qualifications as are required to be president or judge of first instance, except that of being a lawyer.

§ A law may make the qualification of being a lawyer obligatory for the exercise of these offices.

SECTION 5.—*The justices of the peace.*

ART. 71. In each commune there shall be one or more justices of the peace with two alternates, respectively, appointed by the executive power.

ART. 72. The same qualifications are required to be justice of the peace as are required to be judge of first instance, except being a lawyer.

§ The law shall determine their powers.

TITLE X.

SECTION 1.—*The board of accounts.*

ART. 73. There shall be a permanent board of accounts composed of five citizens appointed by the Senate, chosen from lists of three presented by the House of Deputies.

ART. 74. Its duties shall be, besides those which the law shall confer upon it:

1. To examine the special and general accounts of the Republic;
2. To present to the Congress in each regular session the report of the accounts for the preceding year.

ART. 75. The members of the board of accounts shall hold office for six years, and may not be tried, except by the supreme court, upon accusation of the attorney general thereof.

ART. 76. The same qualifications are required to be a member of the board of accounts as to be a senator.

TITLE XI.

SECTION 1.—*The municipal councils.*

ART. 77. The economic and administrative government of the communes shall be entrusted to the municipal councils, the members of which, in the number determined by law proportionately to the number of inhabitants, shall be elected by the people.

ART. 78. The municipal councils in their administrative powers are independent, and shall be governed in everything by the law; but they are bound to render an account of the collection and use made of the revenues, and, with the consent of the National Congress, may levy all classes of excise taxes which affect the use and consumption of the commune.

ART. 79. The following are the principal duties of the municipal councils:

1. To provide a system of free primary instruction;
2. To provide sanitary service;
3. To provide for public adornment; and
4. To provide police service.

TITLE XII.

SECTION 1.—*The government of the Provinces.*

ART. 80. There shall be a governor in each Province, with his residence in the capital of the Province and a communal chief in each of the other communes, both functionaries being dependent upon the executive power.

§ The law shall determine their powers.

ART. 81. The qualifications required to be governor or communal chief are the following:

To be a Dominican, over twenty-five years of age, and to be in full enjoyment of the civil and political rights.

§ Naturalized citizens may not be governor until eight years after they have been naturalized.

TITLE XIII.

SECTION 1.—*The primary assemblies and electoral colleges.*

ART. 82. Every citizen, unless mentally, legally, or judicially incapacitated, has the right to vote.

ART. 83. The primary assemblies shall convene without previous convocation three months before the expiration of the constitutional period, and shall proceed to exercise the functions which the constitution and the law establish. In case of extraordinary convocation, they shall assemble thirty days at the latest after the date of the decree.

ART. 84. Their powers are:

1. To elect the number of electors which belong to each commune, in proportion to the number of inhabitants and in accordance with the law, to form the electoral college of the Province;

2. To elect the councilmen, syndic, and alternates of the respective municipal councils.

ART. 85. The electoral colleges are composed of the electors chosen by the primary assemblies according to the law, and they shall convene in the capital of the respective Provinces, sixty days before the expiration of the constitutional periods, in order to proceed immediately to the election of the President of the Republic, of the senators, deputies, and alternates of these latter, and to form the lists for justices of the supreme court of justice, judges of the courts of appeal, and tribunals and courts of first instance.

§ In case of extraordinary convocation, they shall assemble at the latest thirty days after the date of the convocation.

§§ The electoral colleges shall hold office for a period of six years.

ART. 86. Elections shall be made by secret ballot and on an absolute majority of votes.

TITLE XIV.—*The armed force.*

ART. 87. The armed force is essentially obedient and in no case has deliberative power. The object of its creation is to protect the independence and integrity of the Republic, to preserve the public order, and to maintain the constitution and the laws.

§ In no case shall privileged bodies be created.

ART. 88. Persons in actual military service shall be tried by courts-martial, in accordance with the rules established in the military penal code; and in cases not provided for in this code, or when the persons accused include civilians, the trial shall be before the regular courts.

TITLE XV.—*General provisions.*

ART. 89. No one shall be compelled to do what the law does not command nor be prevented from doing what the law does not prohibit.

ART. 90. All usurped authority is invalid and its acts are null. Every decision made through the interposition of the armed force is null.

ART. 91. No impost shall be levied except by virtue of a law; nor shall any communal tax be levied except by the respective municipal council, after fulfilling the formalities of the law.

ART. 92. Annually, in the month of April, the general account of the receipts and expenditures of the Republic during the preceding year shall be published.

ART. 94. The relations between the church and the state shall continue being the same as they are at present, as long as the majority of Dominicans profess the Roman, Apostolic, Catholic religion.

ART. 95. The emission of paper money by the state is forever prohibited.

ART. 96. The national money shall not bear the image of any person and must express its value, weight, and the year of its coinage on the obverse, and the coat of arms of the Republic on the reverse.

ART. 97. The formation of perpetual mortgages, or annuities, religious obligations, and all kinds of entails is forbidden.

ART. 98. The 27th of February, anniversary of independence, and the 16th of August, anniversary of the restoration, are the only national holidays, and each year shall be celebrated with the greatest ceremony in all the Republic.

ART. 99. The national flag is composed of the colors blue and red placed in opposite quarters, separated by a white cross half as wide as the quarter, and it bears in the center the coat of arms of the Republic.

The merchant flag is the same as the national flag without the coat of arms.

ART. 100. The coat of arms of the Republic bears the national colors; in the center is the open Book of Gospels, with a cross above it both rising up above an insignia composed of spears and flags with branches of laurel and palms about it and crowned with a ribbon which bears this motto: "DIOS, PATRIA Y LIBERTAD," and encircling the base is another ribbon with these words: "REPÚBLICA DOMINICANA."

ART. 101. All functionaries on assuming the duties of their offices shall take an oath to respect the constitution and the laws and to faithfully perform their duties.

ART. 102. The powers established by this constitution shall not declare war until after having proposed arbitration.

§ In order to reaffirm this principle, the following clause shall be introduced into all international treaties which the Republic makes: "All differences which may arise between the contracting parties shall be submitted to arbitration before appealing to arms."

ART. 103. The magistrates and prosecuting attorneys of the supreme court of justice and of the courts of appeal, judges and fiscals of the tribunals and courts of first instance shall enjoy the salaries which the appropriation law determines, and which shall not be decreased in any manner whatever during the period for which they were chosen.

ART. 104. No section of the territory of the Republic which has not previously shown its ability to maintain at least three schools of primary instruction shall be made into a commune.

ART. 105. The budget shall be divided into chapters which shall correspond to the different departments of administration, and no sum may be transferred from one section to another, nor may any money be devoted to other ends than those specified, except by virtue of a law.

ART. 106. Justice shall be administered gratuitously throughout the territory of the Republic.

TITLE XVI.—*The amendment of the constitution.*

ART. 107. This constitution may be amended only upon a two-thirds vote of the members of both Houses, specifying the articles which need to be amended.

ART. 108. The necessity of amendment having been declared, the Congress shall decree the convocation of a Constituent Assembly for that purpose, and the decree of convocation shall contain the proposed amendment.

§ The constitution may be amended only in the manner therein prescribed and it may never be suspended nor annulled by any power or authority nor by proclamations to the people.

ART. 109. The Constituent Assembly shall be elected by direct ballot on the date fixed in the decree of convocation and shall have the number of representatives that the Congress may determine, but their number shall not be less than two of each Province and they shall enjoy the same immunities as the members of the legislative Houses, the same qualifications being required as for deputies.

ART. 110. The Constituent Assembly shall consider and adopt or reject the amendment, it being understood that this amendment shall not affect the form of government, which latter shall always be civil, republican, democratic, and representative.

ART. 111. No amendment of the constitution which increases the powers of one or more public officials, or their term in office, shall take effect until the constitutional period following that in which the amendment was made.

TEMPORARY PROVISIONS.

1. The present electoral colleges shall dissolve the fifteenth of May this year; the National Congress shall adjourn the nineteenth of June, and the executive and judicial powers shall end their duties the thirtieth of the same month.

2. On the first and second days of May the primary assemblies shall convene to choose the electoral colleges, governing themselves in this election by the provisions of article 79 of the constitution of the ninth of September, 1907, relative to the number of electors and to the political division therein determined.

§ A law shall fix the electoral quotient and shall determine the number of electors and councilmen that belong to each commune, as soon as the census of the Republic has been taken.

§§ Electors shall be chosen for the next period according to the present laws in force.

3. The electoral colleges shall assemble in accordance with the laws at present in force, in the capitals of the Provinces the 30th day of May, 1908 (thirtieth of May) and shall proceed to elect the President of the Republic, senators, deputies, and alternates of these latter and shall make up the lists of persons who are qualified in their respective Provinces to be justices of the supreme court of justice and judges of the courts of appeal and of the tribunals and courts of first instance.

4. The new legislative Houses shall assemble in the capital of the Republic in a special session on the twentieth of the coming June, and shall proceed to make the choice of justices of the supreme court, judges of the courts of appeal, tribunals, and courts of first instance and members of the board of accounts in the cases and with the formalities already established.

5. The oath of the President of the Republic shall be taken on the first of July of the present year before the Congress convened in National Assembly, and on the same date the other functionaries elected shall be installed.

6. Until the census of the Republic is taken the election of deputies shall be made at the rate of two for each Province, with an equal number of alternates.

7. The first census shall be taken at the latest two years from the date of the promulgation of this constitution.

8. Until a law shall determine the number of secretaries of state the President of the Republic shall appoint the following: Secretary of the interior and police, secretary of foreign affairs, secretary of the treasury and commerce, secretary of war and the navy, secretary of justice and public instruction, secretary of agriculture and immigration, and secretary of development and communication.

9. As long as the National Congress does not determine otherwise, the articles of the penal code which were virtually abrogated by the constitution of the 9th of September, 1907, remain in force and vigor.

10. The present constituted powers shall continue acting as at present until the expiration of their term, as provided for in these temporary provisions.

11. This constitution shall go into effect on the first of April next.
Let this be sent to the executive power for its publication.

Given in the municipal palace of the city of Santiago de los Caballeros on the 22d day of the month of February of the year nineteen hundred and eight, sixty-fourth year of Independence and forty-fifth of the Restoration.

The president of the Constituent Assembly:

ELISEO GRULLÓN,
Deputy for the Province of Santiago.

The Vice President:

F. RICHIEZ DICOUDRAY,
Deputy for the Province of the Seybo.

J. LAMARCHE,
C. ARMANDO RODRÍGUEZ,
Deputies for Santo Domingo.

RAMÓN E. PERALTA,
Deputy for Santiago.

LCDO. PEDRO A. BOBEA,
LCDO. J. A. LORA,
Deputies for La Vega.

J. GRULLÓN,
J. DE J. FONDEUR,
Deputies for Monte Cristy.

ARMANDO PORTES,
BRAULIO C. JAUBERT,
Deputies for Samaná.

TANCREDO CASTELLANOS,
J. O. MENARD,
Deputies for Puerto Plata.

D. CABRAL,
ÁNGEL RIVERA,
Deputies for Azua.

J. M. BÉRAS,
Deputy for Seybo.

RAMÓN ROSA,
F. A. LIZARDO,
Deputies for Pacificador.

CÁSTULO VALDÉS,
Deputy for Barahona.

ELADIO SÁNCHEZ,
BETANCES,
Deputies for San Pedro de Macoris.

M. R. PERDOMO,
Deputy for Espaillat.

The secretaries:

JOAQUÍN E. SALAZAR,
Deputy for Barahona.

E. JIMÉNEZ,
Deputy for Espaillat.

ECUADOR.

ARBITRATION OF THE DIFFICULTY BETWEEN THE ECUADORIAN GOVERNMENT AND THE GUAYAQUIL & QUITO RAILWAY CO., AN AMERICAN CORPORATION.

(Continued from Foreign Relations, 1907, p. 385.)

File No. 2540/146-150.

Minister Fox to the Secretary of State.

No. 354.]

AMERICAN LEGATION,
Quito, September 29, 1908.

SIR: I have the honor, respectfully, referring to my No. 346 of September 3, 1908,¹ to inform the department that an agreement has been reached between the Government of Ecuador, the English bondholders, and the American stock interests of the Guayaquil & Quito Railway, whereby all difficulties have been settled. A contract has been entered into by the Government of Ecuador, Mr. James P. Cooper, representing the council of foreign bondholders, of London, and Mr. Archer Harman, representing the railway company. The formal obligation to make this contract was signed in this legation on September 26, 1908, and the contract itself was signed in the executive mansion the following day. This contract will now be submitted to the Ecuadorian Congress for ratification. It contains a paragraph fully recognizing the arbitration tribunal, in that the arbiters are requested to inform their respective Governments that a full, definite, and satisfactory settlement of all disagreements has been reached by means of the contract.

As soon as Congress acts I shall advise the department further and in detail. In the meantime I desire to report certain facts with regard to the arbitration tribunal which are of interest, at least in so far as they throw a side light upon the situation. It will be recalled by the record that on June 14, 1907, the Guayaquil & Quito Railway had not been completed. This was the date stipulated by the contract. There was a great clamor to have the road seized on account of failure to comply exactly with the contract stipulations. It was at this juncture that the American interests, engaged in the building of the road, appealed to the department for arbitration of the matter, as provided in the contract. The department's action in supporting the American interests was successful. The arbitration tribunal was organized. All grounds for distrust on the part of the Ecuadorian people were thus allayed. The consequence was that the building of the railway proceeded under reasonably favorable conditions.

It was tacitly understood between the parties, although, of course, there was no formal declaration to this effect, that the arbitration

¹ Not printed.

tribunal would not really begin its labors until the road had reached Quito. This was accomplished on June 17, 1908, just one year and three days later than the contract stipulation.

When arbitration was agreed upon the Government here looked about for a suitable person to represent it on the tribunal. A number of gentlemen declined to serve, but finally Dr. Borja, an eminent practicing physician in the city of Guayaquil, was selected and his patriotism appealed to. While in Quito, still holding the position of arbiter, Dr. Borja was called to the cabinet as minister of public instruction. He held this position for several months, when he resigned. A question having arisen as to the legality of his occupancy of the two positions, in order to cure any defect, President Alfaro gave him a second appointment as arbiter, after he had laid down the cabinet portfolio.

On September 19 instant Dr. Borja called upon me and stated that he had received a communication from the Senate transmitting a resolution passed by that body calling upon "the Ecuadorian arbiter" to transmit to it the original allegation filed by Mr. Archer Harman, president of the railway company, before the tribunal. Dr. Borja further stated that Gen. Alfaro had instructed him not to act without consulting me. I suggested to Dr. Borja that he reply to the Senate that if anything was desired from the arbitration tribunal that it should be called upon, that he himself was only part of it, etc. This was done, and the secretary of the Senate, under a second resolution of that body, addressed a collective note to Dr. Borja and myself.

Before replying to this I prepared an opinion, which I filed in the office of the arbitration tribunal. I took this occasion to elaborate on certain points, especially to document, by inference at least, that the tribunal was an international one.

With my opinion as a basis, Dr. Borja formulated our joint reply to the Senate.

The Senate promptly, upon motion duly carried, in view of our arguments, returned the document, which we had transmitted, to us unread and unacted upon.

I think that the Government will secure the ratification of the recently made contract by Congress. If so, there will remain but for the arbiters to make their report.

I have, etc.,

WILLIAMS C. FOX.

File No. 2540/163-167.

Minister Fox to the Secretary of State.

No. 407.]

AMERICAN LEGATION,
Quito, December 11, 1908.

SIR: I have the honor to transmit herewith a joint letter addressed to the President of the United States, signed by Dr. Cesar Borja and myself as arbiters in the matter of the controversy between the Government of Ecuador and the Guayaquil & Quito Railway Co., together with an officially certified copy of the contract and other papers [certified copy of contract; official register containing notice of ratification of contract; report of arbiters]¹ embodying the settle-

¹ Not printed. Filed in Department of State.

ment of the controversies between the Government of Ecuador, the English bondholders, and the American stockholders of the Guayaquil & Quito Railway.

I have, etc.,

WILLIAMS C. FOX.

[Inclosure.]

Arbitration tribunal between the Government of Ecuador and the Guayaquil and Quito Railway Company.

QUITO, November 24, 1908.

To His Excellency, the President of the United States of America, THEODORE ROOSEVELT.

YOUR EXCELLENCY: The undersigned, designated by their excellencies the Presidents of the United States of America and of Ecuador, respectively, as arbiters in the disagreements and controversies which arose between the Government of Ecuador and the Guayaquil and Quito Railway Company, with respect to the fulfilment of their original contracts, have the honor of informing Your Excellency that, on the fifth day of October of the year one thousand nine hundred and seven, they constituted themselves an arbitration tribunal, as provided in article twenty-seven of the contract celebrated by the parties and authorized by the Congresses of the years one thousand eight hundred and ninety-seven and ninety-eight, and that said tribunal was installed in the ministry of foreign relations of the Republic of Ecuador, as is set forth in the corresponding minutes and other documents, which have been published in Bulletin No. 5 of said ministry, and in the collective notes in which advice was given of the fact to the minister for foreign relations of Ecuador and to the Secretary of State of the United States of America.

They also beg to inform Your Excellency that the Government of Ecuador, the Guayaquil and Quito Railway Company, and the attorney of the council of foreign bondholders of London, and of the committee of the holders of bonds of the first mortgage on the railway, celebrated, on the thirtieth day of September of the year one thousand nine hundred and eight, by a public deed, a contract "ad-referendum" for a definite transaction, which contract was discussed and approved and declared law of the Republic of Ecuador, by a legislative decree, on the first day of November of the present year, with the sanction of the Executive.

The Government of Ecuador and the Guayaquil and Quito Railway Company, having petitioned the undersigned to act in fulfilment of the second part of the nineteenth article of the definite transaction contract, the undersigned have the honor of putting into Your Excellency's hands, through the medium of the honorable Secretary of State, an authentic and legal copy of the deed and a copy of "El Registro Oficial" (The Official Register), number eight hundred and eight, in which will be found the contract of definite transaction, which the undersigned respect and accept as a legitimate and legal act of the contracting parties, and which puts an end to the controversies that arose as the result of the lack of fulfilment of the original contracts.

The undersigned place this before Your Excellency for the corresponding legal ends.

Respectfully submitted.

WILLIAMS C. FOX.
CESAR BORJA.

File No. 2540/173-174.

Minister Fox to the Secretary of State.

No. 418.]

AMERICAN LEGATION,
Quito, December 28, 1908.

SIR: I have the honor, respectfully referring to my No. 407 of the 11th instant, to inclose herewith clipping¹ from the Financial

¹ Not printed.

Times of London, England, November 26, 1908, which is an account of the meeting of the English bondholders of the Guayaquil & Quito Railway, at which the contract of September 30, 1908, between the Government of Ecuador, the American stockholders, and the English bondholders of the railway was duly ratified.

I have, etc.,

WILLIAMS C. FOX.

COMPLETION OF THE GUAYAQUIL-QUITO RAILWAY.

File No. 13739/2.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, June 18, 1908.

Railway reached Quito yesterday. Golden spike driven by America Alfaro, President's daughter.

Fox.

File No. 2540/125.

Minister Fox to the Secretary of State.

No. 297.]

AMERICAN LEGATION,
Quito, June 18, 1908.

SIR: I have the honor to confirm the following cablegram sent to the department to-day:¹

The occasion was a memorable one. After the ceremonies President Alfaro invited the members of the cabinet, the diplomatic corps, and other distinguished people to luncheon.

The speeches were made by Mr. Pinto Aguirre, the minister of Chile; Mr. Harman, president of the Guayaquil & Quito Railway Co., and myself.

The official celebration of the inauguration of the railway will commence on the 24th instant and continue for several days.

On the 28th instant Mrs. Fox and I will give a reception, to which we have issued 500 invitations.

I have, etc.,

WILLIAMS C. FOX.

File No. 13739/2.

The Acting Secretary of State to Minister Fox.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 20, 1908.

(Mr. Adee directs Mr. Fox to convey to the minister for foreign affairs department's congratulations on the completion of the railway to Quito.)

¹ Supra.

File No. 2540/125.

President Roosevelt to President Alfaro.

[Telegram.]

THE WHITE HOUSE,
Washington, June 25, 1908.

Be pleased to accept my earnest congratulations on completion of the railway to Quito. May this great achievement enhance the prosperity of Ecuador.

THEODORE ROOSEVELT.

File No. 13739/5.

President Alfaro to President Roosevelt.

[Telegram—Translation.]

QUITO, June 28, 1908.

I am deeply grateful to you for your sincere and expressive congratulation. We are following here, to the extent of our powers, the handsome example of the great nation you are governing, which is prosperous by virtue of the law and because of its railroads. We have come nearer to you and we shall come nearer still by means of commercial treaties which will be mutually advantageous now that we have a new bond of union.

ELOY ALFARO.

MESSAGE OF THE PRESIDENT OF ECUADOR TO THE ECUADORIAN CONGRESS.

File No. 3010/38-40.

Minister Fox to the Secretary of State.

No. 333.]

AMERICAN LEGATION,
Quito, August 15, 1908.

SIR: I have the honor to inform the department that the Ecuadorian Congress met according to the provisions of the constitution on August 10. Owing to lack of a quorum in the Senate this chamber did not organize until the 12th instant, which it did by electing Senator Moncayo as president and Senator Larrea as vice president. The diplomatic corps was present, by invitation, at the opening ceremonies of the Senate.

The President's message was submitted and read. I beg to inclose two copies of this document, together with a summary in the English language.

I have, etc.,

WILLIAMS C. FOX.

[Inclosure.]

Summary of the message of the President of Ecuador to the National Congress of 1908.

President states that a revolutionary spirit still exists in the country; that the rebels have been untiring in their efforts to disturb the peace since the political transformation of 1906; that while his policy has ever been that of

moderation and clemency, he is determined to uphold the Government and maintain peace at all costs.

Speaking of foreign affairs he says:

"The Government has exercised special care in cultivating, extending, and strengthening in the best possible manner friendly relations between Ecuador and the other powers, and I may affirm that the frankest and most loyal friendship binds us to the peoples of Europe and America, as the minister for foreign affairs will inform you in detail.

"The labor of our representatives abroad is satisfactory and praiseworthy, and the diplomatic corps representing their respective governments at this capital are distinguished and agreeable persons, who, surrounded by the hearty and well-merited appreciation of all classes of society, are, as it were, a pledge of international brotherliness and harmony.

"I have exerted every effort to obtain of the royal arbitrator, at the earliest possible moment, his sentence in our great litigation with Peru; the proper commission has already presented its report to the council of His Catholic Majesty, and very soon we may expect the highest justice from the august Spanish sovereign.

"The Government of Colombia and that of Ecuador, being both persuaded that our boundary differences should be settled in a direct manner and as a family matter, have signed the treaty which the minister for foreign affairs will present you—a treaty which removes all further motive for disagreement and reestablishes between the two countries without prejudice to a third, the union and oneness proper to peoples that formed one great nation in the epic period of our history.

"This step having been taken, I have insisted in my constant idea relative to the convenience of a Colombian confederation, an idea that has been enthusiastically welcomed by His Excellency President Reyes; and it is to be hoped that, very soon, its importance and utility being recognized, it may be carried into practice."

The financial condition of the country is described more or less as follows:

	Suces.
Revenue for 1907.....	12,724,567.09
Expenditure for 1907.....	15,401,785.65
Deficit	2,677,218.56

Of the expenditure only 13,268,438.55 sucses correspond to the administration; the difference of 2,133,347.10 sucses having been expended in payments to the Guayaquil & Quito Railway on account of the coupon service and for transportation during the administrations of Gen. Plaza and Mr. Garcia and part of the present administration.

He claims that the excessive expenditure should cause no surprise in view of the necessity of keeping up the army on a war footing on account of revolutions on the one hand and the defective system for collecting revenues on the other.

He points out that the revenues have, in spite of all, increased on certain lines; but hopes that with a reformed system and the development of the country to be expected as the result of the railway communication now established with the coast the increase will soon be much greater. He offers to send to Congress a special message in which he will propose certain reforms in the financial system.

In order to fill up the deficit in the budget he states that the Government was obliged to obtain loans to the amount of 2,892,810.69 sucses, and that the difference of 215,592.13 sucses between the deficit and the amount of the loans is the balance on hand on December 31, 1907, distributed as follows:

	Suces.
In the treasuries.....	130,408.27
In the consulates.....	85,183.86
Total	215,592.13

With respect to railways he says:

"The Transandean Railway, the surest foundation of the nation's progress, has at last reached Quito; the desires of the patriotism have been realized, as

well as my most fervent wishes; but this gigantic work has cost us inexpressible sacrifices, for the Government has been obliged to rescue it so that our hopes might not be defrauded or the prosperity of the Republic be retarded for much longer. In a special message I shall also give you an account of all the details and vicissitudes of this work, the true redeemer of the country; a work which we are not yet able to appreciate in all its magnitude. All that was possible and necessary to crown so great a work has been done; and the applauses of the whole Republic have sanctioned the efforts and sacrifices of those in charge of the Government.

"Respecting the differences which have arisen between the railway company and the nation, as they are already submitted to an arbitration tribunal, we must not advance any opinion; and it is our duty only to maintain our rights and trust that the wisdom and uprightness of the arbitrators may decide on what shall be equitable and just.

"On the 6th instant the work of localizing the railroad from Huigra to Cuenca was commenced, and according to what Mr. Edward Morley, the constructor and manager, says, the locomotive will hail the cradle of Abdon Calderon within 28 months. I shall use every effort to insure the realization of this flattering promise, because the country in the south, rich in the precious metals, coal, stone, marble, and fertile lands, calls for a railway branch for the development of its enviable wealth.

"Mr. Catefort, the contractor of the railway from Bahia to Quito, petitioned that his contract, celebrated in the year 1902, might be considered valid. The Government refused to do so, but once submitted to arbitration it was declared that the contract had not yet become invalid. The constructors of this line propose to begin it soon.

"Mr. Catefort also made a contract for a railroad (Decauville) between Daule and Santo Domingo de los Colorados. The minister of public works will give you an account of that.

"It will also be convenient to prolong the Guayaquil & Quito Railway as far as Tulcan, at least for the present to Ibarra, thus affording communication between our principal port and the intermediate towns, the rich and fertile Provinces of Imbabura and Carchi.

"The moment has also arrived for the realization of the project for a railroad to Curaray, and the expenditure necessary for these important works should not scare us, because once peace is established and an adequate economic system adopted the nation will have funds to attend to all its progressive needs. Furthermore, the railways themselves will be productive in a very short time; and some of them, such as that from Huigra to Cuenca, will yield profit almost immediately, owing in part to the simultaneous working of valuable coal deposits which are in view.

"The railway to Quito being finished, the nation has fully entered the path of progress, and it is our duty to go forward always without stopping or retreating before any obstacle, just as has happened in the work of the Trans-Andean Railway."

He urges Congress to make better and more practicable laws to encourage immigration.

He speaks of the coming exposition, stating that some of the friendly nations have already offered to take part, and requires Congress to vote a sufficient sum to enable Ecuador to figure well.

He praises the army for its progress, morality, discipline, loyalty, and valor. He declares it the guardian of liberal institutions. He makes special mention of the military college and the school for officers.

Speaking of public charity, he regrets the lack of funds felt hitherto, and requests Congress to make better provision. He suggests that the church properties farmed out in accordance with the public-worship law, and which are not productive under the present system, should be turned over to the public charity institutions, reserving some provision for the religious communities absolutely dependent upon said properties.

He speaks of the bubonic plague in Guayaquil, and makes honorable mention of Dr. Lloyd, among others, as instrumental in eradicating the plague. He promises the Government's support for the sanitary labors in Guayaquil, and expects that yellow fever and smallpox will soon be stamped out.

QUITO, August 12, 1908.

SANITATION OF GUAYAQUIL.

File No. 468/63-64.

Minister Fox to the Secretary of State.

No. 239.]

AMERICAN LEGATION,
Quito, April 2, 1908.

SIR: I have the honor, respectfully referring to my number 222, of the 17th ultimo,¹ to inclose herewith translation of an executive decree based upon the plan submitted by Drs. Perry and Lloyd for the sanitation of Guayaquil.

I have, etc.,

WILLIAMS C. FOX.

[Inclosure—Translation.]

EXECUTIVE DECREE.

Eloy Alfaro, constitutional President of the Republic, considering that it is necessary to proceed to the definite sanitation of the city of Guayaquil, the chief port of the Republic, without omitting the extraordinary measures which the gravity of the situation demands, decrees:

ART. 1. A special sanitary commission is hereby established in the city of Guayaquil.

ART. 2. The commission referred to in art. 1 is to be composed of four members, who shall be appointed by the Executive.

ART. 3. Of the four members of the commission referred to in art. 2, one, who shall be president director, must be an official licensed sanitary physician, native or foreigner; the other three, voting members.

ART. 4. The object of the special commission is, the sanitation of the city of Guayaquil and its surroundings, the extirpation of the plague, the yellow fever, and smallpox throughout the extent of the city of Guayaquil and its surroundings (outskirts), and the establishing of domestic hygiene in the houses, by means of the methods of modern sanitary practice, with the ample powers for doing this.

ART. 5. The work of sanitation and hygiene to which art. 4 refers shall be carried into effect by the special sanitary commission in the maximum term of two years, in accord with the memorandum on Sanitation presented to the President of the Republic by the American official sanitary physicians, Doctors J. S. Perry and Bolivar C. Lloyd, and in accord with the communication from the ministry of the interior and charity to the governor of the Province of Guayas on March 16th of the present year.

ART. 6. The special sanitary commission shall formulate its own internal regulations, and furthermore, the general working regulations and whatever they may consider suitable to the fulfillment of their object.

ART. 7. Under the care of the special sanitary commission of the city of Guayaquil are placed the internal organization of the lazarettes, the direction and technical regulations, provision of medical and domestic service of those establishments, and the regulations for maritime, fluvial, or land quarantines, isolation, observation, etc., within the limits of the compact subscribed to by the Government of Ecuador in the International Sanitary Convention at Washington in 1905.

ART. 8. The superior board of health of Guayaquil and the administrative commission shall continue in the exercise of their functions, legal or authorized by the Executive, making use of their special funds in the first case to obtain for the special commission the lazarettes which the latter may need, so that efficient aid may be lent to it, and that in no way the special functions commended to said special commission by this decree be interrupted or overcome.

ART. 9. The funds for the special sanitary commission are twenty thousand sucres monthly, of which it shall dispose for the monthly payment of the salaries of the four members of the commission, the salaries or wages of the physicians, inspectors, day laborers, and other employees it may name; the acquisition of material, etc., etc., and the maintenance of the lazarettes.

¹ Not printed.

ART. 10. The twenty thousand sucres monthly to which the ninth article refers shall be provided—five thousand by the Government, five thousand by the Guayaquil municipality, and ten thousand by the board of drainage, etc., of that city.

ART. 11. The twenty thousand sucres monthly to which articles nine and ten refer shall be administered by the special sanitary commission of the city of Guayaquil, with subjection to the laws in force respecting the administration of public funds. The special commission shall deposit its funds in the "Banco del Ecuador" or in the "Banco Comercial y Agrícola" in the city of Guayaquil, and shall draw for the sums it may spend after due appropriation of accounts and the order for payment from the governor of the Province of Guayas.

ART. 12. The licensed official sanitary physician, directing president of the special sanitary commission of the city of Guayaquil, shall enjoy a monthly salary of one thousand sucres; the other three voting members of the commission shall enjoy each a monthly salary of five hundred sucres. The salaries, wages, or remunerations of the physicians, inspectors, employees, day laborers, which the commission may appoint the latter shall fix in a monthly estimate, obtaining the express approbation of the governor of the Province of Guayas.

ART. 13. The official sanitary physician, directing president of the special sanitary commission of the city of Guayaquil, has the power to appoint and remove the employees under him, and even the other members of the commission if necessary, but must give account of it to the governor of the Province of Guayas, so that the latter authority may communicate same to the Supreme Government.

ART. 14. The municipal police and that of order and security, through the proper organ, shall second and uphold efficiently the special sanitary commission of the city of Guayaquil in the performance of the functions commended to it by the Executive in the present decree.

ART. 15. Should the special sanitary commission of the city of Guayaquil, in the performance of its duties, meet with obstacles of so grave a nature that it could not overcome them by itself, it shall consult with the Executive.

ART. 16. Charged with the execution of the present decree are the minister of the interior in the department of public charity and the minister of finance.

Given in the national palace, in Quito, March 24th, 1908.

(Signed) ELOY ALFARO.
The minister of the interior, public charity, etc.:

(Signed) AMALIO PUGA.
The minister of finance:

(Signed) B. V. TORRES.
The above is a copy.

(Signed) V. M. ARREGUI,
Government Under Secretary.

File No. 468/77-78.

Minister Fox to the Secretary of State.

No. 381.]

AMERICAN LEGATION,
Quito, November 4, 1908.

SIR: I have the honor to transmit herewith to the department a message to Congress of President Alfaro, with translation, in reference to the necessity for a sufficient supply of potable water for the city of Guayaquil, incidentally with regard to the sanitation of that city.

I have, etc.,

WILLIAMS C. FOX.

[Inclosure—Translation.]

Message of President Eloy Alfaro to the Ecuadorian Congress.

QUITO, ECUADOR, October 20, 1908.

SENORES LEGISLADORES: Modern international law requires that ports open to international commerce should be free from such diseases as plague, yellow fever, cholera, and smallpox; this is no more than just, inasmuch as the most

important attribute of government is to protect the lives of its citizens. The propagation of such terrible diseases not only decimates our cities and retards their progress, but causes also the isolation of the nation so infested, and consequently, the ruin of its commerce and industries; causes immense financial loss to the better classes and suffering and destitution among the poor.

Guayaquil is the most important port in the Republic, and when the Panama Canal is completed it will be utilized by every continent. The tropical climate of our coast obliges us to pay special attention to hygiene and to the extermination of infectious diseases, in order to protect the health of the inhabitants of Ecuador and those of the countries with which we have commercial relations; and in order not to retard the development of the natural riches of the Republic. It will thus be seen that by adopting proper sanitary measures in Guayaquil, even though we do not take into account the great benefit to be derived in favor of that heroic people, the prosperity of the entire Republic is provided for, augmenting its economic resources, defending its inter-Andean population, facilitating their access to the coast, avoiding decrease of the population, and duly preparing for that commercial future to which we look forward.

Yellow fever, smallpox, and now bubonic plague, are threatening our principal port; but, as you may see from the inclosed report, signed by the specialist, Dr. Lloyd, science has power to exterminate these maladies, and also even malaria and dysentery, in the space of but a few months, and at a monetary cost relatively small. It is, then, clearly our duty to spare no effort to bring about such beneficial results; and it is for that reason that I am now addressing you, feeling sure that the patriotism of the legislature will fully and efficiently second the proposals of the Executive.

The solution of the sanitary problem of Guayaquil lies in an abundant supply of drinking water, in view of the fact that the quantity that the population has at present at its disposal is not sufficient for its needs. It is the present method of storing water in the houses which originates all the ills referred to in the report which I now present to you, so that if we succeed in getting water in abundance, without the need of keeping it in tanks and barrels, we shall avoid all danger and gain the complete sanitation for our port on the Guayas.

Close to Naranjapata exist abundant springs of pure water, which could not be contaminated in any way, and all that is necessary is to conduct these waters to Guayaquil as soon as possible, by a new aqueduct, parallel to that of Agua Clara, employing tubing of 24-inch diameter. By a rough computation this much-needed improvement should cost not more than 1,000,000 sucres, and the work should be taken up without loss of time, as being indispensable to the eradication of yellow fever.

I believe that to save time in case the funds set aside for the sewage system of Guayaquil be not already disposed of, you should order that one-third of said sum be devoted to the work I am now proposing, or if this be not possible you should impose an extraordinary tax of 2 per mille to cover the estimate referred to on the value of urban and provincial property in the cantons of Guayaquil and Yaguachi. The undeniable public interest of the people of Guayaquil and the great need of the convenience of plenty of water for the locality will insure the acceptance of the tax without any resistance; and the improvement will be realized within a short time, producing the results so greatly to be desired for the prosperity of Guayaquil and the whole nation.

(Signed) ELOY ALFARO.

Translation of communication from Dr. B. J. Lloyd to President Alfaro of Ecuador.

QUITO, ECUADOR, October 19, 1908.

SEÑOR GENERAL PRESIDENTE DE LA REPUBLICA:

Complying with your desire, and urged also by my own interest in the prosperity of Guayaquil and of this nation, I have the honor to present for the consideration of the Chief Executive the following report:

I have before had occasion to invite the attention of the President to the urgent necessity of taking hygienic measures with a view to the removal of the causes of yellow fever, smallpox, malaria, and bubonic plague, in the port of Guayaquil; and now I propose to follow this up with a few further remarks on this very important matter.

In regard to smallpox, it is well known that the surest way to combat the contagion of this disease is to isolate the sick in a place where there is no possibility of communication with the public; to disinfect the rooms which have been occupied by such sick; and to insist on systematic vaccination and revaccination.

Concerning yellow fever and malaria it is necessary to consider certain facts (already scientifically proved) for a clear understanding and as basis for the sanitation of Guayaquil and other places on the Ecuadorian coast.

The old opinion that children born in a place where yellow fever is endemic do not contract the disease has now been rejected as false, and even some of the eminent physicians of Guayaquil have for some time now publicly given it as their opinion that many children succumb every year to yellow fever, although their death is generally attributed to other causes.

The following points concerning yellow fever should be emphasized:

(1) Yellow fever is not contagious.
 (2) Both yellow fever and malaria, in all its forms, are transmitted only by the bite of an infected mosquito; that is to say, by a mosquito that has bitten a person suffering from said diseases.

(3) To eradicate these diseases it is necessary and indispensable to exterminate those mosquitoes which propagate the germ.

(4) The extermination of these insects is not as difficult as would appear at first sight. The surest method of effecting it is to attack the breeding places of such mosquitoes. In passing this point, let me remark the following: There are many people who believe that these insects which so abound in Guayaquil are bred in the river and in the body of water known as the "Estero Salado." This opinion is erroneous; for, if it were not so, then the number of mosquitoes would be the same in the month of August as in that of February, considering that the amount of salt water and of the river water is equally as great in the summer as in the rainy season.

A study of the conditions in Guayaquil clearly shows that, as is the case in other places, the harmful mosquitoes are breeding in barrels and other receptacles, bathroom tanks, small pools in yards and underneath the houses, shallow wells, etc.; and in winter, by reason of the abundance of water, the increase in the breeding places is considerable. But even in this season it is possible to destroy these breeding places of mosquitoes by the simple use of crude petroleum. The transmitting insects once eliminated, the change of season might bring increase of sickness to a certain extent, but never in such grand proportions as at present, when, for example, we see 200 deaths in August and 600 in the month of April.

In the city of Habana, Cuba, where formerly the mortality was similar to that in Guayaquil, yellow fever and malaria have almost disappeared under the method referred to, and to-day that city has scarcely 15 deaths per 1,000 per annum, a rate less than that of New York or London. This improvement is, as has been completely proved, chiefly owing to the war waged against mosquitoes. It is estimated that some 30,000 people have immigrated to Habana since the commencement of the work of destruction of mosquitoes; and out of all these immigrants hardly a couple of dozen have contracted yellow fever.

While it is true that yellow fever does occasionally appear in that city, at a rate of one or two cases a month, still there is no occasion to fear the propagation of the disease, because there exist but very few mosquitoes of the species which transmit the germ.

On the Isthmus of Panama there has not been a single case of yellow fever in more than two years; and the authorities of that place depend entirely on the extermination of the harmful mosquito in yellow-fever work.

At the present time, war against mosquitoes is being prosecuted with great vigor, and in spite of the difficulties offered by the methods employed, as I shall shortly demonstrate, good results are already noted. The best method of judging the effect of sanitary work is by the reduction in the mortality, and we now see that in spite of the plague, the number of deaths in Guayaquil since January 1 of this year has been less than in recent years, and in the months of July, August, and September it has reached a minimum for the statistics of the city.

It is not practicable to continue the use of kerosene on barrels, bathroom tanks, etc., and unfortunately these are the very places where the greater part of the yellow-fever-transmitting mosquitoes breed; or, in other words, 98 per cent of the mosquitoes found breeding in these receptacles are of that harmful species. For the present it has been considered best to place covers on barrels,

tanks, etc., which entails great expense, making necessary continual repairs to the covers, etc.

One of the easiest and most efficacious means of combating the mosquitoes, and at the same time the yellow fever, would be to provide Guayaquil with an abundant supply of drinking water. That which it enjoys to-day is good, but not sufficient in quantity, for it only flows for a few hours in the daytime, thus making it necessary for householders to store water in barrels or tanks. If it were possible to have a continuously flowing supply, adequate to the needs of the population, these dangerous storing places could be abandoned, and the work of exterminating the mosquitoes would be reduced three-fourths of its present magnitude. In other terms the work of applying oil to the water deposits, pools, etc., from the 15th of May to the 15th of December would be insignificant, and in the five months remaining the probable expense would not exceed 5,000 sucres monthly, including the distribution of the petroleum, and, further, the yards being gradually filled in a manner to place them at a higher level than the streets, and the latter suitably paved, the expense would be gradually reduced until it reached an amount of but little significance.

I ought to state with especial emphasis that, the work of extermination of mosquitoes being efficiently performed, Guayaquil should remain free from yellow fever, or at all events it would be a safe place of residence, even though the disease might exist in other places in Ecuador; Ecuador being once freed from yellow fever, the danger of reinfection from other parts would be very remote, since Panama, whence the disease came in former times, is now completely free from the disease.

From the above it will be clear that the provision of an ample water supply is one of the greatest desiderata for the extermination of yellow fever and other maladies in Guayaquil; and I think I may assure you that, by means of this improvement the city could be free from yellow fever within six months, presupposing, of course, the prohibition of storing water in receptacles without covers, and the continuation of the use of petroleum.

The use of crude petroleum is very simple and of course should be continued whenever necessary especially during the rainy season. In the meanwhile the streets could be paved, the pools which may exist beneath the houses filled in, and the yards brought up to a level above that of the streets, so that the rain may not form pools. In this way the amount of petroleum to be used would progressively diminish.

Having thus considered yellow fever and malaria, I may pass on to the result of an adequate water supply as it affects the propagation of bubonic plague.

The chief factor in the spread of plague is the rat, which animal transmits the disease to man by means of the flea. People who live in houses that are dry, well ventilated, and well lighted, and who bathe regularly, rarely contract bubonic plague. The daily bath, when plague appears in any locality, is of the highest importance, for, in all probability, it is not the bite of the infected flea that causes the disease, but the dejections of the flea left on the human body, material which is easily removed by the daily bath. At present the supply of water is so inadequate that only the wealthy classes in Guayaquil are provided proper bathing facilities and unless the whole population have facilities for bathing and the maintenance of cleanliness, it would be useless to try to inculcate the precepts of hygiene.

Two other diseases, namely, typhoid fever and dysentery, would be practically eliminated by an abundant pure-water supply, as they generally result from the use of contaminated water. Asiatic cholera, too, one of the most terrible of diseases, which is at present scourging various parts of Europe and threatening to extend to America, is likewise almost always the effect of contaminated water; so that the means of avoiding that disease also lies in securing a pure-water supply.

Other arguments might be submitted, but I believe that those already presented will be sufficiently convincing.

I repeat, Your Excellency, that the easiest and most efficient means of improving the sanitary condition of Guayaquil and of rooting out the diseases which appear with such frequency in that city, is to endow it with an adequate and pure-water supply. My convictions in this respect have been formed in the course of detailed study of the locality and its needs.

I take this opportunity of again assuring you of profound esteem.

(Signed)

BOLIVAR J. LLOYD

File No. 468/79-80.

Minister Fox to the Secretary of State.

No. 390.]

AMERICAN LEGATION,
Quito, November 16, 1908.

SIR: I have the honor to inclose herewith, with great pleasure, a translation of a law creating a public health service, recently enacted by the Ecuadorian Congress, and to give the very satisfactory information that Dr. B. J. Lloyd, of the United States Public Health and Marine-Hospital Service, has been appointed by the council of state, on nomination of President Alfaro, as director of this service. Secretary Root will recall that his final personal instruction to me before I left Washington for this post, nearly two years ago, was that the Government of the United States, and especially that of the Canal Zone, was deeply and practically interested in the proper sanitation of the port of Guayaquil, and that I was exhorted to be alert to do everything in my power to accomplish it.

On my arrival in Ecuador I found Dr. B. J. Lloyd, of the United States Public Health and Marine-Hospital Service, already thoroughly imbued with the same idea and was agitating the matter. It will be recalled that several agreements had been reached between the department and Ecuador, looking toward an arrangement whereby the United States should superintend the sanitation of this port. This plan was balked by the opposition of the superior board of health of Guayaquil, which had ample authority and at that time some funds, and also by the municipality of that city. This would have been the situation to-day had it not been for the advent, in February last, of the bubonic plague.

Dr. J. C. Perry, of the health service of the Canal Zone, was sent here. He came to Quito and I presented him to Gen. Alfaro, and together with Dr. Lloyd we had a conference. The President was at first doubtful, and made more so by a continuous stream of telegraphic protests from Guayaquil. When, however, he became thoroughly convinced and made up his mind to the correctness of our position, he acted not only promptly, but energetically, and created by executive decree a special sanitary commission, naming Dr. Lloyd as president, and providing him with a fund of 20,000 sucres (\$10,000) per month. Dr. Lloyd took charge on March 27 last, permission having been granted him by Surg. Gen. Wyman, in response to my telegraphic suggestion to the department. At this time the epidemic was at its height. The public was panic-stricken and commerce practically at a standstill. Through Dr. Lloyd's efforts traffic was almost immediately reestablished, confidence restored, and the epidemic rapidly reduced to a few sporadic cases.

By July 1 of this year Dr. Lloyd began to turn his attention to yellow fever and smallpox, with the result that the latter disease has been exterminated from Guayaquil, and the former greatly diminished and is actually in the *process of extermination*. It is significant that the total number of deaths since January 1, 1908, is considerably less than in former years, in spite of the plague epidemic.

As will be seen, the law practically abolishes all other sanitary organizations (art. 11) in the Republic, placing everything pertaining to health matters under the immediate supervision of the new service, including maritime and land quarantines, and involving

the transfer of all the property of the superior board of health of Guayaquil, including an excellent steam tug. The superior board of health will, as soon as the new law goes into effect, cease to exist. The municipality is being reorganized and Dr. Lloyd has been assured of its cooperation.

On examination of the records for several years past, the department will find that that which the isthian health authorities originally desired, viz, the placing of the sanitation of Guayaquil in the hands of our experts, has now, by consistent effort on the part of this legation, supported by the United States Public Health and Marine-Hospital Service in the person of its able and indefatigable representative in Ecuador, been accomplished by indirection, and if not in the exact form originally hoped for, in a really much more satisfactory manner. The organization is entirely Ecuadorian. It is fortunate that Dr. Lloyd has been long enough on this South American detail to have inspired the confidence of the people, not only in Ecuador, but in Peru and Chile as well. He should, therefore, be heartily sustained by his bureau in Washington and every facility afforded him to continue his work.

The seed which has been planted here has already brought forth fruit. I look forward to this as only the beginning. Long before the completion of the Panama Canal, Guayaquil will have lost its reputation as a pest hole and travelers will not be afraid to come here, where for half the year the climate is one of the most salubrious to be found anywhere in the world.

There are many reasons why the work of sanitation has been and will continue to be difficult, but results are being obtained in the face of adverse conditions, though Dr. Lloyd expects a recrudescence both of plague and yellow fever during the coming wet season (Jan. 1 to May 15).

I need not point out to the department and to our Public Health Service the importance of what we have thus far been able to do. It certainly means much, and in the future we may be sure that Ecuador will go step by step with us in sanitary measures.

I have, etc.,

WILLIAMS C. FOX.

[Inclosure.]

Public-health service.

The Congress of the Republic of Ecuador, considering that the public health is the supreme law of the people, not only in its relation to the well-being of the people, but also with regard to our international relations, decrees:

ARTICLE 1. That there shall be established a public-health service whose personnel shall, if possible, be composed of physicians and shall consist of—

- (1) One director and two assistants.
- (2) One subdirector and two assistants for each city or town where their services may be necessary.
- (3) Such employees as the director may deem necessary.

ART. 2. The director of public health shall be named by Congress or by the council of state when Congress is not in session and shall be under the immediate direction of the minister of the interior. The director shall reside in Guayaquil and his duties and attributes are as follows:

- (1) To name his assistants and, with the approval of the President, the subdirectors for the different cities and towns in the Republic.
- (2) Remove from their places his assistants and the subdirectors.

(3) Formulate regulations relating to hygiene and public health, and also regulations governing maritime, interprovincial, and interurban quarantine, and submit these regulations for the approval of the President.

(4) To see that these regulations are enforced.

ART. 3. The assistants of the subdirectors shall be named and remunerated by the municipality of the canton where they are required to serve during the first days of January of each year on the approval of the subdirectors.

ART. 4. The duties of the subdirectors shall be as follows:

(1) To see that the provisions of this act and the regulations made in pursuance thereof are enforced.

(2) Formulate special regulations for the cities or towns where their services are rendered, which regulations, on being approved by the director of public health, shall be transmitted to the municipality for their approval and enforcement. The political (Federal) and municipal authorities shall aid in every way possible in the enforcement of these regulations.

ART. 5. The salary of the director of public health shall be s/.800 (sucres) per month and that of each of his assistants s/.500 (sucres) per month.

ART. 6. The several municipalities shall furnish such funds as may be necessary to protect the public health in their respective jurisdictions unless there is a special fund provided for such work.

ART. 7. The subdirectors of public health shall be, ex officio, presidents of the boards of health in their respective cities and towns.

ART. 8. The director of public health is authorized to suspend, at his discretion, any regulation made in pursuance of this act if in his opinion it is to the interest of the public good to do so.

ART. 9. Municipal health regulations which may be in conflict with the regulations of the public-health service shall be void.

ART. 10. The director of the public health shall give bond in the sum of s/.5,000 (sucres) for the faithful performance of his duties and the management of the public funds intrusted to his care; and if it can be proven that he knowingly misused these funds, or if he receives or knowingly permits others to receive any pay or emolument for the purpose of influencing for or against any measures to be enforced, or if it can be proven that he has unlawfully used his influence or faculties for private gain, this bond shall be forfeited wholly or in part, according to the gravity of the case, and on conviction he shall be punished by a fine of from 500 to 2,000 sucres, or by imprisonment for a term of from six months to two years, or both, in the discretion of the court, funds so collected to belong to the funds of said service. In order that the director of public health may be punished for derelictions of his subordinates it shall be necessary to prove that he had guilty knowledge of the acts and that the guilty subordinate should be previously convicted. If the director of public health knowingly consents that his subordinates shall misuse their faculty or influence for private gain, he shall be responsible in the manner already stated, and his subordinates, on conviction of such dereliction, shall be fined not less than 500 nor more than 2,000 sucres or by imprisonment for a term of from six months to two years, or both, in the discretion of the court.

ART. 11. With the naming of the director of public health the other organizations in Guayaquil having similar duties shall cease to exist and shall deliver, by inventory, to the director of public health all their funds, rents, offices, accessories, books, accounts, lazarettos, etc. The Comisión Especial de Saneamiento will transfer all of its offices, accessories, books, accounts, lazarettos, etc., to said director for the use of the public-health service; and in the act of effecting this transfer the Comisión Especial de Saneamiento shall be dissolved and its duties and attributions shall devolve upon and pass to the public-health service herein provided for, duties and attributions which are defined in the executive decree of March 24, 1908.

ART. 12. The public health service shall be provided with a fund of 240,000 sucres per annum, authorized by the law of general appropriations, which fund shall be destined for the payment of salaries, the acquisition of materials, sustaining of lazarettos, and other expenses of the service, and shall be administered in accordance with the laws governing the administration of public funds. The public-health service shall deposit its funds in the Bank of Ecuador, in the city of Guayaquil, and shall check on such funds, the accounts to be approved by the governor of the Province of Guayas. In case of urgent necessity, as in times of epidemics, the President of the Republic shall increase these funds at his discretion. The funds mentioned in this article shall be

dedicated to the work of sanitation of the city of Guayaquil in conformity with the decree of March 24, 1908.

For the sanitation of other places in the Republic funds shall be provided by the respective municipalities, and those municipalities are authorized to impose the necessary taxes; but in case of urgent necessity the funds herein provided for may be drawn upon, but in this case the amounts taken shall be refunded to the public-health service.

ART. 13. The director of public health on assuming charge of his duties and responsibilities will formulate regulations which he shall submit to a commission formed of the deans of the faculties of medicine and law and one other member of each of these faculties for the approval of said commission. The rector of the University of Guayaquil shall be president of this commission.

ART. 14. Authority is hereby granted to impose fines and imprisonment for violations of this act or of regulations made in accordance therewith.

ART. 15. The Federal and municipal police will enforce the provisions of this act and of the regulations made in accordance therewith, imposing fines and penalties for violations, failing in which they shall be responsible in conformity with the penal code.

ART. 16. All laws and parts of laws which may be in conflict with this act are hereby repealed.

Given in Quito, the capital of the Republic, on the 29th day of October, 1908.

JENARO LARREA,
President of the Senate.

ABELARDO MONTALVO,
President of the Chamber of Deputies.

CELIANO MONJE,
Secretary of the Senate.

L. E. BUENO,
Secretary of the Chamber of Deputies.

Approved.

ELOY ALFARO.

By the President:

A. REYES V.,

Minister of the Interior, Hygiene, etc.

FRANCE.

COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND FRANCE.

Memorandum from the French Embassy.

[Translation.]

THE FRENCH EMBASSY,
Washington, March 26, 1907.

Under date of August 23, 1905, the French Embassy had the honor to inform the State Department of the provisions of the French tariff laws which do not permit the French Government to continue to grant the benefit of the minimum tariff to importations of coffee from Porto Rico.

The considerations set forth on this occasion by the United States Government and contained in the note of the State Department of September 8, 1905, were brought to the attention of the minister of commerce of the Republic, who has just made a new investigation of the situation arising with regard to coffee from Porto Rico, from the nonratification by the American Senate, within the periods specified, of the Franco-American convention of July 24, 1899, and of the additional arrangement of January 31, 1903, extending to Porto Rico the benefit of said convention.

In its aforesaid note the State Department explained that, upon agreeing to extend to the products of Porto Rico, by the convention of August 20, 1902, the advantages granted to North American products by the commercial convention of May 28, 1898, the French Government had in exchange secured for Algerian products, upon their importation into the United States, the benefits of the tariff reductions granted by the said convention to French products. Now, this exchange of concessions had been especially advantageous, according to the Federal Government, to French and Algerian commerce, notably with regard to their exportations of wines and tartars, and the State Department consequently considered the application of the French minimum tariff to Porto Rican coffees as a compensation calculated to establish the equilibrium between the concessions granted on both sides in 1902.

The Federal Government furthermore observed that, according to the agreement of May 28, 1898, which at present governs the commercial relations between France and the United States, the latter country now grants to France the tariff treatment of the most-favored nation, without receiving in return the same treatment when the case is otherwise with regard to third nations under identical conditions.

In reply to these observations my Government has instructed me to state to your excellency that these arguments do not appear such as to warrant the application of the French minimum tariff to Porto Rican coffees. In fact, at the time of the arrangement of August 20,

1892, it was understood that the extension of the benefits of the commercial convention of May 28, 1898, to Porto Rican products would constitute an offset to the advantages which the United States should grant to French commerce by extending the effects of this convention to Algerian products. This exchange of concessions appeared, at the time it was agreed upon, to be self-compensating, and every fresh concession added to the one we then granted would appear to secure to the United States an advantage for which we receive no compensation.

It is true that, on concluding the arrangement in question, the French Government at the same time agreed to admit Porto Rican products to the benefits of our lowest rates up to February 23, 1903. But it does not seem that this provision should be invoked to-day by the Federal Government in order to secure the permanent concession of the favor then granted to Porto Rican coffee. This favor was in fact granted only temporarily in order to enable Porto Rican coffees to enter France at the minimum tariff rates until the ratification of the convention of July 24, 1899, should have granted them these rates permanently.

The periods for which this favor was granted having now expired without any other act having intervened to grant the minimum tariff to Porto Rican coffees, it follows that by right the Federal Government has no grounds on which to demand the maintenance of the favoring rates which have hitherto been granted to its products.

On the other hand, my government can not admit the second argument invoked by the State Department, viz, that, since the United States grants to France the tariff treatment of the most-favored nation, American importers should, owing to this circumstance, derive a right in proper cases to enjoy the same rates in France.

It is beyond doubt, in reality, that the rates established in our general tariff are very moderate in comparison to the very high duties levied on most of our products upon entering the United States, and that the application of our minimum tariff to the articles contemplated in the convention of May 28, 1898, amply compensates the reductions in duties which have been granted to us by the United States. Moreover, if this argument were well founded, the United States would be entitled to demand the whole of our minimum tariff and not only our lowest rates on coffees. It is obvious that such a claim as this could not be admitted.

Being desirous of showing the broadest spirit of conciliation, while at the same time bound by the provisions of the law of February 20, 1903, regarding the tariff rates on colonial produce, the minister of commerce has decided not to subject Porto Rican coffees to the general tariff until on and after August 1, 1907, so that, in the interests of transactions concluded up to July 31 next, they will enjoy the provisional rates by which they have benefited since September 23, 1903.

The Government of the Republic would be disposed to utilize the interval until August 1 next in order to sound the Federal Government for the purpose of ascertaining whether it would be willing, in exchange for the minimum tariff applicable to Porto Rican coffees, to grant to French merchandise, both on this island and in the United States, the reduction provided by Section III of the American customs law of July 24, 1897, on champagnes and sparkling wines, which are not included in the agreement of May 28, 1898.

Memorandum to the French Embassy.

DEPARTMENT OF STATE,
Washington, May 21, 1907.

The Department of State has the honor to acknowledge receipt of the memorandum by the ambassador of France, dated March 26 last, relative to the intention of his Government to apply the general tariff to Porto Rican coffee on and after August 1, 1907, and proposing that the interval before that date be utilized for the negotiation of a supplementary commercial agreement between the two countries, whereby, in exchange for the minimum tariff applicable to Porto Rican coffee, the Government of the United States should grant to champagne and sparkling wines produced in France and imported into the United States, including Porto Rico, the reductions of duty provided by section 3 of the United States tariff act of July 24, 1897.

In reply the Department of State has the honor to inform the ambassador of France that these proposals of his Government are receiving careful consideration, and that a response thereto will be made in the near future.

The Secretary of State to the French Ambassador.

DEPARTMENT OF STATE,
Washington, June 19, 1907.

DEAR MR. AMBASSADOR: I am sending to you to-day a memorandum in reply to yours of March 26 last relating to the duty on Porto Rican coffee, and also a letter suggesting certain changes in the French restrictive regulations applicable to American cattle, meats, fruits, and plants, which would seem to be made practicable by the working of our new inspection laws in the United States.

I wish at the same time to confirm what I have already said to you orally, that during all the negotiations which have led to the commercial agreement between the United States and Germany, proclaimed by the President on the 1st day of this month, this Government has looked forward to proposing similar negotiations with France, and has kept in mind the complaints which have been made from time to time in behalf of French exporters to the United States regarding features of our customs administration which they considered vexatious and injurious to them; that it was our purpose to make the amendments of our regulations of such a character as to remove, so far as practicable, all cause for complaint on the part of the French exporters, as well as on the part of German exporters; and that it is the wish of this Government to apply the new regulations to trade between the United States and France without any discrimination whatever against the latter country.

In my letter relating to the regulations upon the admission of American cattle, etc., I have asked that the French Government shall send a commission of experts to the United States to examine into the workings of the official inspection system now in operation in this country. On the other hand, we are very desirous to put all the trade relations between France and the United States on the most satisfactory basis possible, and I have conferred with the Secretary

of the Treasury as to the sending of a commission of American experts to Limoges to inquire into the condition of the pottery industry there, for the purpose of establishing upon a more secure and trustworthy basis the valuations of the port of New York.

With his concurrence I take pleasure in saying that this Government is ready to send such a commission if it be agreeable to the Government of France.

We should be very glad to give to the various inquiries which have thus been indicated the broadest scope possible, for the purpose of a general improvement of commercial relations, and, if your Government is disposed to proceed further along the lines of the suggestion already made quite informally to the American ambassador in Paris, we are ready to join in the appointment of a commission of tariff experts to consider and report upon the whole subject of the tariff relations between France and the United States, with a view to undertaking the negotiation of a treaty of reciprocity of the character contemplated in the proposed temporary agreement which accompanies the memorandum to which I have already referred.

Faithfully, yours,

ELIHU ROOT.

Project of new commercial agreement.

The President of the United States of America and the President of the French Republic, animated by a desire to adjust the commercial relations between the two countries until a comprehensive commercial treaty can be agreed upon, have decided to conclude a temporary commercial agreement, and have appointed as their Plenipotentiaries, to wit:

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

The President of the French Republic, His Excellency J. J. Jusserand, Ambassador Extraordinary and Plenipotentiary of the Republic of France to the United States of America,

Who, after an exchange of their respective full powers, found to be in due and proper form, have agreed upon the following articles:

ARTICLE I.

In conformity with the authority conferred on the President of the United States in section 3 of the tariff act of the United States approved July 24, 1897, it is agreed on the part of the United States that the following products of the soil and industry of France imported into the United States shall, from and after the date when this Agreement shall be put in force, be subject to the reduced tariff rates provided by said section 3, as follows:

Argols, or crude tartar, or wine lees, crude, five per centum ad valorem.

Brandies, or other spirits manufactured or distilled from grain or other materials, one dollar and seventy-five cents per proof gallon.

Champagne and all other sparkling wines, in bottles containing not more than one quart and more than one pint, six dollars per dozen; containing not more than one pint each and more than one-half pint, three dollars per dozen; containing one-half pint each or less, one dollar and fifty cents per dozen; in bottles or other vessels contain-

ing more than one quart each, in addition to six dollars per dozen bottles on the quantities in excess of one quart, at the rate of one dollar and ninety cents per gallon.

Still wines, and vermouth, in casks, thirty-five cents per gallon; in bottles or jugs, per case of one dozen bottles or jugs containing each not more than one quart and more than one pint, or twenty-four bottles or jugs containing each not more than one pint, one dollar and twenty-five cents per case, and any excess beyond these quantities found in such bottles or jugs shall be subject to a duty of four cents per pint or fractional part thereof, but no separate or additional duty shall be assessed upon the bottles or jugs.

Paintings in oil or water colors, pastels, pen and ink drawings, and statuary, fifteen per centum ad valorem.

ARTICLE II.

It is further agreed on the part of the United States that the modifications of the Customs and Consular Regulations set forth in the annexed diplomatic note from the Department of State to the French embassy at Washington, and made a part of the consideration of this Agreement, shall go into effect as soon as possible and not later than from the date when this Agreement shall be put in force.

ARTICLE III.

Reciprocally, it is agreed on the part of France that during the continuance in force of this Agreement the following articles of commerce, the products of the soil or industry of the United States, shall be admitted into France at the minimum rates of duty, to wit, not exceeding the following rates:

French tariff No.	Articles.	Rate.
		<i>Francs.</i>
16	Meat, fresh:	
	Mutton..... per 100 kilos.....	35.00
	Pork..... do.....	25.00
	Beef and other..... do.....	35.00
17	Meat, salted:	
	Pork (ham, bacon, etc.)..... do.....	30.00
	Beef and other..... do.....	30.00
17 bis	Pork butchers' produce..... do.....	50.00
19	Canned meats..... do.....	15.00
30	Lard and its compounds..... do.....	25.00
ex 84	Table fruits, fresh:	
	Lemons, oranges, cedrats, and their varieties not mentioned..... do.....	5.00
	Mandarin oranges..... do.....	10.00
	Common table grapes..... do.....	8.00
	Apples and pears—	
	For the table..... do.....	2.00
	For cider and perry..... do.....	1.50
	Other fruits, except hothouse grapes and fruits..... do.....	3.00
ex 85	Fruits, dried or pressed (excluding raisins):	
	Apples and pears—	
	For the table..... do.....	10.00
	For cider and perry..... do.....	4.00
	Prunes..... do.....	10.00
	Other fruits..... do.....	5.00
ex 96	Coffee in the bean..... do.....	136.00
128	Common woods, logs..... do.....	.65
	Sawed or squared timber 80 millimeters or more in thickness..... do.....	1.00
	Squared or sawed lumber exceeding 35 millimeters and less than 80 millimeters in thickness..... per 100 kilos.....	1.25
	Wood, sawed 35 millimeters or less in thickness..... do.....	1.75
	Paving blocks..... do.....	1.75
129	Staves..... do.....	.75
130	Hops..... do.....	30.00
160	Hops..... do.....	30.00
174 ter	Apples and pears crushed, or cut and dried..... do.....	1.50
ex 273	Sulphate of copper..... do.....	3.00

French tariff No.	Articles.	Rate.
		<i>Francs.</i>
212 <i>ter</i>	Rails of iron or steel.....	per 100 kilos.. 6. 00
480	Top boots.....	per pair.. 2. 00
481	Boots, for men and women.....	do. 1. 50
482	Shoes.....	do. .75
510	Steam engines, stationary and marine, without boilers; steam pumps; gas, petroleum, hot-air, and compressed-air engines, weighing:	
	250 kilos and more.....	per 100 kilos.. 12. 00
	Less than 250 kilos.....	do. 20. 00
511	Steam engines, semifixed or portable, including boilers.....	do. 13. 00
512	Locomotives; traction engines:	
	Ordinary gauge.....	do. 15. 00
	Narrow gauge.....	do. 18. 00
512 <i>bis</i>	Hydraulic engines, wheel and piston; turbines; pumps; ventilators, weighing:	
	250 kilos and more.....	per 100 kilos.. 10. 00
	Less than 250 kilos.....	do. 15. 00
521	Printing machines.....	do. 6. 00
522	Agricultural machines (motors not included).....	do. 9. 00
523	Sewing machines:	
	Stands and transmission gear.....	do. 8. 00
	Machines proper.....	do. 35. 00
524	Dynamo-electric machines weighing:	
	5,000 kilos and upwards, and containing—	
	At least 50 per cent of cast iron.....	do. 13. 00
	Less than 50 per cent of cast iron.....	do. 20. 00
	From 2,000 kilos inclusive to 5,000 kilos exclusive, and containing—	
	At least 50 per cent of cast iron.....	per 100 kilos.. 18. 00
	Less than 50 per cent of cast iron.....	do. 20. 00
	From 1,000 kilos inclusive to 2,000 kilos exclusive.....	do. 20. 00
	From 500 kilos inclusive to 1,000 kilos exclusive.....	do. 30. 00
	From 100 kilos inclusive to 500 kilos exclusive.....	do. 80. 00
	From 50 kilos inclusive to 100 kilos exclusive.....	do. 100. 00
	Less than 50 kilos.....	do. 110. 00
525	Machine tools:	
	Heavy, weighing more than 1,000 kilos.....	do. 10. 00
	Medium, weighing 250 to 1,000 kilos.....	do. 16. 00
	Small and of precision, weighing less than 250 kilos.....	do. 50. 00
525 <i>bis</i>	General machinery: Transmission gearing; balances; scales; fixed railway stock; signals; presses; lifting apparatus, etc.; apparatus not mentioned, driven by mechanical force.....	per 100 kilos.. 10. 00
526	Open boilers; gasometers; recipients; stoves and caloriferes of sheet iron or steel, or of cast iron combined with sheet iron or steel.....	per 100 kilos.. 8. 00
<i>quater</i>	Dynamo conductors and detached pieces, such as induction coils, solid or hollow, of metal surrounded by insulated copper; worked parts of copper, fitted or not, for electric machines, electric apparatus, electro-technical apparatus, transformers and other electrical purposes, weighing:	
536	2,000 kilos and upwards.....	per 100 kilos.. 25. 00
	From 1,000 kilos inclusive to 2,000 kilos exclusive.....	do. 30. 00
	From 200 kilos inclusive to 1,000 kilos exclusive.....	do. 40. 00
	From 50 kilos inclusive to 200 kilos exclusive.....	do. 50. 00
	From 10 kilos inclusive to 50 kilos exclusive.....	do. 80. 00
	From 5 kilos inclusive to 10 kilos exclusive.....	do. 100. 00
	Less than 5 kilos.....	do. 110. 00
537	Tools, with or without handles:	
	Of pure iron.....	do. 12. 00
	Of steel, or of iron tipped with steel.....	do. 22. 00
	Of copper.....	do. 30. 00
559	Locksmith's wares: Locks, padlocks; keys, iron bolts of all kinds, handles, hooks, hinges of iron or sheet iron, latches, slide bolts, and all other articles of rough iron, scoured or not, turned, filed or polished, for furniture, doors, and windows.....	per 100 kilos.. 15. 00
559 <i>bis</i>	The same articles combined with copper or brass, or composed wholly of copper or brass.....	per 100 kilos.. 20. 00
579	Articles of nickel, alloyed with copper or zinc (German silver), or of nickeled metals.....	per 100 kilos.. 100. 00
ex 614	Carriages, properly so called:	
	Carriages weighing 125 kilos or more.....	do. 50. 00
	Carriages weighing less than 125 kilos.....	do. 120. 00
	Velocipedes, and parts thereof.....	do. 220. 00
646	Toys, games, etc.....	do. 60. 00

ARTICLE IV.

It is further agreed on the part of France that the modifications of the Customs Regulations set forth in the annexed diplomatic note from the French embassy at Washington to the Department of State, and made a part of the consideration of this Agreement, shall go into effect as soon as possible and not later than from the date when this Agreement shall be put in force.

ARTICLE V.

The provisions of Article I and III shall apply not only to products imported directly from the country of one of the Contracting Parties into that of the other, but also to products which are imported into the respective countries through a third country, so long as such products have not been subject to any further processes of manufacture in that country.

ARTICLE VI.

The present Agreement shall apply also to countries or territories which are now or may in the future constitute a part of the customs territory of either contracting party.

ARTICLE VII.

The High Contracting Parties mutually agree that the Commercial Agreement concluded between them on May 28, 1898, and in effect since June 1, 1898, and the Amendatory and Additional Agreement to the said Agreement concluded August 20, 1902, and in effect since August 22, 1902, shall be terminated, in all their provisions, simultaneously with the going into effect of the present Agreement.

ARTICLE VIII.

This Agreement shall take effect from and after the date of the President's Proclamation which shall give effect thereto, and shall be and continue in force until one year from the date when either Party shall notify the other of its intention to terminate the same.

Done in duplicate in the English and French languages, at Washington, this _____ day of _____, one thousand nine hundred and seven.

EXHIBIT A.

Annual value of concession by France of rates under agreement of 1898 on basis of imports from United States in calendar year 1905—French statistics.

French tariff No.	Articles.	Per 100 kilos.			Value of concession.
		Maximum.	Minimum.	Difference.	
		<i>Francs.</i>	<i>Francs.</i>	<i>Francs.</i>	
17 bis	Pork butchers' produce.....	100.00	50.00	50.00	\$71,815
19	Canned meats.....	20.00	15.00	5.00	1,649
30	Lard and its compounds.....	40.00	25.00	15.00	67,074
*ex 84	Table fruits, fresh:				
	Lemons, oranges, etc.....	8.00	5.00	3.00	.....
	Mandarin oranges.....	15.00	10.00	5.00	.....
	Common table grapes.....	12.00	8.00	4.00	.....

* NOTE.—The rates in Exhibit A are those applied in the calendar year 1905. The law of July 18, 1906, increased the maximum rates as follows:

French tariff No.	Articles.	Per 100 kilos.		
		Maximum.	Minimum.	Difference.
ex 84	Table fruits, fresh:	<i>Francs.</i>	<i>Francs.</i>	<i>Francs.</i>
	Lemons, oranges, etc.....	15.00	5.00	10.00
	Mandarin oranges.....	25.00	10.00	15.00
	Common table grapes.....	25.00	8.00	17.00
	Apples and pears:			
	For the table.....	5.00	2.00	3.00

Annual value of concession by France of rates, etc.—Continued.

French tariff No.	Articles.	Per 100 kilos.			Value of concession.
		Maximum.	Minimum.	Difference.	
		<i>Francs.</i>	<i>Francs.</i>	<i>Francs.</i>	
ex 85	Apples and pears:				
	For the table.....	3.00	2.00	1.00	\$2,083
	For cider and perry.....	2.00	1.50	.50	.....
	Other fruits, except hothouse grapes and fruits.....	5.00	3.00	2.00	.....
	Fruits, dried or pressed (excluding raisins):				
	Apples and pears—				
	For the table.....	15.00	10.00	5.00	2,864
	For cider and perry.....	6.00	4.00	2.00	6,228
	Prunes.....	15.00	10.00	5.00	536
	Other fruits.....	15.00	5.00	10.00	17,957
128	Common woods, logs.....	1.00	.65	.35	.....
	Sawed or squared timber 80 millimeters or more in thickness.....	1.50	1.00	.50	357
	Squared or sawed lumber exceeding 35 millimeters and less than 80 millimeters in thickness.....	1.75	1.25	.50	1,435
	Wood sawed 35 millimeters or less in thickness.....	2.50	1.75	.75	4,729
128	Walnut, sawn:				
	35 to 80 millimeters.....	1.75	1.25	.50	589
	35 millimeters or less.....	2.50	1.75	.75	2,635
	Other, sawn:				
	80 millimeters or more.....	1.50	1.00	.50	47,438
	35 to 80 millimeters.....	1.75	1.25	.50	15,552
	35 millimeters or less.....	2.50	1.75	.75	42,174
129	Paving blocks.....	2.50	1.75	.75	.....
130	Staves.....	1.25	.75	.50	48,409
160	Hops.....	45.00	30.00	15.00	.....
174 <i>ter</i>	Apples and pears crushed, or cut and dried.....	2.00	1.50	.50	.....
Total annual French revenue concession under agreement of 1898.....					333,524

EXHIBIT B.

Annual value of proposed concession by France of minimum rates on certain American articles now subject to maximum duties, enumerated in projet of agreement.

French tariff No.	Articles.	Maximum.	Minimum.	Difference.	Value of concession.
16	Meat, fresh:	<i>Francs.</i>	<i>Francs.</i>	<i>Francs.</i>	
	Mutton..... per 100 kilos..	50.00	35.00	15.00	.....
	Pork..... do....	40.00	25.00	15.00	.....
	Beef and other..... do....	50.00	35.00	15.00	.....
17	Meat, salted:				
	Pork (ham, bacon, etc.)..... do....	50.00	30.00	20.00	\$614
	Beef and other..... do....	50.00	30.00	20.00	15
212 <i>ter</i>	Rails of iron or steel..... do....	7.00	6.00	1.00	.....
480	Top boots..... per pair..	2.50	2.00	.50	} 3,749
481	Boots, for men and women..... do....	2.50	1.50	1.00	
482	Shoes..... do....	1.00	.75	.25	
510	Steam engines, stationary and marine, without boilers; steam pumps; gas, petroleum, hot-air, and compressed-air engines, weighing:				
	250 kilos and more..... per 100 kilos..	18.00	12.00	6.00	} 4,714
	Less than 250 kilos..... do....	30.00	20.00	10.00	
511	Steam engines, semifixed, or portable, including boilers..... per 100 kilos..	17.00	13.00	4.00	.....
512	Locomotives; traction engines:				
	Ordinary gauge..... do....	20.00	15.00	5.00	.....
	Narrow gauge..... do....	24.00	18.00	6.00	.....
512 <i>bis</i>	Hydraulic engines, wheel and piston; turbines; pumps; ventilators, weighing:				
	250 kilos and more..... per 100 kilos..	15.00	10.00	5.00	} 8,106
	Less than 250 kilos..... do....	25.00	15.00	10.00	
521	Printing machines..... do....	8.00	6.00	2.00	2,047
522	Agricultural machines (motors not included)..... per 100 kilos..	15.00	9.00	6.00	282,520

Annual value of proposed concession by France, etc.—Continued.

French tariff No.	Articles.	Maximum.	Minimum.	Difference.	Value of concession.
523	Sewing machines:	<i>Francs.</i>	<i>Francs.</i>	<i>Francs.</i>	} \$2,825
	Stands and transmission gear.....do.....	10.00	8.00	2.00	
	Machines proper.....do.....	50.00	35.00	15.00	
524	Dynamo-electric machines, weighing:				} 11,897
	5,000 kilos and upwards and containing—				
	At least 50 per cent cast iron, per 100 kilos.....	30.00	13.00	17.00	
	Less than 50-per cent cast iron, per 100 kilos.....	30.00	20.00	10.00	
	From 2,000 kilos inclusive to 5,000 kilos exclusive and containing—				
	At least 50 per cent cast iron, per 100 kilos.....	30.00	18.00	12.00	
	Less than 50 per cent cast iron, per 100 kilos.....	30.00	20.00	10.00	
	From 1,000 kilos inclusive to 2,000 kilos exclusive..... per 100 kilos.....	30.00	20.00	10.00	
	From 50 kilos inclusive to 1,000 kilos exclusive..... per 100 kilos.....	45.00	30.00	15.00	
	From 10 kilos inclusive to 50 kilos exclusive..... per 100 kilos.....	120.00	80.00	40.00	
	From 5 kilos inclusive to 10 kilos exclusive..... per 100 kilos.....	150.00	100.00	50.00	
	Less than 5 kilos.....do.....	150.00	110.00	40.00	
525	Machine tools:				} 45,111
	Heavy, weighing more than 1,000 kilos..... per 100 kilos.....	15.00	10.00	5.00	
	Medium, weighing 250 to 1,000 kilos, per 100 kilos.....	20.00	16.00	4.00	
	Small and of precision, weighing less than 250 kilos..... per 100 kilos.....	70.00	50.00	20.00	
525 bis	General machinery: Transmission gearing; balances; scales; fixed railway stock; signals; presses; lifting apparatus, etc.; apparatus not mentioned, driven by mechanical force..... per 100 kilos.....	15.00	10.00	5.00	5,587
526 quater	Open boilers; gasometers; recipients; stoves and caloriferes of sheet iron or steel, or of cast iron combined with sheet iron or steel..... per 100 kilos.....	12.00	8.00	4.00	1,724
536	Dynamo conductors and detached pieces, such as induction coils, solid or hollow, of metal surrounded by insulated copper; worked parts of copper, fitted or not, for electric machines, electric apparatus, electro-technical apparatus; transformers and other electrical purposes, weighing:				} 6,062
	2,000 kilos and upwards..... per 100 kilos.....	50.00	25.00	25.00	
	From 1,000 kilos inclusive to 2,000 kilos exclusive..... per 100 kilos.....	50.00	30.00	20.00	
	From 200 kilos inclusive to 1,000 kilos exclusive..... per 100 kilos.....	100.00	40.00	60.00	
	From 50 kilos inclusive to 200 kilos exclusive..... per 100 kilos.....	100.00	50.00	50.00	
	From 10 kilos inclusive to 50 kilos exclusive..... per 100 kilos.....	150.00	80.00	70.00	
	From 5 kilos inclusive to 10 kilos exclusive..... per 100 kilos.....	150.00	100.00	50.00	
	Less than 5 kilos.....do.....	150.00	110.00	40.00	
537	Tools with or without handles:				} 557
	Of pure iron.....do.....	18.00	12.00	6.00	
	Of steel, or of iron tipped with steel, per 100 kilos.....	27.00	22.00	5.00	
	Of copper.....per 100 kilos.....	35.00	30.00	5.00	3,383
559	Locksmith's wares: Locks, padlocks; keys, iron bolts of all kinds, handles, hooks, hinges of iron or sheet iron, latches, slide bolts and all other articles of rough iron, scoured or not, turned, filed, or polished, for furniture, doors, or windows, per 100 kilos.....	20.00	15.00	5.00	577
559 bis	The same articles combined with copper or brass, or composed wholly of copper or brass..... per 100 kilos.....	25.00	20.00	5.00	-----
579	Articles of nickel, alloyed with copper or zinc (German silver) or of nickeled metals..... per 100 kilos.....	150.00	100.00	50.00	10,615

Annual value of proposed concession by France, etc.—Continued.

French tariff No.	Articles.	Maximum.	Minimum.	Difference.	Value of concession.
ex 614	Carriages, properly so called:				
	Carriages weighing 125 kilos or more, per 100 kilos.....	<i>Francs.</i> 60.00	<i>Francs.</i> 50.00	<i>Francs.</i> 10.00	} \$1,610
	Carriages weighing less than 125 kilos, per 100 kilos.....	150.00	120.00	30.00	
	Velocipedes and parts thereof, per 100 kilos.....	250.00	220.00	30.00	3,868
646	Toys, games, etc..... per 100 kilos..	75.00	60.00	15.00	625
	Total.....				396,209

Reciprocal commercial agreement between the United States and France.

[Concluded May 28, 1898.—Proclaimed May 30, 1898.—In effect June 1, 1898.]¹

Amendatory and additional agreement to the commercial agreement of May 28, 1898.

[Signed at Washington, August 20, 1902.—Proclaimed August 22, 1902.]²

Memorandum to the French Embassy.

DEPARTMENT OF STATE,
Washington, June 19, 1907.

After full and careful consideration of the memorandum of the ambassador of France, under date of March 26 last, in relation to the proposed application of the rates of the French general tariff to imports of Porto Rican coffee, now subject to the minimum rates, the Department of State respectfully submits the following observations thereon:

I.

According to French statistics for the calendar year 1905, the total imports into France of coffee from Porto Rico amounted to 2,191,364 kilograms, and from continental United States 1,158,619 kilograms, being together less than 4 per cent of France's total importation of that article from the world, which is given as 90,985,423 kilograms. The French colonial possessions do not produce enough coffee to supply the French demand, the total importation from that source being only 1,338,423 kilograms, while Brazil furnished 44,926,577 kilograms, Haiti 18,456,316 kilograms, British India 6,266,391 kilograms, Venezuela 5,848,307 kilograms, Colombia 3,269,361 kilograms, and Guatemala 3,234,097 kilograms. The general tariff rate of 300 francs per 100 kilograms—equivalent to 26 or 27 cents per pound—is prohibi-

¹ See Foreign Relations, 1898, p. 292.

² See Foreign Relations, 1902, p. 418.

tory. The inevitable effect of imposing that maximum rate on Porto Rican coffee, while the minimum rate is continued for all other countries, would be to exclude such coffee and make it necessary for France to buy that portion of her supply from other foreign countries. Under these circumstances, the proposal to impose the maximum tariff on Porto Rican coffee upon its importation into France would seem to be rather a matter of trade prohibition than a matter of either revenue or protection.

Nevertheless, although the imports of Porto Rican coffee constitute only a small proportion of the total importation into France of that article, the retention of that market is of importance to the prosperity of Porto Rico and its loss as the result of a prohibitory tariff discrimination would be injurious to the industrial and commercial interests of the island. In the memorandum of March 26 the French ambassador refers to the provisions relative to the continued application to Porto Rican coffee of the minimum rates of the French tariff contained in the amendatory and supplementary agreement concluded between the two countries on August 20, 1902. In concluding this supplementary agreement the Government of the United States was actuated mainly by a desire to adjust in a friendly spirit the long-existing contention between the two Governments in regard to the applicability to Algeria of the commercial agreement of 1898. It was well understood at the time that the extension by the United States to Algeria of the reduced duties provided in the agreement of 1898 would be without adequate compensation on the part of France, unless the clause respecting Porto Rican coffee was inserted and continued in force, for the correlative extension to Porto Rico found practically no other exports to which it could apply. The purpose of this clause was to afford stability in the French market to Porto Rico's principal article of export, and, at the same time, to establish a reasonable measure of equilibrium in the respective concessions so long as the concession of the minimum rate on coffee should continue. It is evident that this equilibrium would be completely destroyed by the imposition of the maximum tariff on Porto Rican coffee.

The conditional concession upon French still wines and vermouth, contained in the commercial agreement of May 28, 1898, terminable at will, is correlative to the continuance of those minimum rates of duty that have in fact been allowed to the United States by France since 1898, although not required by the agreement. If the maximum duty were imposed on Porto Rican coffee, which has hitherto enjoyed the benefit of the minimum duty, that conditional concession would, of course, be terminated under the terms of the commercial agreement of 1898. It involved, in 1906, a reduction of United States duties amounting to \$86,205.85 on still wines and vermouth imported from France to the value of \$1,092,232, a trade more than double the trade in Porto Rican coffee.

II.

The ambassador's memorandum of March 26 suggests as compensation for the continued application of the minimum tariff to imports of Porto Rican coffee that the Government of the United States shall concede the duty reductions on French champagne and sparkling

wines imported into this country (including Porto Rico) authorized by section 3 of the United States tariff act of July 24, 1897.

By reason of the serious sacrifice in the Federal revenues that would be entailed this Government has hitherto declined to make this concession to France, and for this reason it was omitted from the agreement of 1898 and, again, from the concessions proposed on the part of the United States in the unratified reciprocity treaty concluded between the two Governments on July 24, 1899. In the fiscal year 1906 the United States imported from France champagne and sparkling wines to the amount of 381,628 dozen quarts, valued at \$5,613,311. The proposed concession under section 3 would therefore involve a reduction of United States duty amounting to \$763,256 on the basis of that year's importation.

The entire value of all the coffee imported into France from Porto Rico during the calendar year 1905, according to the French statistics, was only \$439,847. The total amount of coffee imported into France from the United States in the same year amounted to \$232,565. It is probable that only a small part, if any, of this was Porto Rican coffee; but if the whole of it were treated as from Porto Rico rather than as being a mere reexportation of coffee from other countries, the total subject matter to which the prohibitory tariff would apply would be only coffee of the value of \$672,412. The suggestion of the proposed concession, therefore, practically is that the United States shall sacrifice revenue to the amount of \$763,000 in order to save a market for produce of the value of \$672,000.

In view of the considerations already set forth it is evident that the Government of the United States can not regard the proposed forbearance by France from imposing a discriminatory and prohibitory duty on Porto Rican coffee as a "reciprocal and equivalent concession," as required by section 3, in compensation for a concession entailing so great an annual remission of duty on the part of the United States.

The Government of the United States, however, is earnestly desirous of improving the present unsatisfactory conditions affecting American trade with France, and to this end is willing to grant the reduced duties to French champagne and sparkling wines and to continue the present conditional concession upon still wines and vermouth in return for reasonable concessions by France in favor of certain products of the United States that are now subject to discriminatory tariff treatment upon their importation into that country.

III.

It has long been a source of great dissatisfaction and complaint among the manufacturers and producers of the United States who have sought to introduce their products in France that most American goods are subjected upon their importation into that country to the payment of tariff duties that range from 15 to 50 per cent higher than those imposed upon like goods imported into France from England, Germany, Belgium, or any other important commercial competitor of the United States in the French markets. In fact, the United States is the only important commercial country in the world whose exports are subject to this injurious tariff discrimination in France. Furthermore, France stands to-day as the

only country which applies to imports from the United States an extensive system of discriminatory duties that do not apply to the principal competitors of the United States. This denial by France of equality of commercial opportunity for American trade interests in her markets is more prejudicial to the extension of commercial relations between the two countries than a much higher scale of duties of the French tariff universally applied would be.

On the other hand, the tariff policy of the United States toward France has been in marked contrast to the discriminatory tariff policy pursued by the latter. France now enjoys in the United States, under the commercial agreement of 1898, the entire conventional tariff rates of the United States, excepting only the reduction on champagne and sparkling wines. The tariff concessions made by the United States in favor of Cuban products are, of course, based upon considerations that are not duplicated in the relations between the United States and any other power. The proposed concession, therefore, by this Government in favor of French champagnes would, when added to the concessions made in the commercial agreement of 1898, put France in possession of the most-favored-nation tariff treatment of the United States as it now exists.

It has been computed that the American goods subject to maximum rates paid in the year 1905 about \$500,000 more in customs duties than like merchandise imported into France from other foreign countries.

IV.

In the hope of correcting, as far as possible, the inequality of tariff conditions existing, as indicated above, in the commercial relations between the two countries, and with a view to meeting the wishes of the French Government in respect to the American duties on champagne and sparkling wines, the Department of State submits herewith inclosed the projet of a new commercial agreement to take the place of the existing conventions of May 28, 1898, and August 20, 1902, respectively.

This projet, which follows the lines of the new commercial agreement concluded between the United States and Germany on May 2, 1907, and effective from July 1, 1907, provides for the extension to France of the identical tariff concessions and ameliorations in the United States customs and consular regulations that have been guaranteed to Germany in the agreement referred to. It is designed to be merely provisional and to regulate the commercial relations between the United States and France until such time as the respective Governments may be able to agree upon and secure the adoption of a more comprehensive and permanent treaty of reciprocity. The modifications which this Government requests be made by the French Government in its customs regulations affecting admission of American cattle, meats, fruits, and plants will form the subject of a separate communication to the French embassy.

The reduction of the duty resulting from the minimum rates authorized by section 3, which the United States proposes to grant to France, as compared with the general rates of the United States tariff on the same articles, upon the amount of importations into the United

States for the French products in the year ending June 30, 1906, would be as follows:

Under the permanent clause of the commercial agreement on May 28, 1898.....	\$489, 822
Under the conditional clause relating to still wines and vermuth.....	86, 205
Under the proposed additional clause relating to champagne and Sparkling wines.....	763, 256
Annual value of proposed American concessions.....	<u>1, 339, 283</u>
The difference between the minimum duties under the French tariff as compared with the maximum duties upon the amount of business for the year ending Dec. 31, 1905, under the binding effect of the commercial agreement of 1898.....	333, 524
The difference between the minimum rates which the United States asks France to give in place of the maximum rates now imposed would be upon the business of the same year.....	396, 209
Annual value of proposed French concessions.....	<u>729, 733</u>
Excess of American concessions over amount of French concessions..	609, 550

In compensation for this excess of \$609,550 in the respective concessions, the Government of the United States asks the Government of France to revoke its decree recently issued in relation to Porto Rican coffee and to modify its present restrictive regulations affecting entry of American cattle, meats, and plants, as set forth in the note to the ambassador of the French Republic of this date.

The Secretary of State to the French Ambassador.

No. 406.]

DEPARTMENT OF STATE,
Washington, June 19, 1907.

EXCELLENCY: Referring to the memorandum sent to you this day by the department in reply to your memorandum of March 26 last, relative to commercial relations between the United States and France, and particularly the duty on Porto Rican coffee, I have the honor to bring to your attention the several ameliorative changes which this Government would be pleased to have made by your Government in its present restrictive regulations affecting the admission into France of American cattle, meats, fruits, and plants.

(1) That the present prohibition of entry for American cattle and sheep shall be abolished, and hereafter live stock imported from the United States shall be admitted for slaughter at the port of debarkation on the same terms as prevail for American cattle in the ports of Great Britain, namely, entry for slaughter within 12 days after debarkation. The prohibition of American cattle, which was originally imposed on account of Texas fever, is not justified by any actual conditions in the United States.

(2) That the present burdensome restrictions applicable to transit through France of American live cattle exported to Switzerland shall be so amended as to permit the normal development of this trade between the United States and Switzerland. It is desired that such

cattle be allowed to be shipped through Havre without being detained 40 days at that point and being subjected to the tuberculin test, but, of course, subject to veterinary inspection and reasonable supervision.

(3) That France shall admit American pork products upon production of the certificate of inspection issued by the United States Department of Agriculture in accordance with the provisions of the new meat-inspection law approved June 30, 1906, and shall not hereafter require a certificate showing microscopic analysis for trichinae to accompany these products of American origin. The new system of official inspection in this country of American cattle and meats intended for export is thorough, scientific, and stringent, and the official certificate of inspection should be accepted by France as a guaranty of the purity and wholesomeness of the products covered by it.

(4) That the present classification of dry salt fatbacks—which are unsmoked bacon—under the heading of “Sausage, blood pudding, mincemeat, and meat patties,” shall be changed to the heading “Salted, pickled, or smoked, including hams and bacon.”

(5) That the present regulations excluding from France fresh apples and pears imported from the United States that are found slightly infested with San José scale shall be modified in order not to hamper the development of trade. The heavy freight charge on such shipments prevents the shipper from forwarding fruit that is sufficiently marked with scale to be disfigured thereby, so that practically the only fruit that shows scale is such as escapes the attention of the packer. The few scales that are found on such fruits are dead, and therefore harmless, their presence not impairing the wholesomeness of the fruit in any way. It is the opinion of expert entomologists that there is practically no danger from this source and that the exclusion of such fruit accomplishes no useful purpose, being only a burdensome restriction upon legitimate trade between the countries.

(6) That the exclusion of American bulbs and herbaceous nursery stock on account of San José scale shall be abandoned. The department is informed that that scale is never carried on such material.

For the purpose of dealing thoroughly and intelligently with the several points above mentioned, I have the honor to suggest that your Government send a commission of its own experts to the United States, with instructions to examine into the workings of the official inspection system now in operation in this country.

It is hoped that the liberal treatment of France by the United States in the matter of the new customs regulations of the United States, especially with reference to acceptance of the certificates of the French chambers of commerce on equal terms with those issued by German chambers of commerce, will be accepted by the Government of France as evidence of the earnest desire of the Government of the United States to put the trade relations between the two countries on the most favorable basis possible.

Accept, etc.,

ELIHU ROOT.

The French Ambassador to the Secretary of State.

[Translation.]

THE FRENCH EMBASSY,
Washington, November 12, 1907.

MR. SECRETARY OF STATE: My Government, to which I delivered, on my last visit to France, your excellency's letter and memorandum of June 19 last, concerning the commercial relations between the two countries, has examined, with all the care that the importance of the questions involved demanded, the propositions formulated by the Federal Government in reply to ours. The result of the examination has just been communicated to me, and I hasten to bring it to your excellency's knowledge.

As stated in the above-mentioned papers, the American authorities declared they could not be satisfied with the reduction offered by us on Porto Rican coffee as an offset for the reduction on our champagne and sparkling wines of \$2 per dozen bottles, provided in section 3 of the American customs tariff act of July 24, 1897.

The figures and arguments on which this declaration is based do not appear admissible to my Government.

In the first place, the assertion is made, in Paragraph I of your excellency's memorandum, that the extension granted in 1902 to Algeria and Porto Rico of the reduced duties provided in the commercial agreement of 1898 could not be understood unless the clause respecting Porto Rican coffee were continued in force for an indefinite period, as the advantages derived from the extension would otherwise be too great for France and too small for the United States.

My Government finds it impossible to concur in this view. The granting of the minimum tariff to Porto Rican coffee was, under the arrangement signed August 20, 1902, by the representatives of both countries, strictly limited as to time, and whenever an extension of time was consented to, by a voluntary decision of the Government of the Republic (in the expectation that a commercial reciprocity convention which was finally set aside by the American Government without even coming before the Senate for discussion), the revocable character of the extension was always brought to mind.

The Federal authorities, far from considering at the time when the aforesaid arrangement was elaborated that there would be injustice and disparity in the reciprocal advantages if the concession granted to Porto Rican coffee were not indefinitely continued in force, expressly recognized that the granting of that concession as a finality should be made the subject of separate negotiations in which examination would be made into "the conditions on which" such a favor could be obtained. The State Department's letter of August 2, 1902, is clear on that point. In reply to a proposition of my Government looking to the conclusion of a special convention to "determine the conditions on which the benefit of the minimum tariff might be finally extended to Porto Rican coffee" the Department of State declared that it "fully appreciated" the good will shown by the Government of the Republic, but deemed it expedient to postpone those negotiations owing to the sentiment prevailing in the United States in regard to reciprocity treaties.

Not only was there in fact no misunderstanding in this respect, but it is impossible to understand how there could have been any. It can not indeed be contended that there was disparity in the reciprocal concessions; there was none to the detriment of the United States, at any rate. Far from it. It appears from the American and French statistics, as shown in Statements I, II, and III hereto annexed, that on the basis of the average for the last two years French importations into Porto Rico profited by a reduction of duties amounting to 17,493 francs and Algerian importations into the United States by 10,951 francs. It is further found, without taking into account the Porto Rican coffee, that American merchandise imported in 1906 into Algeria profited, first, by a reduction of duties amounting to 16,330 francs, under the arrangement of 1898; second, by a reduction of duties on petroleum, amounting to 503,090 francs, under a decree issued by the French Government, *proprio motu*, under date of July 7, 1893. The decree is revocable, but was in force when the arrangement was signed and is still in force. So that the average reductions during the years 1905 and 1906 amounted to 372,505 francs in favor of American trade and to 28,444 francs in favor of French trade—that is to say, a difference of 344,061 francs in favor of the United States.

The connection with the same paragraphs of the memorandum endeavors to establish between the continuance of a minimum tariff in favor of Porto Rican coffee and the advantages granted to French still wines and vermouths by the commercial arrangement of May 28, 1898, has already been made by me the subject of express reservations at the time when the said document was delivered to me. By order of my Government, I have to renew them in the most formal manner. Such a connection could never have entered into the minds of the negotiators—first, because of the considerations I have just pointed out, which show that the Federal Government fully realized the necessity of a special negotiation on this point by which both parties would secure equal advantages; next, for the reason, sufficient by itself, that when the convention of May 28, 1898, was negotiated and signed Porto Rico was not American territory. Furthermore, the terms of the arrangement of 1902 are clear and it is quite obvious that the mere fact that the arrangement contained a special provision, of limited duration, concerning Porto Rican coffee proves that the Government of the United States itself did not believe that the terms of an agreement concluded by it four years earlier conferred the right to oppose the application of the general tariff to that article immediately upon the expiration of the period that had been set.

Again, your excellency, in Paragraphs II and III of your memorandum, directs attention to the loss the American Treasury would suffer from the reduction of duties on our champagnes, which would be considerable, while the trade of the United States is placed in France at a disadvantage by having to pay on a number of articles duties from 15 to 50 per cent higher than those collected on the same articles imported from several other countries. In consequence, and in order to put an end to such "discriminations," reductions of duties are asked in favor of a number of articles, which reductions would be all the more legitimate as the "whole of the American conventional tariff" would be granted us if our request in regard to champagne were complied with.

Without laying any stress on the fact that the "whole of the American conventional tariff" includes, in all and for all, five articles out of a general total of seven hundred and five, I can but recall to mind that France never practiced "discrimination" of any kind against the United States. She offered to negotiate, just as she did with the other countries mentioned by your excellency. The other countries assented thereto on the basis of reciprocal advantages. The United States also assented, but it is certainly through no fault of France that the ratification of the treaty thus concluded was put off from year to year and finally given up, whereby the very situation with which the Federal Government finds fault was created.

The statistics adduced by your excellency, in your aforesaid communication, would seem to prove that French commerce at the present time is benefited here by reductions of duties much greater than those now enjoyed in France by American articles. On this point my Government observes that the nomenclature of these last articles is incomplete and that, therefore, the whole argument based thereon is vitiated. No mention is made either in the memoranda or the accompanying statements of the favorable treatment accorded to American petroleum; the favor is revocable, to be sure, but, nevertheless, confers upon that product a considerable advantage, which, as a matter of fact, it has continued to enjoy since 1893.

By taking this into account, it is found, and the inclosed statement, No. IV, shows, that the difference in revenue caused by the minimum tariff being applied to the American product imported into France, as compared with the rates of the general tariff, amounted to 26,385,790 francs for 1905 and to 29,322,743 francs for 1906; that is to say, an average of 27,854,266 francs for both years, to which it is proper to add the sum of 372,505 francs representing the average reduction of duties on American products imported into Algeria, making an aggregate of 28,226,771 francs.

The French and Algerian merchandise enumerated in the agreements of 1898 and 1902, imported into the United States, according to the average for the two fiscal years 1904-5 and 1905-6, have been favored as follows: The French merchandise imported into the United States by a reduction of 2,711,266 francs (Statement V), the Algerian merchandise imported into the United States by a reduction of 10,951 francs, and the French merchandise imported into Porto Rico by a reduction of 17,493 francs, which make up a total of 2,779,710 francs. It follows that the sacrifice made by the French Treasury in favor of American merchandise was greater by 25,487,061 francs than that of the American Treasury in favor of French merchandise and that, therefore, the present situation is to the full advantage of the United States.

Hence, my Government does not deem it possible to accept propositions the effect of which would be to intensify these differences in the most impressive manner, and to agree to concessions or consolidations of duties which have, for the greater part, already been refused to the countries with which France has concluded commercial conventions in recent years.

It is, however, disposed to modify, in a spirit of conciliation which the Federal authorities will appreciate, its original propositions. In return for the concession to champagne and our sparkling wines of the reduced rates of section 3 of the Dingley tariff, my Government

will grant, as a finality, the concession of our minimum tariff to the colonial products of the United States as well as to Porto Rican coffee. It can not be alleged that there would not be a fair equilibrium between these reciprocal concessions. According to the annexed statements (Nos. VI and VII) the concession of the minimum tariff to those products would represent for the French Treasury a sacrifice amounting, on the average of the years 1905 and 1906, to 5,162,580 francs, while the concession of reduced rates to sparkling wines imported into the United States and Porto Rico would, according to the American statistics of 1904-5 and 1905-6, represent a sacrifice of only 3,752,228 francs for the United States. The United States would thus profit by a difference of 1,410,352 francs in reduced duties.

Apart from this advantage and in its desire to evidence its appreciation of the value of the customs facilities which your excellency was good enough to notify me would be applied to French merchandise, my Government is ready to agree that the French decree of July 7, 1893, now revocable at will, which extends to American petroleum the benefit of the minimum tariff, shall be especially dealt with in one of the stipulations of the contemplated arrangement, whereby the reduction of duty would assume a contractual character and an important advantage would in consequence accrue to the United States. My Government expects in return that the arrangement to be made will guarantee to French commerce, as already agreed upon, the benefit of all customs facilities granted to other nations.

With respect to the various other points mentioned by your excellency, I have the honor, by order of my Government, to submit to you the following remarks: Article V of the draft drawn up by your excellency's direction provides that American products imported by way of a third country shall continue to enjoy the rates of the minimum tariff, if entitled thereto. Thus worded, the stipulation would preclude the application of the bonded warehouse surtax to American products coming to France from European ports. It would further defeat our regulations which deny the benefits of our minimum tariff to merchandise shipped through a country subject to the general tariff. For both these reasons my Government finds it impossible to accept that Article V.

As regards the provisions relative to the sanitary police of domestic animals and to protection against insects, cryptogamous and other noxious vegetables, the French department of agriculture can not admit, as specified in Article IV of the draft, that these questions be settled by means of a convention. That department has always positively refused to assume in a convention any obligation likely to restrict its freedom of action in that special field which involves the responsibility of the minister of agriculture alone. But the principle once accepted, the said department will be quite ready to examine with the greatest benevolence, and a sincere desire to comply with them as far as possible, such applications as may be submitted to it. For instance, it has already decided that salt pork meats from the United States shall, provisionally and while the negotiations entered into with the American Government are carried on, be admitted into France on the presentation of a certificate of the inspector of the Federal Department of Agriculture detailed by the latter to supervise the establishment in which the animals have been slaughtered or the

meats prepared, which certificate shall state that the meats are from sound animals and are fit for consumption. No mention of microscopical inspection shall be required, provided the cases bear the stamp of the Government inspector who conducted the sanitary examination.

The French minister of agriculture, in this connection, has acquainted me with his desire to receive as accurate information as possible regarding the means employed in the United States for the purpose of ascertaining whether pork is free from trichinæ, adding that if the inspection of imported meats should, on their entering France, disclose the presence of trichinæ their importation would forthwith be prohibited.

In compliance with the desire of Mr. Ruau, who is of opinion that if the above-mentioned information were received the sending of a special commission could be dispensed with, I am forwarding to him an additional copy of the set of the several regulations and successive decisions bearing on the matter which I have been able to gather through the kindness of the Department of Agriculture. Any further explanations that the Federal Government should see fit to send to me would be most welcome and I shall lose no time in forwarding them to the proper French authorities.

As for the measures taken to prevent the introduction of the *Aspidiotus perniciosus*, or San José scale, into France, my Government deems it impossible to modify the provisions of the decree of November 30, 1898. Owing to the habits of that insect, the greatest precautions are needful to prevent the transfer of females to vegetables and fruits or their refuse. Cast off indiscriminately with fruit peelings, the insects would soon overrun our orchards and forests, all the more as the young larvæ can live several days without food until they find the vegetable that suits them. American entomologists themselves admit that the strictest precautions must be taken to prevent the propagation of the San José scale, and, without succeeding in entirely checking the evil, the Department of Agriculture recommends that the most particular measures be taken for protection from the *Aspidiotus*, and that any tree showing traces of infection be burned.

Lastly, I am instructed by my Government to make special mention of the wording of the article in which the American products admitted to the benefit of the minimum tariff are to be enumerated, and to say that the present language of the French tariff, as it actually stands, describing all those articles, should be reproduced, which does not appear to offer any difficulty, as the differences that can be noted undoubtedly are the result of clerical errors.

The foregoing are the terms on which my Government is ready to sign an arrangement sanctioning the reciprocal concessions the two countries would make in the interest of both, and which might be put into effect, on both parts, without delay. I am fain to believe that the propositions I am instructed to lay before your excellency will prove acceptable and that their early execution will contribute to promote between the two countries a commerce that is already prosperous, thus carrying out the wishes of the Federal Government, which are, I know, identical in this respect with those of the Government of the Republic.

Be pleased to accept, etc.,

JUSSERAND.

TABLE I.—*Reduction for the benefit of France in consequence of the application of the reduced tariff of 1898 to Porto Rico, by virtue of the agreement of 1902 (according to American statistics).*

American tariff No.	Articles.	Unit.	Tariff.		Difference.	1904-5		1905-6	
			General.	Reduced.		Imports from France.	Amount of reduction.	Imports from France.	Amount of reduction.
289	Brandies and other spirits.....	Proof gallon.....	\$2.25	\$1.75	\$0.50	{ 3,176 553	\$1,588 276	{ 3,742 917	\$1,871 458
296	Still wines and vermouth: In casks..... In bottles.....	Gallon..... Dozen bottles.....	0.40 1.60	0.35 1.25	0.05 0.35	3,476 1,790	173 626	11,060 4,314	553 1,109
							2,663		3,991

Average for the two years 1904-5 and 1905-6, \$3,377, or 17,463 francs.

TABLE II.—*Reduction for the benefit of France in consequence of the application to Algerian goods of the tariff of the agreement of 1898, by virtue of the agreement of 1902 (according to American statistics).*

American tariff No.	Articles.	Unit.	Tariff.		Difference.	1904-5.		1905-6.	
			General.	Reduced.		Imports from French Africa (Algeria).	Amount of reduction.	Imports from French Africa (Algeria).	Amount of reduction.
6	Crude tartar, or wine lees crude.....	(Pound..... (Value.....	\$0.01 0.01	..... 5 per ct.	..... .....	601,208 84,566	..... \$3,284.00	438,582 48,873	..... \$1,942.00
296	Still wines and vermouth: In casks..... In bottles.....	Gallon..... Dozen bottles.....	0.40 1.60	\$0.35 1.25	\$0.05 0.35	60 1	3.00 0.35	..... 4	..... 1.05
454	Paintings, in oil or water colors, pastels, pen and ink drawings, statuary..	Value.....	20 per ct.	15 per ct.	5 per ct.	2	0.10	35	1.75
							3,287.45		1,944.80

Average for the two years 1904-5 and 1905-6, \$2,114.15, or 10,951 francs.

TABLE III.—*Reduction for the benefit of the United States on entry into Algeria in consequence of the concession of the minimum tariff to American products by virtue of the agreement of August 24, 1902, and extended voluntarily by the French Government to petroleum.*

Tariff No.	Articles.	Tariff (per 100 kg.).		Difference.	Year 1905.		Year 1906.	
		General.	Minimum.		Importations from United States.	Amount of reduction.	Importations from United States.	Amount of reduction.
17 bis	Manufactured and prepared pork meats.....	100	50	50	5,014 kg.	2,500	.....	.....
19	Canned meats.....	20	15	5	5,446 kg.	275	.....	.....
30	Lard.....	40	25	15	1,223 kg.	180	.....	.....
128	Common woods:							
	Squared or sawed, 80 mm. or more in thickness.....	1.50	1	0.50	924,000	4,620	.....	.....
130	Staves.....	1.25	0.75	0.50	982,800	4,914	.....	.....
197	Refined petroleum and schist oils and essences.....	25	10 hl. } 12.50 }	12.50	21,397 hl. or 17,038 qt.	4,620 212,970	1,782,000 1,484,000 50,309 hl. or 40,267 qt.	8,910 7,420 503,090
198	Heavy oils and residues of petroleum.....	12	9	3	4,446	132	.....	.....
						1,225,591		2,519,420

¹ 225,591 francs=\$43,539.06.

² 519,420 francs=\$100,248.06.

Average for the years 1905-6, 372,505 francs.

FRANCE.

TABLE IV.—*Reduction for the benefit of the United States on entry into France in consequence of the application of the minimum tariff provided by the agreement of 1898, and extended voluntarily and provisionally by the French Government to petroleum.*

French tariff No.	Articles.	Tariff (per 100 kg.).		Difference.	Year 1905.		Year 1906.		
		General.	Minimum.		Importations from United States.	Amount of reduction.	Importations from United States.	Amount of reduction.	
17 bis.	Manufactured and prepared pork meats.....	100		50	744,224 kg.	372,112 fr.	900,304 kg.	451,650 fr.	
19	Canned meats.....	20		5	170,969 kg.	8,545 fr.	166,173 kg.	8,310 fr.	
30	Animal fat: Lard.....	40		15	2,316,933 kg.	347,535 fr.	2,747,238 kg.	412,080 fr.	
84	Fresh table fruits: Lemons, oranges, cedrats, and their varieties not mentioned.....	15	5	10			{Gross {Net	{6,400 {5,400	{490 fr.
	Mandarin and China oranges.....	25	8	15					
	Common table grapes.....	25	2	17					
	Apples and pears for the table.....	5	2	3					
	Apples and pears for cider and perry.....	2	1.50	0.50					
	Other fruits except hot-house grapes and fruits.....	5	3	2	Gross	1,079,448 kg.	Gross	986,662 kg.	28,098 fr.
85	Fruits, dry and pressed, except raisins: Apples and pears for the table.....	15	10	5	{Gross {Net	{329,829 kg. {236,846 kg.	{11,555 fr. {32,270 fr.	{846,467 kg. {761,800 kg.	{29,620 fr. {43,500 fr.
	Apples and pears for cider and perry.....	6	4	2	{Gross {Net	{61,829 kg. {35,646 kg.	{2,160 fr. {87,870 fr.	{99,979 kg. {90,000 kg.	{3,500 fr. {35,362 fr.
	Plums and prunes.....	15	5	10	{Gross {Net	{1,033,809 kg. {930,428 kg.		{413,378 kg. {373,000 kg.	
128	Other fruits: Common woods: Logs, rough, not squared. Sawn or squared timber, 80 mm. or more in thickness. Squared or sawed lumber, exceeding 35 mm. and less than 80 mm. in thickness. Wood, sawed 35 mm. or less in thickness. Wooden paving blocks. Staves. Hops. Apples and pears, crushed or cut and dried. Mineral oils (petroleum and schist): Crude. Quantities assessed by weight. Quantities assessed by volume. Refined and essences.	15 1.00 1.50 1.75 2.50 1.75 1.25 45 2	0.65 1.00 1.25 1.75 1.75 0.75 30 1.50	0.35 0.50 0.50 0.75 0.75 0.50 15 0.50	49,529,000 kg. 18,214,000 kg. 34,229,000 kg. 50,116,000 kg.	247,695 fr. 91,070 fr. 256,718 fr. 250,825 fr.	38,242,000 kg. 9,913,000 kg. 28,385,000 kg. 58,340,000 kg. 1,500 kg.	191,210 fr. 49,565 fr. 212,887 fr. 291,700 fr.	6,720 fr. 850,986 fr. 11,982,650 fr.
129	Apples and pears, crushed or cut and dried.				254,008 qx.	2,286,072 fr.	94,554 qx.	850,986 fr.	
130	Quantities assessed by weight.		9	9	1,764,354 hl.	12,705,347 fr.	1,687,770 hl.	11,982,650 fr.	
131	Quantities assessed by volume.		12.50	12.50					
132	Refined and essences.		10	10	853,536 hl.	8,535,362 fr.	1,307,058 hl.	13,127,095 fr.	
133	Heavy oils and residues of petroleum.....		9	3	373,423 qx.	1,120,269 fr.	548,802 qx.	1,646,406 fr.	
134						296,385,790 fr.		29,322,743 fr.	

1 26,385,790 francs = \$5,092,457.47. 2 29,322,743 francs = \$5,659,289.40. Averages for the year 1905-6, 27,854,266 francs.

TABLE V.—Reduction for the benefit of France in consequence of the application to French goods of the reduced tariff provided for by the agreement of 1898.

American tariff No.	Articles.	Unit.	Tariff.		Difference.	1904-5.		1905-6.	
			General.	Reduced.		Importations from France.	Amount of reduction.	Importations from France.	Amount of reduction.
6	Crude tartar or wine lees, crude.	(Pound	0.01 c.	5 per ct.	.....	.....	.....	.....	.....
289	Brandies.	Value.	0.01½	.....	.....	.....	.....	.....	.....
	Other spirits.	Proof gallon.	2.25	1.75	0.50	11,208,908	59,702	12,132,784	66,969
296	Still wines and vermouth.	.....	.....	.....	.....	.....	.....	.....	.....
	In casks.	.....	.....	.....	.....	.....	.....	.....	.....
	In bottles.	.....	0.40	0.35	0.05	1,047,757	173,606	1,087,173	201,348
454	Paintings in oil or water colors, pastels, pen and ink drawings, statuary.	Case of 12 bottles.	1.60	1.25	0.35	347,213	85,888	462,696	102,995
		Value.	20 per ct.	15 per ct.	5 per ct.	171,777	74,705	205,880	18,997
	Total of reduction.	.....	.....	.....	.....	.....	.....	.....	.....
		.....	.....	.....	.....	.....	470,240	.....	576,076

Average for the two years 1904-5 and 1905-6, \$523,158, or 2,711,266 francs.

TABLE VI.—*Reduction for the benefit of the United States in consequence of the application of the minimum tariff to colonial produce.*

Tariff No.	Articles.	Tariff (per 100 Kg.).		Difference.	Year 1905.		Year 1906.	
		General.	Minimum.		Imports from United States.	Amount of reduction.	Imports from United States.	Amount of reduction.
96	Coffee in the bean and husk.....	300	136	164	Kg. 1,158,619	Frances. 1,900,100	Kg. 966,721	Frances. 1,585,388
97	Cacao in the bean and husk.....	104	104	.....	251,357	.....	312,331	.....
98	Chocolate.....	300	150	150	.....	.....	.....	.....
100	Pimento.....	200	100	100	.....	.....	.....	.....
104	Nutmegs: With shell.....	400	208	192	4,292	8,256	10,382	19,768
	Without shell.....	400	208	192	.....	.....	.....	.....
	Vanilla.....	600	312	288	16,355	46,944	11,412	32,832
107	.....	800	416	384	8,639	13,824	4,832	19,432
						1,969,124		\$ 1,657,620
Average for the years 1905-6, 1,813,372 francs, or \$349,980.79.					\$ 1,657,620 francs=\$319,920.66.			
<i>Reduction for the benefit of the United States in consequence of the application of the minimum tariff to Porto Rican coffee.</i>								
96	Coffee in the bean and husk.....	300	136	164	Kg. 2,191,364	Frances. 3,583,896	Kg. 1,883,027	Frances. 3,104,520
Average for the years 1905-6, 5,162,580 francs, or \$996,377.94.					\$ 4,762,140 francs=\$919,093.02.			

¹ 1,969,124 francs=\$380,040.93.

² 5,563,020 francs=\$1,073,662.86.

³ 5,162,580 francs, or \$996,377.94.

TABLE VII.—*Reduction in favor of France from the concession of the reduced tariff on champagne in the United States and in Porto Rico (according to American statistics).*

American tariff No.	Articles.	Unit.	Tariff.		Difference.	1904-5.		1905-6.	
			General.	Reduced.		Imports from France.	Amount of reduction.	Imports from France.	Amount of reduction.
295	<i>United States.</i> Champagne and all other sparkling wines: In bottles containing not more than 1 quart and more than 1 pint. In bottles containing not more than 1 pint and more than $\frac{1}{2}$ pint. In bottles containing $\frac{1}{2}$ pint or less. In vessels of more than $\frac{1}{2}$ additional duty of.....	Dozen bottles.....	8	6	2	341,419	682,838	381,628	763,256
		do.....	4	3	1				
		do.....	2	1.50	0.50				
		Gallon.....	2.50	1.90	0.60				
295	<i>Porto Rico.</i> Champagne and all other sparkling wines.....	Dozen bottles.....	8	6	2	276	552	646	1,392
						683,390			764,648

Average for the years 1904-5 and 1905-6, \$724,019, or 3,752,228 francs.

RECAPITULATION.

France.		United States.	
Reduction resulting from the agreement of 1898: On French goods..... On Algerian goods..... To Porto Rico.....	<i>Francs.</i> 2,711,296 10,951 17,493 3,752,228	Reduction resulting from the agreement of 1898, and from the repeatable concessions on petroleum: In France..... In Algeria.....	<i>Francs.</i> 27,854,266 372,505
Reduction to result from the concession on champagne.....	724,180,004	Reduction to result from the concession of the minimum tariff to colonial produce: Proceeding from the United States..... Proceeding from Porto Rico.....	1,813,372 3,399,208 33,439,351
	6,491,938		6,453,794.743
	1,252,944,034		

Memorandum from the French Embassy.

[Translation.]

THE FRENCH EMBASSY,
Washington, November 28, 1907.

In connection with the propositions formulated by the Department of State on June 19 last in respect to the tariff governing the imports of both countries, the minister of finance of the Republic instituted an examination of that commerce in all its parts and of the manner in which the system now in force burdens French imports into the United States and American imports into France. While the pour-parlers relative to the action that should be taken on the above-mentioned propositions are in progress, it may not be amiss to call attention to the facts brought to light by the said examination.

As for the importations into France from the United States, the following remarks are based upon the returns for the year 1906 according to *French statistics*, and, respecting the exportations from France to the United States, upon the figures of the fiscal year ended June 30, 1906, as given in the *American statements*.

The importation from the Union into France amounted in 1906 to 588,000,000 francs, upon which the customs levied 51,427,000 francs—that is to say, a percentage of 8.75 per cent. Deducting the amount of merchandise entitled to free entry under the regulations (raw hides, whalebone, pearls, oil seeds, leaf tobacco, rubber, cotton, oil cakes, phosphates, block copper, etc.), aggregating 394,000,000 francs, there remains for dutiable merchandise a sum of 194,000,000, on which the percentage of duties amounts to 26 per cent.

It is proper, however, to observe that several of these duties are for revenue only and truly amount to excise dues; it is so in the case of coffee, cocoa, and mineral oils. If these articles, representing a value of 46,000,000 francs and duties to the amount of 32,000,000 francs (70 per cent of the value), be deducted, there remains for the other dutiable goods an amount of 148,000,000 francs in value and 19,000,000 in duties—that is to say, a percentage of 13 per cent, in round numbers.

American imports into France averaged 509,000,000 francs during the last five years.

As to French imports into the United States, the average amounted to 469,000,000 francs. The figures for 1906 rose to 562,000,000 francs, but during the four preceding years they were only 429,000,000 francs, 466,000,000 francs, 422,000,000 francs, and 466,000,000 francs, respectively.

In 1906 the respective proportion of dutiable and free articles was 461,000,000 to 101,000,000 francs—that is to say, 18 per cent—while in the case of American goods imported into France it was 194,000,000 to 394,000,000 francs, or 67 per cent.

As regards the amount of duty levied on our shipments, we note the following results: Our products paid to the American customs in 1906 the sum of 202,000,000 francs. As compared to our aggregate imports, the percentage amounts to 28 per cent. If dutiable merchandise only is taken into consideration, it reaches 43 per cent.

Most of the American duties, as is well known, are strongly protective and reach very high rates. Thus, on automobiles the duty is 45 per cent of the value; on brushes and buttons, 40 and 50 per cent;

on watches and clocks, 40 per cent; on cotton clothing and knit goods, 55 and 60 per cent; on fans 60 per cent; on porcelain, 55 and 60 per cent; on linen goods, 45 per cent; on almonds, 42 per cent; on bottles and plate glass, 55 per cent; on jewelry, 60 per cent; on gloves, 52 per cent; on musical instruments, 45 per cent; on perfumery, 59 per cent; on woolen clothing and manufactures, 96 and 103 per cent; on silk goods, from 45 to 60 per cent.

These few indications furnish an easy answer to the objections of the American Government touching the treatment we accord to its products. It is true that owing to the refusal to ratify the convention of 1899 American imports (except the articles contained in the arrangement of 1898 and also petroleum) are subject to the rates of our general tariff. But French products are subject in the United States to the terms of a tariff that is much higher than our general tariff.

Considered from the standpoint of the customs treatment applied, the imports (principal staples) from the United States into France may be divided as follows:

Description.	Value.	Percentage of total American imports.
	<i>Francs.</i>	<i>Per cent.</i>
Merchandise entitled to free entry.....	394,378,700	67.08
Merchandise subject to the general tariff:		
Listed in general tariff only.....	29,346,100	4.99
On which duty is same in both the general and minimum tariff.....	25,003,300	4.26
All other.....	62,889,700	10.70
Merchandise admitted under the minimum tariff.....	75,132,200	12.78

So that 67.08 per cent of the aggregate American imports enjoys full exemption from duty, 12.78 per cent the minimum tariff, and 20 per cent only is subject to the general tariff. But it is proper to observe, as regards this last class of products, that 4.99 per cent is listed in the general tariff only, and that the duty on 4.26 per cent is the same in both the minimum and the general tariff. There remains, therefore, but 11 per cent of the imports that is, properly speaking, excluded from our minimum tariff.

Our imports into the United States are far from receiving the same favorable treatment.

The portion enjoying free entry only amounts to 101,348,000 francs, or 18.05 per cent.

That enjoying conventional rates (section 3 of the Dingley tariff) comes to 26,200,000 francs, or 5.7 per cent.

The remainder, viz, 76 per cent, is, in fact, subjected to the terms of the general tariff without any rebating or tempering.

On the other hand, it is proper to add, on the particular subject of petroleum and the benefit of the minimum tariff enjoyed by it under the decree of the French Government dated July 17, 1893, the following remarks to the facts already presented to the Department of State in a letter of the 12th instant.

The grounds upon which the reduction was decided upon were the prospect of obtaining certain advantages in return, a hope which had been realized by Congress passing the tariff act known as the Wilson

tariff, in 1894. A large number of French articles, such as woolsens, silk goods, gloves, wines and liquors, jewelry, porcelain, furniture, works of art, preserved food products, cotton and linen goods, and many others had in that tariff been made the subject of favorable rates of duty. When the Dingley tariff was promulgated in 1897 the decree would have been repealed but for the French Government deciding to defer such action upon taking into consideration section 4 of the act and the conciliatory dispositions evinced by the Federal Administration. Since ratification of the convention of 1899, which was based on the said section 4, was refused, the concession has, in fact, been made without an equivalent, though the French Government has not at any time surrendered its freedom of action on this point.

It is not out of place to add that it would be an error to believe that France maintained this reduction for her own benefit only, and that she could not find elsewhere the stock of petroleum she needs. Apart from Russia, which in 1904 supplied us with an amount almost equal to that shipped by America (134,000 tons of crude oil as against 166,000 tons from the United States, and 28,000 tons of refined oil and gasoline as against 35,000 tons), and the imports of which have fallen off temporarily only during 1905 and 1906 by reason of the disturbances in the Caucasus, we can not lose sight of the fact that shipments from Roumania to France are growing larger and larger (39,500 tons of crude oil and 49,000 tons of refined oil and gasoline in 1906), and that imports from Galicia are also showing a marked tendency to increase. Furthermore, it would depend on France alone to secure a market almost as important as the American market by conceding the benefit of her minimum tariff to the crude and refined oils and gasoline of the Dutch Indies, the output of which in 1904 was already more than 500,000 tons.

The United States can not ignore the fact that the notable increase of its exports to France in 1906 and the advantage derived from the temporary decrease of Russian shipments were due to its enjoying the benefit of our minimum tariff while petroleum from the Dutch Indies came under the general tariff. This fact alone shows the very great value that attaches to the concession of the minimum tariff.

Memorandum from the French Embassy.

[Received Dec. 21, 1907.]

The tariff law of the United States of July 24, 1897, provided in its section 3 that, on five articles out of a total of seven hundred and five, diminutions could be granted to foreign nations, the said five being argols and wine lees, brandies, champagne, still wines, and paintings and statues.

Section 4 provided, besides, that during the two years following the President of the United States could conclude reciprocal treaties of commerce granting to foreign trade, for a period not exceeding five years, reductions not exceeding 20 per cent, such treaties to be ratified by the Senate.

The French and American Governments concluded agreements in conformity with both sections. By the arrangement of May, 1898, concessions on four out of the five before-mentioned articles were granted to France, who, in exchange, admitted to the benefit of her minimum tariff American canned meats, manufactured and prepared pork meats, lard and its compounds, fruits (fresh and dried), common wood logs, sawed or squared timber or lumber, paving blocks, etc. Champagne was left out. This agreement is still in force.

France was the first to avail herself also of the provisos of section 4, and she signed with the United States in July, 1899, another agreement by which she granted, with the exception of nineteen articles, the whole of her minimum tariff to the United States. Various concessions were granted in return by the United States on a variety of French goods, champagne being again excepted. The claims of that article, which has practically no competitor, were not pressed by us, and the American Government, on the other hand, did not seem to attach particular importance to eventually according a reduction on it, as the same convention provided, in its Article III, that if, at any time, such a reduction was obtained by any other nation, France would have it, too, *ipso facto*, without having any additional concession to make.

The convention of 1899 was submitted to the French Parliament in accordance with a presidential decree of December 6, 1899, by the ministers of foreign affairs, commerce, agriculture, and finances. Stress was laid, in the "exposé des motifs," on the fact that the first of the intended conventions of this sort to be concluded by the United States was the French one, this being considered as a sign of good will and friendship.

But no further action could be taken.

No similar move was made by the Federal Government. The treaty was never submitted to the United States Senate, and after four years' delay the French embassy was informed, in June, 1903, that it was to be considered as abandoned. Things remained so up to the present year.

In this year the eventuality foreseen by Article III of the dead convention of 1899 became fact, and a reduction on sparkling wines was granted to a foreign nation, namely, Germany. We thought, therefore, that it would not be inappropriate to ask for a similar advantage to be granted us.

As French champagne is alone of its kind and does not practically compete with any home produce, and in view also of the dispositions shown by the Federal Administration in 1899, it seems that the matter ought to have been easily settled. We offered, in exchange, to grant our minimum tariff to Porto Rican coffee. As certain qualities of this product have no market except in France, the proposed advantage was a serious one for American interests.

This was considered by the Department of State to be quite insufficient in view of the quantity of champagne purchased in America, and it demanded that a considerable number of articles be added by us; most of them competing directly with our own manufactures and some being among the very ones excluded in that convention of 1899, which had granted to France concessions not only on sparkling wines, in case any other nation should obtain them, but on a large quantity of other articles besides.

The French ambassador profited of his presence in Paris last summer to recommend that all possible concessions be made in order to reach an agreement; he did so, invoking considerations which were not all of them mere commercial ones. The French Government yielded in the measure that circumstances rendered possible. Protectionist tendencies which prevail in America are not without a very strong support in France, too; and in the same way as in the United States the Government is bound to move within the limits assigned to its action by previous votes of the Chambers. It would vainly ask for more.

The Federal Government can offer us reductions on only one article, champagne, and though many of our manufacturers are loud in their demand to obtain also the benefit of reductions, we have to give up asking for any. The French Embassy has received several such demands; one arrived yesterday from the Grenoble glove makers, but it does not seem that there be any chance for them.

In the same way and for the same reasons the concessions that France can make are limited in number and can not presently be changed; they are, however, of serious importance for the American trade. To Porto Rican coffee the French Government has decided to add "colonial products" (that is, besides coffee, cocoa, chocolate, vanilla, muscades, etc.) and petroleum, being empowered to do so by previous votes of Parliament.

Of this the Department of State was apprised, but it declared again that to compensate the single article champagne those concessions were not sufficient, and insisted once more on a certain number of articles being added. For those articles the French Government would be obliged to go before the Chambers, and there is not the slightest doubt that any such proposal would be rejected. For not only are the reductions demanded on champagne more than compensated by what we offer, but several at least of the additional articles recommended by the State Department would thus be submitted to lower duties in France than those imposed in America on the same articles made in France.

That the concessions offered are not insufficient ones is shown by the value of the imports which would be affected by them. According to American statistics the value of the champagne imported into the United States in 1905-6 was a little above \$5,500,000, and from the same statistics it appears that the value of coffee, colonial products, and petroleum imported into France during the same year was worth several hundred thousand dollars more. And this must be taken in connection with the fact that if the total importation of American goods into France is considered it will be found that 67.08 per cent are admitted free of duty, 12.78 per cent are admitted under the minimum tariff, 20.14 per cent only under the maximum tariff. French goods coming to America are admitted free of duty to the rate of 18.3 per cent; with the benefit of reductions under section 3, to the rate of 5.7 per cent; and under the ordinary tariff (a much higher one than our maximum tariff), to the rate of 76 per cent.

The Department of State alleges, on the other hand, that as American coffee, petroleum, etc., are in fact presently placed under our minimum tariff, what we offer to grant conveys no new advantage.

This is simply reproaching us for our conciliatory spirit and for what we considered a proof of friendship and good will, for which some reciprocal disposition might have been expected.

The concessions on coffee and petroleum were granted to the United States some years ago, in view of some specific advantages. Since those advantages came to naught they have been continued for nothing, out of mere good will. We were very far from suspecting that the result would be that we should be told that the Federal Government considers itself as having now a title to these same concessions, and wants them to be continued and others added besides before we can have a reduction of \$2 per dozen on champagne.

As a fact, the Federal Government signed with France, in August, 1902, a convention stating expressly that the minimum tariff would not be applied to Porto Rican coffee after the 23d of February, 1903. The Department of State had fully recognized in advance that this lower rate could not be continued without a compensation. (Letter of the Department of State of December 2, 1902.) Yet the French Government maintained the *status quo*, first, with the thought that the convention of 1899 would be ratified, and after that, in a friendly spirit, for nothing.

The same with petroleum. The reduction was granted in 1893 in view of compensatory advantages; those advantages were actually granted by the tariff law of 1894 (Wilson tariff), which established favorable rates on a quantity of goods of special importance to us, such as silk, woolen, and cotton manufactures, gloves, wines, jewelry, porcelain, furniture, etc. When the Dingley tariff came into force, the decree on petroleum should have been repealed, but the French Government took into consideration the possibility of coming to an agreement under section 4 of that tariff. Since that agreement, which was to have secured permanently the said advantage to that American article (and to many others), came to naught, the *status quo* has been maintained also, in a friendly spirit, for nothing.

This has lasted now, it is true, a certain number of years. But the greater the number the greater the reciprocal good will, we should have thought. We are nevertheless led to understand, on the contrary, that on account of our having maintained these concessions so long they are not concessions conspicuous enough to compensate champagne; people are accustomed to them and must have something different besides.

It is impossible for the French Government to accept these views. Were it inclined to do so they would have no chance of being ratified by Parliament. Previous votes of the Chambers allow the French authorities to offer more than equivalent compensation for that single article champagne. The parallelism between the nature of articles is in itself satisfactory, as neither sort really competes with home manufactures; the values represented are, as shown above, in favor of the United States. An agreement ought therefore to be an easy matter, and a disagreement would be fraught with serious inconveniences.

A word might be added on a connex question. In the course of the *pourparlers* allusion has been made several times to the granting to France, as well as to other countries, of the custom-house facilities and simplifications recently adopted by the Federal Government and embodied in the German treaty. France is fully aware of the useful-

ness of those modifications and has expressed concerning them her sincerest satisfaction.

But if any desire existed to have them taken into account in the present negotiation concerning champagne, it would be appropriate to recall that they are very far from equaling the facilities of the same sort granted by France to the United States, as well as to other countries. Our tariff is a specific and not an ad valorem one. All that the customhouse officials have to do is to see whether the imported article consists, for example, in shoes or in machinery—an easy task. If it is machinery, the official asks so much per 100 kilograms; if it is shoes, so much per pair, and that is all. The importer has not the endless troubles which the other system implies, with its appraisements and reappraisements, lawsuits, fines, and, without speaking of loss of money, those delays which often mean loss of custom. The Limoges porcelain case has offered, not later than last summer, a conspicuous example of, to say the least, the inconveniences of the system to French trade. The formalities still in force, and some new ones recently established, have also prevented French importers from feeling that they meet here with a treatment as favorable as that which we grant to American importers on French soil. We do not, for example, oblige American producers to label their food products in French, while the French producers are bound now to add a label in English, for the American consumer to well know what he purchases. And the law is carried to such a length that an importer of “véritable liqueur bénédictine,” the three words being the same in the two languages, has been ordered to have new labels on his bottles because the accents might puzzle the purchaser. If France imitated such devices and obliged American exporters to label their food products in French, and refused to tolerate any mistake in the accents, trade here would not be long to understand what trouble and what loss of time and money such a system entails; the more so as the Federal administration refuses to assume the responsibility of stating that a label submitted to it in advance for approval is correct and can be used safely; people are left in doubt and must take their chance.

This is said not at all to diminish in any way the importance of the recent reforms granted by the present administration; they are and should be highly appreciated. But they can not be taken into account in the present pourparlers, as France grants more to the American producers and spares them those formalities which do as much to cramp foreign trade as the tariff itself.

The Secretary of State to the French Ambassador.

DEPARTMENT OF STATE,
Washington, December 28, 1907.

MY DEAR MR. AMBASSADOR: I beg to transmit herewith a memorandum prepared in this department as the result of the consideration given by it to your note of the 12th ultimo containing the counter-proposals of your Government for a new commercial agreement between the United States and France, and to your memorandum of the 28th ultimo on the same subject.

I am, etc.,

ELIHU ROOT.

Memorandum to the French Embassy.

DEPARTMENT OF STATE,
Washington, December 28, 1907.

The Department of State has not failed to give most careful consideration to the French ambassador's note of the 12th ultimo, containing the counterproposals of his Government for a new commercial agreement between the United States and France, in response to this Government's proposals of June 19, 1907. The department has also received and carefully considered the ambassador's memorandum of the 28th ultimo on the same subject, with special reference to the commercial movement between the two countries and their respective customs tariffs.

While this Government is deeply disappointed that the Government of France has found itself unable to accept the propositions submitted to it last June, it still cherishes the hope that some middle ground between what was then asked on the part of the United States and what is now offered by France may be found upon which the two Governments may eventually reach a mutually satisfactory agreement.

As regards the opposing views of the two Governments on the subject of the inclusion of the clause relative to Porto Rican coffee in the additional commercial agreement of August 20, 1902, and on the subject of the correlation of the conditional concession in favor of French still wines and vermouth in the agreement of May 28, 1898, with the continuance of the minimum tariff in favor of Porto Rican coffee, the department is of the opinion that further discussion would be futile. Suffice it to say, however, that the threatened imposition of a duty on coffee, Porto Rico's only important article of export, of 26 cents per pound—equivalent to an ad valorem of 289 per cent—would present precisely such a contingency as the American negotiator of the commercial agreement of May 28, 1898 (although Porto Rico was still a colony of Spain), sought to guard against by making the reduction of duty in favor of French still wines subject to withdrawal by the President.

There are, however, a few points of difference disclosed in the correspondence in respect of which it would seem desirable that the department give a clearer exposition of the views of this Government. In its memorandum of last June the department referred to the inequality of tariff conditions existing in the commercial relations between the United States and France by reason of the system of differential duties extensively applied to American products upon their importation into France, while French products (with the single exception of champagne) are received into the markets of the United States upon an equal footing as respects tariff treatment with the like products of any other foreign origin (Cuba, of course, excepted). With a view to obtaining some amelioration in the burdensome restrictions imposed upon trade by this differential tariff treatment, the United States requested France to grant the benefit of the minimum rates to certain American products that are now dutiable under the general tariff.

In declining that proposition the ambassador states that his Government can not agree to "concessions or consolidations of duties which have, for the greater part, already been refused to the coun-

tries with which France has concluded commercial conventions in recent years." The department's projet of agreement submitted last June asked for the minimum tariff on the American articles now subject to the maximum rates enumerated in only 24 numbers of the French tariff, viz, Nos. 16, 17, 212 ter, 480, 481, 482, 510, 511, 512, 512 bis, 521, 522, 523, 524, 525, 525 bis, 526 quater, 536, 537, 559, 559 bis, 579, ex 614, and 646. In the commercial convention concluded on September 19, 1907, between France and Canada, the Government of France has granted to Canadian products the benefits of the minimum tariff in 144 numbers, of which all but 16 contain differential rates actually applied to American trade. It is somewhat significant that included in the grant of 144 numbers to Canada are 14 complete numbers and 5 partial numbers of the 24 numbers asked by the department in its propositions of June last. It is assumed, therefore, that the willingness to give to Canada what has been denied to the United States rests not upon any public policy, but upon the relative value of the counterconcessions, the partial intermediate tariff of Canada being rated higher than the complete American tariff concessions authorized by section 3.

But it should be remembered that a country that uses the single-tariff system stands upon a different footing than one that has a double tariff and is able to exchange its lowest duties for the French minimum. The making of reciprocity treaties with tariff agreements is a normal part of the general and conventional tariff system used by the several countries of Europe to which the ambassador refers as having assented to France's invitation to negotiate such treaties upon the basis of reciprocal advantages. It is of interest to note, therefore, how the French Government has treated other single-tariff countries than the United States since the adoption of her present double-tariff system in 1892. Almost without exception the complete minimum tariff has been extended to imports from these countries by virtue of most-favored-nation stipulations, without requiring them to make the slightest tariff reduction or special concession in return. To take only the countries of this hemisphere in illustration: Under the operation of a mutual most-favored-nation clause France has granted her entire minimum to all imports from Argentina, Colombia, Dominican Republic, Mexico, Paraguay, Uruguay, and Venezuela. But, as a matter of fact, these countries treat imports from France precisely on the same terms as those from any other foreign countries, and none of them grants to France any preferential tariff treatment analogous to that offered by the United States.

It seems pertinent to refer in this connection to the tariff treatment of American products by the various double-tariff countries of Europe. As stated in the department's previous memorandum, France stands to-day as the only country which applies to imports from the United States an extensive system of discriminatory duties that do not apply to the principal competitors of the United States. Italy, Austria-Hungary, Roumania, Servia, and Bulgaria grant, and have always granted, to American products the unqualified benefits of their respective conventional tariffs. Germany formerly did the same, and, with some exceptions, continues to do so. At the commencement of the year 1905 four Governments of Europe maintained differential duties against American commerce, namely, France, Russia, Switzerland, and Spain. In the summer of that year Russia

left the group and applied her lowest tariff in its entirety, as in former years. By decree adopted in the same year, Switzerland restored the entire conventional rates to American products, dating from January 1, 1906. In August, 1906, Spain formally agreed to give the United States the benefit of her entire minimum tariff. The action of Spain, therefore, left France the sole survivor in the group.

It is worthy of note that none of these dual-tariff countries, excepting Germany, has received the concession on sparkling wines; that Russia has not received any of the advantages of section 3; that Switzerland took the action she did spontaneously and independently of the American concessions extended to Swiss products by the President's proclamation of January 1, 1906; that Spain has a maximum and minimum tariff precisely like that of France, and that neither Spain nor Switzerland has a treaty with the United States containing the most-favored-nation clause relating to imports of merchandise, which clause appears to be the basis of the grant by France of her minimum tariff to the majority of countries whose exports now enjoy that favorable treatment. Under these circumstances it does not seem strange to the department that the manufacturing and commercial interests of the United States fail to understand why France continues to furnish the isolated instance of extensive tariff restrictions that they encounter in the development of their export trade with Europe.

In his memorandum of November 28, 1907, the ambassador gives an analysis of the commercial movement between the two countries and makes certain observations on the character of their respective customs tariffs, showing the proportion of free to dutiable products imported by either country from the other and the respective average ad valorem duties thereon. In making such comparisons by percentages, however, the character of the respective imports should be taken into consideration. The commerce between the United States and France shows a radical difference in this respect. Approximately three-fourths of the imports into the United States from France consist of advanced products of manufacture that enter into close competition with domestic manufactures, while about the same proportion of the total imports into France of American products consists of raw materials exempt from duty or of products but slightly advanced in manufacture. In accordance with the general practice among nations to impose duties on imports of foreign products in proportion to the degree of advancement in the manufacture of the goods, it is natural that the average duty imposed by the United States on French products should be considerably higher than the corresponding duty imposed by France on American products, and that the proportion of free to dutiable goods should be noticeably greater in France than in the United States.

In his note of November 12, the French ambassador outlines the concessions which his Government is willing to make to the United States in return for the proposed grant of all concessions which the President of the United States is authorized to make under section 3 of the tariff act of July 24, 1897, namely, the revocation of the decree relative to Porto Rican coffee and a formal guaranty of the continuance of the minimum rate on that product, as well as upon other colonial products imported from the United States, and continuance of the minimum duties on mineral oils. In discussing the statistics

of relative reductions of duty adduced by the department in its memorandum of last June, the ambassador points out that the department has failed to credit France with the concessions in favor of coffee and mineral oils, represented by the difference between the actual revenues collected under the minimum tariff and the imaginary revenues that might be collected were the maximum rates to be applied. On the basis of the importations into France in the calendar year 1906, these differences of duty, or so-called concessions, would amount to formidable figures, viz, in the case of mineral oils (Algeria included) \$5,415,738.61, and in the case of coffee \$905,152.24, of which \$599,172.36 represents coffee from Porto Rico and \$305,979.88 coffee from continental United States.

The ambassador argues from these amounts of difference in duty that the value of the proposed French concessions far outweighs that of the reductions in United States duty indicated in the department's memorandum; that is, \$1,339,283 on the basis of imports from France in the fiscal year ending June 30, 1906. The department is unable to concur in this method of measuring the relative value of the proposed concessions.

As regards the formal concession of the minimum duty on coffee, the department is of opinion that the difference between the minimum and general tariff duties as applied to the total importation of this article from the United States can not be adduced by France as a sacrifice of revenue to the extent of \$900,000, as claimed in the ambassador's note of November 12. The present French duty on coffee is perhaps the highest in the world, and amounts to an ad valorem of 130 per cent. The maximum duty would be equivalent to 289 per cent ad valorem. In view of the fact that the total imports of coffee from the United States, including Porto Rico, constitute only about 3 per cent of France's total importation from the world, it is evident that the application of the maximum rate would bar this product from the French market, and there would be no duties whatever to be collected.

To some extent the same observations apply in the case of American mineral oils, which since 1893 have enjoyed the treatment of the minimum tariff in France. The minimum duties on light oils are equivalent to an ad valorem duty of 74.3 per cent and on heavy oils of 56.3 per cent. The maximum duties on light oils are exactly twice the minimum rates, considering the difference in mode of assessment, while the maximum rate on heavy oils is exactly one-third higher than the minimum rate. The United States supplied 68.5 per cent of the light oils and 65 per cent of the heavy oils consumed by France in 1906. While it is not believed that the large proportion of these oils now furnished by the United States could be obtained by France in toto from other sources, it is recognized that the application of the general rates would cause considerable diversion of trade from the United States to other oil-producing countries. To this extent the maximum tariff would prove prohibitory, and hence the imaginary concession of revenue becomes illusory.

The question of mineral oils was not referred to in the department's memorandum of last June for the simple reason that it was assumed that it is part of the fixed economic policy of the French Government to admit all mineral oils upon the same tariff footing, and that much the same considerations dictated the decree of July 7,

1893, in regard to this product as have influenced the Congress of the United States in putting and keeping on the free list raw silk, which was imported from France in the fiscal year ending June 30, 1907, to the value of two million dollars; hides, skins, and furs to the value of six millions; crude india rubber to the value of nearly two millions, etc.

For the reasons above explained, the department is of opinion that the difference in the two French tariffs, as applied to present imports into that country of American coffee and mineral oils, cannot logically be balanced against the actual reductions of duty proposed by the United States in favor of French products enumerated in section 3, which concessions, for the fiscal year ending June 30, 1907, would amount to \$1,356,182.83, distributed as follows:

Articles.	Quantity.	Value.	Duty reduction.
Argols.....pounds..	11,952,711	\$1,027,089.00	\$68,172.66
Brandies and other spirits.....proof gallons..	748,074.41	2,020,207.69	374,037.20
Still wines and vermouth:			
In casks.....gallons..	572,303.3	358,007.59	28,615.17
In other coverings.....dozen quarts..	215,241.05	964,485.11	75,334.38
Paintings and statuary.....		1,230,588.41	61,529.42
Total concessions under agreement of 1898.....			607,688.83
Champagne and other sparkling wines.....dozen quarts..	374,247	5,547,532.00	748,494.00
Total proposed concessions.....			1,356,182.83

The Government of the United States, however, is not unmindful of the value to American commercial interests of the conventional guaranties in favor of American mineral oils, coffee, and other colonial products which the French ambassador offers on behalf of his Government. While this Government does not regard those proposed concessions as constituting the essential elements of a satisfactory reciprocal arrangement for the regulation of the commercial relations between the two countries for a term of years—such as it had been hoped might be agreed upon—nevertheless, in order to prevent any disturbance of the mutual trade, and with a view to paving the way for a more permanent arrangement negotiated on a more equitable basis, this Government is willing to conclude a temporary agreement with the French Government on the basis of the counter proposals presented on the part of France in the ambassador's note of November 12, 1907.

This temporary arrangement to provide for the continuance by the French Government of its minimum tariff rates on mineral oils, coffee, and other colonial products imported into France from the United States, including its insular possessions. The United States to admit champagne and all other sparkling wines, the products of France, on payment of the reduced duties authorized by section 3 of the United States tariff act of July 24, 1897; express provision to be made, however, that the respective concessions may be withdrawn in the discretion of the President of France on the one hand or the President of the United States on the other, whenever any additional duties beyond those now existing and which may be deemed by him unjust to the commerce of his country shall be imposed on its products by the Government of the other country.

The agreement to provide further that—inasmuch as complaints have arisen in both countries regarding the effect of the regulations in force in the respective countries affecting the admission of each other's products, and to the end that if there be in the regulations of either country any provisions which unnecessarily restrict trade, such provisions may be modified and the cause of complaint removed—a commission of three experts shall be appointed by the Government of the United States and a like commission of three experts shall be appointed by the Government of France, and such commissions shall, in conference each with the other, inquire into and ascertain fully the existing conditions in each country, as bearing upon the reasonableness and necessity of the regulations affecting the trade of the other country, and each commission shall report to its own Government thereon; that upon the basis of the report so made the respective countries shall enter upon an interchange of views, to the end that all cause of complaint in their respective regulations regarding the admission of any of the products of either country to the other may be removed.

The Secretary of State to the French Ambassador.

DEPARTMENT OF STATE,
Washington, January 11, 1908.

MY DEAR MR. AMBASSADOR: Mr. Bacon tells me you would like some understanding regarding the publication of the reports of the two commissions provided for in a paragraph of the commercial agreement which we are about to sign.

The President cheerfully agrees to the understanding that these reports should not be made public without a previous understanding between the two Governments, or, at least, without each of them having been put in a position to express its reservations. This, of course, would not be understood to apply to the free use of the report by the executive and legislative officers of either Government, for whose information the reports are meant.

Least those who come after us be led into misunderstanding and differing opinion as to the scope of this commercial agreement, it seems advisable that I should confirm in writing, so that it may be preserved of record, my answer to a question which has been raised regarding the scope of the provision that the concessions contained in this agreement may be withdrawn in the discretion of the President of the United States whenever additional duties beyond those now existing, and which may be deemed by him unjust to the commerce of the United States, shall be imposed by France on products of the United States.

The Government of the United States understands this provision to be not limited to the particular products or the particular duties which are specifically mentioned in the agreement, but to apply in case there be levied hereafter on any of the products of the United States an increase of duties beyond those now existing, deemed by the President unjust to the commerce of the United States; and we should understand this to apply, among other things, to an increase of duties upon cotton-seed oil.

Our understanding is, of course, the same regarding the corresponding clause relating to the withdrawal of concessions by the President of France.

Faithfully, yours,

ELIHU ROOT.

The French Ambassador to the Secretary of State.

[Translation.]

THE FRENCH EMBASSY,
Washington, January 25, 1908.

MY DEAR SECRETARY OF STATE: I have the honor to acknowledge the receipt of the letter you were pleased to send me on the 11th instant, in which you speak of the question of eventually publishing the reports of the commissions provided for by Article III of the draft of commercial arrangement and define the scope which, in your understanding, belongs to the clause imparting a conditional character to the advantages reciprocally conceded.

My Government, to which I had communicated by cable the substance of your remarks, has just sent me its reply, which puts forth no objection. On the other hand, I am asked to make it quite clear that, as already agreed to in our conversations, it is to be understood that the aforesaid commissions will not have to negotiate, and much less to come to any agreement. They are to be mere commissions of inquiry, and the mission of the specialists that will be members thereof is confined to collecting and exchanging information.

Be pleased to accept, etc.,

JUSSERAND.

The Secretary of State to the French Ambassador.

DEPARTMENT OF STATE,
Washington, January 29, 1908.

DEAR MR. AMBASSADOR: I beg to acknowledge the receipt of your letter of January 25 replying to my letter of the 11th instant, and advising me that you had communicated to your Government by cable the substance of my remarks in that letter regarding the construction of the commercial agreement which we are about to sign, and that the reply of your Government contains no objection.

On the other hand, you say your Government asks you to make it quite clear that, as already agreed to in our conversations, it is to be understood that the commissions provided for in that agreement "will not have to negotiate, and much less to come to any agreement. They are to be mere commissions of inquiry, and the mission of the specialists that will be members thereof is confined to collecting and exchanging information."

This view entirely agrees with the view of the Government of the United States in providing for such a commission. It is our understanding that no power of agreement or negotiation is to be vested in the commissioners, but they are to be confined to the performance of the duties which you describe.

Believe me, etc.,

ELIHU ROOT.

ADDITIONAL COMMERCIAL AGREEMENT, SIGNED AT WASHINGTON, JANUARY 28, 1908.

The Government of the United States of America and the Government of the French Republic, considering it appropriate to supplement by a new additional Agreement the Commercial Agreements signed between the two countries, at Washington, on May 28, 1898, and August 20, 1902, respectively, have appointed as their Plenipotentiaries, to wit:

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

The President of the French Republic, His Excellency J. J. Jusserand, Ambassador of the French Republic to the United States of America,

Who, after an exchange of their respective full powers, found to be in due and proper form, have agreed upon the following articles:

ARTICLE I.

It is agreed, on the part of the French Government, that the application of the duties of the general tariff to coffee, cacao, chocolate, vanilla and other food products known in the French tariff law as "*denrées coloniales de consommation*," except sugar and its by-products and tobacco, products of the United States, including Porto Rico, shall be conditionally suspended and that the said products shall be admitted into France and Algeria at the rates of the minimum tariff or at the lowest rates applied to the like products of any other foreign origin.

In addition, mineral oils from the United States and coming under the decree of July 7, 1893, shall upon entry into France and Algeria enjoy the benefits of the lowest rates of duty.

But it is expressly understood that these concessions may be withdrawn in the discretion of the President of the French Republic whenever additional duties beyond those now existing and which may be deemed by him unjust to the commerce of France shall be imposed by the United States on products of France.

ARTICLE II.

It is reciprocally agreed on the part of the United States, in accordance with the provisions of Section 3 of the United States Tariff Act of 1897, that the rates of duty heretofore imposed and collected, under the said Act, on Champagne and all other French sparkling wines upon entering the United States and the Island of Porto Rico shall be conditionally suspended and, instead, the following duties shall be imposed and collected, to wit:

On Champagne and all other sparkling wines, in bottles containing not more than one quart and more than one pint, six dollars per dozen; containing not more than one pint each and more than one-half pint, three dollars per dozen; containing one-half pint each or less, one dollar and fifty cents per dozen; in bottles or other vessels containing more than one quart each, in addition to six dollars per dozen bottles on the quantities in excess of one quart, at the rate of one dollar and ninety cents per gallon.

But it is expressly understood that this concession may be withdrawn in the discretion of the President of the United States whenever additional duties beyond those now existing and which may be deemed by him unjust to the commerce of the United States shall be imposed by France on products of the United States.

ARTICLE III.

It is further agreed that, inasmuch as complaints have arisen in both countries regarding the effect of the regulations in force in the respective countries affecting the admission of each other's products, and to the end that if there be in the regulations of either country any provisions which unnecessarily restrict trade, such provisions may be modified, and the cause of complaint removed, a commission of three experts shall be appointed by the Government of the United States and a like commission of three experts shall be appointed by the Government of France. Such Commissions shall in conference each with the other inquire into and ascertain fully the existing conditions in each country as bearing upon the necessity of the regulations affecting the trade of the other country and as bearing upon the practicability of reciprocal tariff concessions. Each commission shall report to its own Government thereon.

It is further agreed that upon the basis of the report so made the two Governments shall enter upon an exchange of views to the end that if possible all cause of complaint in their respective regulations regarding the admission of any of the products of either country to the other may be removed.

ARTICLE IV.

This additional Agreement shall take effect and be in force on and after the first day of February, one thousand nine hundred and eight, and shall continue in force so long as the Agreements signed on May 28, 1898, and August 20, 1902, shall remain in force.

Done in duplicate in English and French texts at Washington, this twenty-eighth day of January, one thousand nine hundred and eight.

ELIHU ROOT [SEAL]
JUSSERAND [SEAL]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA,

A PROCLAMATION.

Whereas the Government of the United States of America and the Government of the French Republic have entered into an additional Commercial Agreement, signed on the 28th day of January, 1908, by which the application of the minimum rate under the third section of the Tariff Act of the United States, approved July 24, 1897, to champagne and all other sparkling wines is provided for in return for certain specified concessions in favor of products of the United States, including Porto Rico, which concessions, in the judgment of the President, are reciprocal and equivalent:

Therefore, be it known that I, THEODORE ROOSEVELT, President of the United States of America, acting under the authority conferred

by said Act of Congress, do hereby conditionally suspend, from the first day of February, 1908, and during the time and in accordance with the terms of the aforesaid Additional Agreement, signed January 28th, 1908, the imposition and collection of the duties imposed by the first section of said Act upon the articles hereinafter specified, being the products of the soil and industry of France; and do declare in place thereof the rates of duty provided in the third section of said Act to be in force, as follows:

On Champagne and all other sparkling wines, in bottles containing not more than one quart and more than one pint, six dollars per dozen; containing not more than one pint each and more than one-half pint, three dollars per dozen; containing one-half pint each or less, one dollar and fifty cents per dozen; in bottles or other vessels containing more than one quart each, in addition to six dollars per dozen bottles of the quantities in excess of one quart, at the rate of one dollar and ninety cents per gallon.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this twenty-eighth day of January, in the year of our Lord one thousand nine hundred and eight, and of the Independence of the United States the one hundred and thirty-second.

[SEAL.]

THEODORE ROOSEVELT

By the President:

ELIHU ROOT
Secretary of State.

ARBITRATION CONVENTION BETWEEN THE UNITED STATES AND FRANCE.

Signed at Washington, February 10, 1908. Ratification advised by the Senate, February 19, 1908. Ratified by the President, February 27, 1908. Ratified by France, March 3, 1908. Ratifications exchanged at Washington, March 12, 1908. Proclaimed, March 14, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the French Republic providing for the submission to arbitration of all questions of a legal nature or relating to the interpretation of treaties which may arise between the two countries and which it may not have been possible to settle by diplomacy, was concluded and signed by their respective Plenipotentiaries at Washington, on the tenth day of February, one thousand nine hundred and eight, the original of which Convention, being in the English and French languages, is word for word as follows:

The Government of the United States of America and the Government of the French Republic, signatories of the Convention for the

pacific settlement of international disputes, concluded at The Hague on the 29th July, 1899;

Taking into consideration that by Article XIX of that Convention the High Contracting Parties have reserved to themselves the right of concluding Agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment,

Have authorized the Undersigned to conclude the following arrangement:—

ARTICLE I.

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two Contracting Parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of the 29th July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two Contracting States, and do not concern the interests of third Parties.

ARTICLE II.

In each individual case the High Contracting Parties, before appealing to the Permanent Court of Arbitration, shall conclude a special Agreement defining clearly the matter in dispute, the scope of the powers of the Arbitrators, and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure. It is understood that on the part of the United States such special agreements will be made by the President of the United States, by and with the advice and consent of the Senate, and on the part of France they will be subject to the procedure required by the constitutional laws of France.

ARTICLE III.

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; it shall become effective on the day of such ratification, and shall remain in force for a period of five years thereafter.

Done in duplicate in the English and French languages, at Washington, this tenth day of February, in the year 1908.

ELIHU ROOT [SEAL]
JUSSERAND [SEAL]

And whereas by Article III of the said Convention it is provided that the said Convention shall become effective on the day of its ratification by the President of the United States of America;

And whereas the said Convention was duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the 12th day of March 1908;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause

thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington, this fourteenth day of March, in the year of our Lord one thousand nine hundred and eight, and of the Independence of the United States of America the one hundred and thirty-second.

[SEAL]

THEODORE ROOSEVELT

By the President:

ELIHU ROOT

Secretary of State.

AGREEMENT BETWEEN THE UNITED STATES AND OTHER POWERS FOR THE REPRESSION OF THE TRADE IN WHITE WOMEN.

Signed at Paris, May 18, 1904. Ratification advised by the Senate, March 1, 1905. Adhered to by the President, June 6, 1906. Proclaimed, June 15, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a project of arrangement for the suppression of the white slave traffic was, on July 25, 1902, adopted for submission to their respective Governments by the delegates of various Powers represented at the Paris Conference for the repression of the trade in white women;

And whereas, in pursuance of Article VIII of the said project of arrangement, the Government of the United States was, on August 18, 1902, invited by the Government of the French Republic to adhere thereto;

And whereas the Senate of the United States, by its Resolution of March 1, 1905 (two-thirds of the Senators present concurring therein), did advise and consent to the adhesion by the United States to the said project of arrangement;

And whereas the stipulations of the said project of arrangement were, word for word, and without change, confirmed by a formal agreement, signed at Paris on May 18, 1904, by the Governments of Germany, Belgium, Denmark, Spain, France, Great Britain, Italy, the Netherlands, Portugal, Russia, Sweden, Norway, and the Swiss Federal Council, a true copy of which agreement, in the French language is hereto attached;

And whereas the ratifications by the said Governments of the said agreement have been duly deposited with the Government of the French Republic; and the said agreement has been adhered to by the Governments of Austria-Hungary and Brazil;

And whereas the President of the United States of America, in pursuance of the aforesaid advice and consent of the Senate, did, on the 6th day of June, 1908, declare that the United States adheres to

the said agreement in confirmation of the said project of arrangement:

Now, therefore, be it known, That I, Theodore Roosevelt, President of the United States of America, have caused the said agreement to be made public, to the end that the same, and every article and clause thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this 15th day of June, in the year of our Lord one thousand nine hundred and eight, and of the Independence of the United States of America the one hundred and thirty-second.

[SEAL.]

THEODORE ROOSEVELT.

By the President:

ROBERT BACON

Acting Secretary of State.

[Translation.]

His Majesty the German Emperor, King of Prussia, in the name of the German Empire; His Majesty the King of the Belgians; His Majesty the King of Denmark; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of Italy; Her Majesty the Queen of the Netherlands; His Majesty the King of Portugal and of the Algarves; His Majesty the Emperor of All the Russias; His Majesty the King of Sweden and Norway, and the Swiss Federal Council, being desirous to assure to women who have attained their majority and are subjected to deception or constraint, as well as minor women and girls, an efficacious protection against the criminal traffic known under the name of trade in white women ("*Traite des Blanches*,") have resolved to conclude an arrangement with a view to concert proper measures to attain this purpose and have appointed as their Plenipotentiaries, that is to say:

The President of the French Republic, his Excellency M. th. Delcasse, Deputy, Minister for Foreign Affairs of the French Republic;

His Majesty the German Emperor, King of Prussia, His Serene Highness Prince Radolin, his Ambassador Extraordinary.

His Majesty the King of the Belgians, M. A. Leghait, his Envoy Extraordinary and Minister Plenipotentiary to the President of the French Republic;

His Majesty the King of Denmark, Count F. Reventlow, his Envoy Extraordinary and Minister Plenipotentiary to the President of the French Republic;

His Majesty the King of Spain, his Excellency M. F. de Leon y Castillo, Marquis del Muni, his Ambassador Extraordinary and Plenipotentiary to the President of the French Republic;

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, his Excellency Sir E. Monson, his Ambassador Extraordinary and Plenipotentiary to the President of the French Republic;

His Majesty the King of Italy, his Excellency Count Tornielli Brusati di Vergano, his Ambassador Extraordinary and Plenipotentiary to the President of the French Republic;

Her Majesty the Queen of the Netherlands, M. le Chevalier de Stuers, her Envoy Extraordinary and Minister Plenipotentiary to the President of the French Republic;

His Majesty the King of Portugal and of the Algarves, M. T. de Souza-Roza, his Envoy Extraordinary and Minister Plenipotentiary to the President of the French Republic;

His Majesty the Emperor of All the Russias, his Excellency M. de Nelidow, his Ambassador Extraordinary and Plenipotentiary to the President of the French Republic;

His Majesty the King of Sweden and Norway: for Sweden and for Norway M. Åkerman, his Envoy Extraordinary and Minister Plenipotentiary to the President of the French Republic;

And the Swiss Federal Council, M. Charles Edouard Lardy, Envoy Extraordinary and Minister Plenipotentiary of the Swiss Confederation to the President of the French Republic;

Who, having exchanged their full powers, found in good and due form, have agreed upon the following provisions:—

ARTICLE FIRST.

Each of the Contracting Governments agrees to establish or designate an authority who will be directed to centralize all information concerning the procuration of women or girls both in a view to their debauchery in a foreign country; that authority shall have the right to correspond directly with the similar service established in each of the other Contracting States.

ART. 2.

Each of the Governments agree to exercise a supervision for the purpose to find out, particularly in the stations, harbours of embarkation and on the journey, the conductors of women or girls intended for debauchery. Instructions shall be sent for that purpose to the officials or to any other qualified persons, in order to procure, within the limits of the laws, all information of a nature to discover a criminal traffic.

The arrival of persons appearing evidently to be the authors, the accomplices or the victims of such a traffic will be notified, in each case, either to the authorities of the place of destination or to the interested diplomatic or consular agents, or to any other competent authorities.

ART. 3.

The Governments agree to receive, in each case, within the limits of the laws, the declarations of women and girls of foreign nationality who surrender themselves to prostitution, with a view to establish their identity and their civil status and to ascertain who has induced them to leave their country. The information received will be communicated to the authorities of the country of origin of the said women or girls, with a view to their eventual return.

The Governments agree, within the limits of the laws and as far as possible, to confide temporarily and with a view to their eventual return, the victims of criminal traffic, when they are without any resources, to some institutions of public or private charity or to private individuals furnishing the necessary guaranties.

The Governments agree also, within the limits of the laws to return to their country of origin, those of those women or girls who ask their return or who may be claimed by persons having authority over them. Return will be made only after reaching an understanding as to their identity and nationality, as well to the place and date of their arrival at the frontiers. Each of the Contracting Parties will facilitate the transit on his territory.

The correspondence relative to the return will be made, as far as possible, through the direct channel.

ART. 4.

In case the woman or girl to be sent back can not pay herself the expenses of her transportation and she has neither husband, nor relations, nor guardian to pay for her the expenses occasioned by her return, they shall be borne by the country on the territory of which she resides as far as the nearest frontier or port of embarkation in the direction of the country of origin, and by the country of origin for the remainder.

ART. 5.

The provisions of the above articles 3 and 4, shall not infringe upon the provisions of special conventions which may exist between the contracting Governments.

ART. 6.

The contracting Governments agree, within the limits of the laws, to exercise, as far as possible, a supervision over the bureaux or agencies which occupy themselves with finding places for women or girls in foreign countries.

ART. 7.

The non-signatory States are admitted to adhere to the present Arrangement. For this purpose, they shall notify their intention, through the diplomatic channel, to the French Government, which shall inform all the contracting States.

ART. 8.

The present arrangement shall take effect six months after the date of the exchange of ratifications. In case one of the contracting Parties shall denounce it, that denunciation shall take effect only as regards that Party and then twelve months only from the date of the day of the said denunciation.

ART. 9.

The present arrangement shall be ratified and the ratifications shall be exchanged at Paris, as soon as possible.

In faith whereof the respective Plenipotentiaries have signed the present Agreement, and thereunto affixed their seals.

DONE at Paris, the 18th May, 1904, in single copy, which shall be deposited in the archives of the Ministry of Foreign Affairs of the French Republic, and of which one copy, certified correct, shall be sent to each Contracting Party.

[L. S.]	(Signed)	DELCASSÉ.
[L. S.]	(Signed)	RANDOLIN.
[L. S.]	(Signed)	A. LEGHAIT.
[L. S.]	(Signed)	F. REVENTLOW.
[L. S.]	(Signed)	F. DE LEON Y CASTILLO.
[L. S.]	(Signed)	EDMUND MONSON.
[L. S.]	(Signed)	G. TORNIELLI.
[L. S.]	(Signed)	A. DE STUERS.
[L. S.]	(Signed)	T. DE SOUZA ROZA.
[L. S.]	(Signed)	NELIDOW.

For Sweden and Norway:

[L. S.]	(Signed)	ÅKERMAN.
[L. S.]	(Signed)	LARDY.

DECLARATION BY THE GOVERNMENTS OF GREAT BRITAIN, DENMARK, FRANCE, GERMANY, THE NETHERLANDS, AND SWEDEN ON THE SUBJECT OF THE MAINTENANCE OF THE STATUS QUO IN THE TERRITORIES BORDERING UPON THE NORTH SEA.

File No. 13619/6-7.

Ambassador White to the Secretary of State.

No. 344.]

AMERICAN EMBASSY,
Paris, May 29, 1908.

SIR: Referring to my dispatch, No. 305, of April 25, transmitting a copy and a translation of the agreement providing for the maintenance of the status quo in the North Sea, which was signed at Berlin April 23, I now have the honor to send you herewith the copy of a Yellow Book just issued by the French Government, containing the official text of this arrangement with the addition of a memorandum signed on the same day explaining its object.

I have, etc.,

HENRY WHITE.

[Inclosure 1.—Translation.]

Declaration.

The British, Danish, French, German, Netherland, and Swedish Governments, Animated by the desire to strengthen the ties of neighbourly friendship existing between their respective countries, and to contribute thereby to the preservation of universal peace, and recognizing that their policy with respect to the regions bordering on the North Sea is directed to the maintenance of the existing territorial *status quo*,

Declare that they are firmly resolved to preserve intact, and mutually to respect, the sovereign rights which their countries at present enjoy over their respective territories in those regions.

Should any events occur which, in the opinion of any of the above-mentioned Governments, threaten the existing territorial *status quo* in the regions bordering upon the North Sea, the Powers Signatory of the present Declaration will

communicate with each other in order to concert, by an agreement to be arrived at between them, such measures as they may consider it useful to take in the interest of the maintenance of the *status quo* as regards their possessions.

The present Declaration shall be ratified with the least possible delay. The ratifications shall be deposited at Berlin as soon as may be, and, at the latest, on the 31st December, 1908. The deposit of each ratification shall be recorded in a Protocol, of which a certified copy shall be forwarded through the diplomatic channel to the Signatory Powers.

In witness whereof the Plenipotentiaries duly authorized thereto have signed, &c.

Done at Berlin, the 23rd of April, 1908.

[Inclosure 2.—Translation.]

Memorandum.

At the moment of signing the Declaration of this day's date, the Undersigned, by order of their respective Governments, consider it necessary to state—

1. That the principle of the maintenance of the *status quo*, as laid down by the said Declaration, applies solely to the territorial integrity of all the existing possessions of the High Contracting Parties in the regions bordering upon the North Sea, and that consequently the Declaration can in no case be invoked where the free exercise of the sovereign rights of the High Contracting Parties over their above-mentioned respective possessions is in question;

2. That, for the purposes of the said Declaration, the North Sea shall be considered to extend eastwards as far as its junction with the waters of the Baltic.

Done at Berlin, the 23rd of April, 1908.

GERMANY.

DEATH OF BARON VON STERNBERG, GERMAN AMBASSADOR TO THE UNITED STATES.

File No. 4116/56.

Ambassador Hill to the Secretary of State

[Telegram.]

AMERICAN EMBASSY,
Berlin, August 24, 1908.

German Ambassador to the United States died last night at Heidelberg.

HILL.

File No. 4116/56.

The Acting Secretary of State to Ambassador Hill.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 24, 1908.

Am greatly grieved at the death of Baron von Sternberg. Convey through appropriate channel fitting expression of sorrow and condolence on behalf of the President and of Secretary of State.

ADEE.

File No. 4116/56.

The Acting Secretary of State to the Baroness von Sternberg.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 24, 1908.

In name of department and in the absence of the Secretary, I tender heartfelt condolence upon the great bereavement you have suffered.

ALVEY A. ADEE.

File No. 4116/57.

The German Chargé to the Secretary of State.

[Telegram.]

GERMAN EMBASSY,
Beverly Farms, August 24, 1908.

By instructions of my Government I have to inform you, with deep regret, that Ambassador Baron Sternberg died last night at Heidelberg.

HATZFELDT.

File No. 4116/57.

The Acting Secretary of State to the German Chargé.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 24, 1908.

The painful intelligence of the ambassador's death was received this morning through Dr. Hill and I at once telegraphed directing the President's condolences to be conveyed to the imperial foreign office. I also cabled directly to the Baroness von Sternberg at Heidelberg.

ALVEY A. ADEE.

File No. 4116/58-59.

Ambassador Hill to the Secretary of State.

No. 59]

AMERICAN EMBASSY,
Berlin, August 28, 1908.

SIR: Upon the receipt of the department's telegram of the 24th instant I did not fail to communicate to the imperial ministry of foreign affairs and to her excellency Baroness Speck von Sternberg the expression of the sorrow and condolence of the President and of the Secretary of State of the United States upon the death of the late Baron Speck von Sternberg, German ambassador to the United States.

To my communication to the foreign office I have now received a reply, of which a copy with translation is inclosed herewith, in which the acting secretary of state of the imperial ministry of foreign affairs takes occasion to express to the President and to yourself the thanks of the Imperial Government for the warm sympathy evidenced.

I have, etc.,

DAVID J. HILL.

[Inclosure.—Translation.]

NOTE VERBALE.

The acting secretary of state of the imperial ministry of foreign affairs acknowledges the receipt of the American ambassador's note communicating the sorrow of the President and Secretary of State of the United States at the death of the imperial ambassador, Baron Speck von Sternberg. He begs to express to President Roosevelt and to his excellency, Mr. Elihu Root, the thanks of the Imperial Government for the warm sympathy evidenced. The imperial service has suffered a severe loss in the premature passing away of the ambassador at Washington, who was one of its most efficient members.

BERLIN, August 26, 1908.
Foreign Office.

APPLICATION TO OTHER COUNTRIES OF THE ADMINISTRATIVE PROVISIONS OF THE COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND GERMANY.

(Continued from Foreign Relations, 1907, p. 486 et seq.)

DENMARK.

5727/248.

The Danish Minister to the Secretary of State.

[Translation.]

LEGATION OF DENMARK,
Bar Harbor, Me., August 20, 1908.

MR. SECRETARY OF STATE: By order of my Government I have the honor to request your excellency to kindly use your good offices for the purpose of having the certificates of value accompanying products imported from Denmark into the United States and issued by the "Kjöbenhavns Grosserer Societets Komite" (Committee of the Wholesale Merchants' Association of Copenhagen) recognized by the American customs officials in the same way as similar certificates from German chambers of commerce and certain Russian chambers of commerce are recognized, by virtue of the commercial agreement between the United States and Germany and of the letter of March 31 last sent to the customs authorities of New York by the Treasury Department.

While having the honor to submit this proposition to your excellency, I place myself entirely at your disposal in case any further information is necessary in order to comply with the desire of my Government.

Please accept, etc.,

C. BRUN.

5727/248.

The Acting Secretary of State to the Danish Minister.

No. 791.]

DEPARTMENT OF STATE,
Washington, September 4, 1908.

SIR: I have the honor to acknowledge receipt of your note of the 20th ultimo requesting on behalf of your Government that the certificates of value issued by the "Kjöbenhavns Grosserer Societets Komite" (Committee of the Wholesale Merchants' Association of Copenhagen) covering merchandise exported from Denmark to the United States be recognized by American customs officers on the same footing as like certificates issued by German chambers of commerce.

In reply I have the honor to inform you that the privileges enjoyed by German chambers of commerce in this respect under the provisions of the existing commercial agreement between the United States and Germany have been extended to the chambers of commerce of several other countries upon its being shown that those organizations enjoyed a governmental or at least quasi-governmental status, by reason of the more or less complete supervision exercised over their operations by the Government. This condition is essential in order to entitle the certificates of value to the same treatment by the appraising officers of the United States as is accorded to those issued by the

German chambers of commerce. I have, therefore, the honor to request that you will furnish the department with a statement concerning the organization and operations of the Danish body mentioned in your note, together with copies of the laws in relation thereto. Upon receipt of this information the department will take pleasure in referring the matter for decision and action to the Department of the Treasury.

Accept, etc.,

ALVEY A. ADEE.

5727/264-265.

The Danish Minister to the Secretary of State.

LEGATION OF DENMARK,
Washington, November 23, 1908.

MR. SECRETARY: By the note addressed to my predecessor on September 4 last, 5727/248, serial No. 791, your excellency was good enough to request of this legation a statement concerning the organization and operation of the Committee of the Wholesale Merchants' Association of Copenhagen, "Kjöbenhavn's Grosserer Societets Komite," in regard to the wish of my Government to secure for the certificates of value issued by that body and covering merchandise exported from Denmark into the United States the recognition by American customs officers on the same footing as like certificates issued by German chambers of commerce.

I have accordingly the honor to inform your excellency that the above-mentioned Danish body was organized by a decree of April 23, 1817, by virtue of which it has to furnish reports and statements which the Government, the authorities, or the courts of justice may request of it. Through later dispositions the association was invested with power for participating in the election of the members of the Tribunal of Commerce and Navigation and in the operation of determining the rate of exchange.

The said association being, according to a statement of the royal ministry of interior, the only official Danish institution dealing with questions pertaining to commerce and being frequently called upon by the central Government for assistance in all matters concerning such questions, it may, without any doubt, righteously be described as a governmental or quasi-governmental organization.

In inclosing a printed statement (pp. 1-7) on the organization of the said association I venture to express the hope that the above information will enable your excellency to recommend the wishes set forth in my predecessor's note of August 20 last, for a favorable consideration by the Department of the Treasury.

I avail, etc.,

C. MOLTKE.

5727/270.

The Secretary of State to the Danish Minister.

No. 7.]

DEPARTMENT OF STATE,
Washington, December 23, 1908.

EXCELLENCY: Referring to your note of November 23, 1908, asking that the certificates of value issued by the Committee of the Whole-

sale Merchants' Association of Copenhagen be received by the customs officers of the United States on the same terms as are accorded to like certificates issued by German chambers of commerce, I have the honor to inform you that the department is in receipt of a letter from the Acting Secretary of the Treasury, dated the 17th instant, stating that customs officers will be instructed in the next issue of "Treasury Decisions" that the provisions of point F of the diplomatic note annexed to the agreement with Germany have been extended to the Committee of the Wholesale Merchants' Association of Copenhagen. This action meets the wishes of your Government.

Accept, etc.,

ELIHU ROOT.

JAPAN.

5727/238-239.

The Japanese Ambassador to the Secretary of State.

No. 48.]

IMPERIAL JAPANESE EMBASSY,
Washington, June 20, 1908.

SIR: In Department Circular No. 36 of the Treasury Department, dated Washington, June 1, 1907, relative to the commercial agreement between the United States and Germany of April of the same year, it is, among others, provided and published that "the certificates as to value issued by German chambers of commerce shall be accepted by appraisers as competent evidence and be considered by them in connection with such other evidence as may be adduced."

Having been apprised of the fact that the treatment thus accorded by the United States Government to German chambers of commerce has since been extended to those at Great Britain, France, Austria-Hungary, Italy and some other countries, the Imperial Government desires that the same treatment be equally accorded to Japanese chambers of commerce.

I accordingly have the honor to request that, if the concession or recognition above referred to, is in its nature one given generally and unconditionally, you will be so good as to see that the same treatment be extended to Japanese chambers of commerce, which are recognized by and organized under the laws of the Empire.

I may be permitted to inclose herewith, for your information, an English translation of principal provisions of the law governing the formation, powers, and functions of Japanese chambers of commerce,¹ from which you will find that while they are bodies formed by private individuals, they are, in their nature, public institutions of the country and quasi-administrative branches of the Government; their formation, powers, and functions as well as the management of affairs being provided by the law and placed under Government control and superintendence.

Any further details you may desire to obtain as to provisions of the laws and regulations governing Japanese chambers of commerce, I shall be glad to furnish you on being so advised.

Accept, etc.,

K. TAKAHIRA.

5727/238-239.

The Acting Secretary of State to the Japanese Ambassador.

DEPARTMENT OF STATE,
Washington, June 29, 1908.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note No. 48, of the 20th instant, in which it is requested that certificates of value issued by Japanese chambers of commerce be accorded the same treatment by United States customs officials as is given to those issued by chambers of commerce of certain European States, and to say that a copy of your note and its inclosures has been communicated to the Secretary of the Treasury for his consideration.

I shall not fail to acquaint you promptly with the decision of the Treasury Department in the matter.

Accept, etc.,

ROBERT BACON.

5727/241.

The Acting Secretary of State to the Japanese Ambassador.

No. 35.]

DEPARTMENT OF STATE,
Washington, July 18, 1908.

EXCELLENCY: Referring further to your note of the 20th ultimo, inclosing copy of the principal provisions of the law governing Japanese chambers of commerce, and asking that the same treatment be accorded such chambers of commerce by the Government of the United States as is accorded those of Germany, Great Britain, and other countries, I have the honor to inform you that the Treasury Department advises this department that customs officers will be instructed in the next issue of Treasury Decisions that the provisions of point "F" of the diplomatic note annexed to the agreement with Germany have been extended to the Japanese chambers of commerce.

Accept, etc.,

ALVEY A. ADEE.

THE NETHERLANDS.

5727/165.

The Netherlands Minister to the Secretary of State.

[Translation.]

No. 33.]

ROYAL LEGATION OF THE NETHERLANDS,
Washington, January 7, 1908.

MR. SECRETARY OF STATE: In compliance with the provisions of Article II of the commercial treaty concluded last year between the United States and Germany, his excellency Mr. Cortelyou, Secretary of the Treasury, issued, under date of June 1, 1907, a number of new rules to be observed during the life of the treaty.

According to the oral assurances the Department of State was good enough to give me on several occasions, these customs regulations being of a purely administrative character are applicable to all im-

ports into the United States, no matter what country they come from. Inasmuch, however, as the last two paragraphs make special mention of the German Government and of German chambers of commerce, my Government has instructed me to inquire of your excellency whether the Netherlands, notwithstanding this restriction in favor of Germany, will likewise profit by these provisions or some steps must be taken by the Royal Government in order to accomplish that end.

In this connection, I venture to draw your excellency's attention to the fact that the Netherlands chambers of commerce are official organs created by royal orders and that their membership and operations are governed by ministerial ordinances. I have the honor hereby to comply with my instructions and embrace this opportunity to renew to you, Mr. Secretary of State, the assurances of my highest consideration.

VAN SWINDEREN.

5727/165.

The Acting Secretary of State to the Netherlands Minister.

No. 169.]

DEPARTMENT OF STATE,
Washington, January 16, 1908.

SIR: I have the honor to acknowledge receipt of your note of the 7th instant, relative to acceptance by the appraising officers of the United States of certificates of value issued by chambers of commerce in the Netherlands, on the same terms as are accorded to German chambers of commerce.

In reply, I have the honor to inform you that a copy of your note will be sent to the Secretary of the Treasury, and I have no doubt that he will grant the privileges which you seek as soon as the fact shall be established that the chambers of commerce in the Netherlands enjoy a semi-official status, as is intimated in your note. I have the honor to request that you furnish this department with copies of the laws or royal decrees relating to the organization and operations of those commercial bodies. Upon receipt of this additional information I shall take pleasure in transmitting it promptly to the Secretary of the Treasury.

Receive, sir, etc.,

ROBERT BACON.

5727/177.

The Netherlands Chargé to the Secretary of State.

No. 150.]

ROYAL LEGATION OF THE NETHERLANDS,
Washington, February 13, 1908.

MR. SECRETARY OF STATE: In reply to the department's note of January 16, I have the honor to inclose a copy of the Bulletin of the Laws of Kingdom of Holland, No. 76, 1896, in which will be found the royal decree of May 4, 1896, concerning the general regulations of chambers of commerce in the Netherlands.

Accept, etc.,

W. A. ROYAARDS.

5727/177.

The Acting Secretary of State to the Netherlands Chargé.

No. 177.]

DEPARTMENT OF STATE,
Washington, February 25, 1908.

SIR: I have the honor to acknowledge receipt of your note of the 13th instant, referring to previous correspondence relative to the acceptance by the appraising officers of the United States of certificates of the chambers of commerce of the Netherlands, and inclosing royal decree of May 4, 1896, concerning the general regulations governing those chambers.

In reply, I have the honor to inform you that this decree will be transmitted to the Secretary of the Treasury and his decision will be communicated to you as soon as learned by this department.

Accept, etc.,

ROBERT BACON.

5727/197.

The Acting Secretary of State to Minister Hill.

No. 148.]

DEPARTMENT OF STATE,
Washington, March 24, 1908.

SIR: I inclose herewith a copy of a letter from the Acting Secretary of the Treasury, stating that customs officers will be instructed that the provisions of point F of the note of the Secretary of State, dated April 22, 1907, addressed to the German ambassador at this capital and made a part of the commercial agreement between the United States and Germany of April 22-May 2 last have been extended to the factories and chambers of commerce of the Netherlands.

The Acting Secretary further states that his department has no objection to having the Netherlands placed on the same footing as Germany as regards the accrediting to foreign governments of confidential agents of the Treasury Department. The legation of the Netherlands at this capital has requested that this be done; and the Treasury Department recommends that steps be taken to accredit to the Netherlands Government Mr. Oscar Gottschalk, its confidential agent at Cologne.

You are requested to bring this information to the knowledge of the foreign office to the end that Mr. Gottschalk be accredited to the Netherlands Government in accordance with point E of the above-mentioned note of the Secretary of State.

I am, etc.,

ROBERT BACON.

[Inclosure.]

*The Acting Secretary of the Treasury to the Secretary of State.*TREASURY DEPARTMENT,
Washington, March 17, 1908.

SIR: I have the honor to acknowledge receipt of your letter of the 11th instant transmitting a translation of the decree of the Government of the Netherlands of May 4, 1896, relative to the establishment of chambers of commerce and factories.

Referring to previous correspondence, I have to state that customs officers will be instructed in the next issue of the Treasury Decisions that the provisions of point F of the diplomatic note annexed to the agreement with Germany have been extended to the chambers of commerce and factories of the Netherlands.

I perceive no objection to the granting of the request of the minister of the Netherlands that the provisions of point E of the said note also be extended to his country, and I recommend that the proper steps be taken to have Mr. Oscar Gottschalk, confidential agent of this department stationed at Cologne, accredited to the Netherlands Government also.

Respectfully,

(Signed)

L. A. COOLIDGE.

5727/197.

The Acting Secretary of State to the Netherlands Chargé.

No. 184.]

DEPARTMENT OF STATE,
Washington, March 24, 1908.

SIR: Referring to your legation's notes of January 7 and February 13 last, regarding your Government's desire for the extension to it of certain provisions of the commercial agreement recently concluded between the United States and Germany, I have the honor to say that the Acting Secretary of the Treasury informs the department, under date of the 17th instant, that customs officers will be instructed in the next issue of the Treasury Decisions that the provisions of point F of the note of the Secretary of State annexed to the agreement with Germany have been extended to the chambers of commerce and factories of the Netherlands.

The Acting Secretary of the Treasury also states that his department perceives no objection to placing your Government in a position to profit, in the matter of Treasury special agents, by the clauses under letter E in the above-mentioned note of the Secretary of State; and upon the Treasury Department's recommendation that steps be taken to accredit to the Netherlands Government Mr. Oscar Gottschalk, its confidential agent at Cologne, the minister at The Hague has this day been instructed to bring this information to the knowledge of Her Majesty's Government, to the end that Mr. Gottschalk may be accredited thereto in accordance with point E of the note referred to.

Accept, etc.

ROBERT BACON.

RUSSIA.

File No. 5727/145.

The Russian Ambassador to the Secretary of State.

[Translation.]

IMPERIAL EMBASSY OF RUSSIA,
Washington, October 25, 1907.

MR. SECRETARY OF STATE: Under an agreement recently concluded between the Federal Government and Germany, certain customs facilities have been granted by the United States to the importation of goods from Germany. They have mainly to do with the assessment of customs duties which, by virtue of the agreement, are computed according to the value of the merchandise as established by invoices certified by American consuls and also by special certificates issued by the German chambers of commerce.

Desirous of having these commercial advantages extended to Russian imports into the United States, I have the honor to ask, by order of my Government, that your excellency will be so good as to inform me whether the Federal Government is disposed to grant those facilities to Russian trade with the United States and, particularly, that which consists in levying ad valorem customs duties on the basis of the appraisement of Russian merchandise as determined by invoices duly certified by consuls of the United States and by special certificates delivered, in the absence of chambers of commerce, by committees of Russian exchanges (general and special).

The Imperial Government holds that the said committees, whose powers are set forth in articles 591-598 of the Russian Commercial Code, and more specially in the statutes of the St. Petersburg Exchange, after which the statutes of all the other exchanges are patterned, and which are annexed to the aforesaid code, are quite as competent in this respect as the chambers of commerce existing in Europe, and that certificates issued by them will have the same value as those delivered by the said chambers of commerce.

Hoping that this request will be favorably received by the Federal Government, I avail myself, etc.,

ROSEN.

File No. 5727/145.

The Secretary of State to the Russian Ambassador.

No. 53.]

DEPARTMENT OF STATE,

Washington, October 31, 1907.

EXCELLENCY: I have the honor to acknowledge receipt of your note of the 25th instant, requesting, on behalf of your Government, that the customs privileges granted by the United States to German chambers of commerce as regards certificates of value for goods shipped to the United States be extended to the committees of Russian exchanges (general and special).

Inasmuch as the Department of the Treasury has required, in the case of previous applications by foreign Governments for these privileges, evidence that the commercial bodies had some governmental standing, I have the honor to request, before referring this matter to the Department of the Treasury, that you will furnish this department with the text of articles 591 to 598 of the Russian Code of Commerce, as well as those statutes of the St. Petersburg Exchange, which define the powers and attributes of the committees of Russian exchanges (general and special).

Accept, etc.,

ELIHU ROOT.

5727/190-193.

The Russian Ambassador to the Secretary of State.

[Translation.]

No. 103.]

IMPERIAL RUSSIAN EMBASSY,

Washington, March 14, 1908.

MR. SECRETARY OF STATE: In compliance with the desire expressed by your excellency in your note No. 53 of October 31, 1907, relative to the extension of the customs facilities enjoyed by German merchan-

dise to Russian imports into the United States, I make it my duty to transmit herewith an English translation, made at this embassy, of the articles of the Russian Commercial Code concerning Russian exchanges (articles 654-663 of the edition of 1903, corresponding to articles 589-598 of the edition of 1893), together with that of the articles 42-82 of the by-laws of the St. Petersburg Exchange relative to the powers and duties of the St. Petersburg exchange committee.

The following explanations I have just received from the imperial ministry of foreign affairs will complete the information contained in the above-mentioned texts.

The existing law of Russia recognizes the exchanges as "commercial institutions" (articles 654-655 of the Commercial Code) and expressly ranks them among the institutions to which the consuls and agents of the ministry of finance abroad belong. They are in operation in the leading industrial or commercial centers and are governed by the above-mentioned articles (654-663) of the commercial code as well as by the by-laws of the several exchanges. At the head of each is placed an "exchange committee" whose complex status may be epitomized as follows:

1. These committees are, in a manner, the representative organs of the industrial and commercial classes of some one locality, and as such, in the intendment of the law, it is made their duty to watch over the common interests and needs of the manufacturers and merchants; and to that end, first, to supply the Government with information bearing on local commerce and industry and offer advice in such matters. In their capacity as representative organs of commerce and industry the exchange committees are requested to be represented by one member or more in various Government advisory committees as members of such committees. Thus the law requires that they be represented in the council of the ministry of commerce and industry on ocean navigation affairs; in the committee, established in the same ministry, on forts and harbors; in the principal committee on mines and manufactures; in the committee on industrial taxation, attached to the ministry of finance; in the committees on the regulation of railway transportation, attached to the several railroad administrations; in the general sessions of the chambers of finance relative to industrial taxation, etc.

2. The exchanges headed by "committees" perform essentially commercial duties, viz, the regulation and organization of commerce within their district. To that end the exchange committees are vested by the existing law and by-laws with extensive powers in the following matters: Rules to be observed by merchants within the exchange, compilation of commercial usages, issue of exchange bulletins regarding the price of merchandise, arbitration of commercial differences, delivery to applicants on request of various kinds of certificates concerning commercial matters (including certificates as to the quality and value of merchandise), the supervision of the sorting of goods intended for export, the sanction of the rules governing exchange commissioners, the creation of administrations in commercial affairs, etc.

The law of January 17, 1905, further conferred upon exchange committees, with the consent of the minister of commerce and industry, the right to supervise the export of wheat to foreign countries and to issue certificates as to the quantity and quality of the wheat exported.

The exchanges are under the jurisdiction of the minister of commerce and industry, to which all complaints against them must be addressed, and the exchange "committees" annually report the manner in which the exchanges have operated and the local conditions of trade and industry.

It appears from the foregoing that the exchange committees being, on the one hand, the representative organs of industry and commerce (akin to the chambers of commerce of other European countries as to the main object for which they are established), and being, on the other hand, institutions for the regulation of the local trade, vested on that account with considerable administrative and social powers by law, it is impossible not to admit that they are at least quite as competent as the German chambers of commerce in issuing certificates to attest the value of Russian merchandise imported into the United States.

I deem it my duty to append hereto a complete list of the exchange committees existing in Russia. Their by-laws are published in the bulletins of the laws of the Empire and, if required, could be furnished by the imperial ministry of foreign affairs. It may be observed, however, that these by-laws are in their essential parts, reproductions of the by-laws of the St. Petersburg Exchange, articles 42-82 of which are inclosed herewith in English, as stated in the beginning of this note.

In conclusion, I deem it my duty to say that the English translation of the text of the Russian law conveys as accurately as possible the meaning of the said texts. If the English terminology therein used is found to be defective or insufficiently clear, your excellency will kindly consider that the imperial embassy was not in position to engage for this work an expert lawyer equally familiar with the Russian and American laws.

Be pleased to accept, etc.,

ROSEN.

5727/190-193.

The Acting Secretary of State to the Russian Ambassador.

No. 69.]

DEPARTMENT OF STATE,
Washington, March 18, 1908.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 14th instant, in which you inclose copies of the laws and regulations relating to Russian chambers of commerce, known as exchanges, and request that the same facilities may be accorded to them as to the German chambers of commerce, in virtue of the reciprocity arrangement between the United States and the German Empire.

In reply I have the honor to say that your note will receive consideration.

Accept, etc.,

ROBERT BACON.

5727/209.

The Acting Secretary of State to the Russian Ambassador.

No. 73.]

DEPARTMENT OF STATE,
Washington, April 3, 1908.

EXCELLENCY: Referring to your note of the 14th ultimo, I have the honor to inclose a copy of a letter from the Acting Secretary of

the Treasury, in which he announces that the provisions of point F of this department's note annexed to the reciprocity agreement between the United States and Germany, have been extended to the Russian exchange committees named in the list submitted by you.

Accept, etc.,

ROBERT BACON.

[Inclosure.]

The Acting Secretary of the Treasury to the Secretary of State.

TREASURY DEPARTMENT,
Washington, March 31, 1908.

SIR: I have the honor to acknowledge the receipt of your letter of the 24th instant, transmitting a translation of a communication from the Russian ambassador, with its inclosures, relative to Russian exchange committees.

Customs officers will be instructed in the next issue of the Treasury Decisions that the provisions of point F of the diplomatic note annexed to the agreement with Germany have been extended to the Russian exchange committees named in the list submitted by the ambassador.

Respectfully,

BEKMAN WINTHROP.

SPAIN.

5727/251.

The Spanish Minister to the Secretary of State.

[Translation.]

LEGATION OF SPAIN,
New York, September 12, 1908.

MR. SECRETARY: The provisions of the commercial arrangement concluded between the United States and the German Empire relative to the certificates of value of merchandise interpret the definition of market value as set forth in section 19 of the customs administrative act of the United States to mean that the duties *ad valorem* are to be assessed on the price commanded by the merchandise in the wholesale trade and that the value stated in certificates issued by the chambers of commerce of the exporting country shall be accepted as competent evidence by the appraisers, and whilst it makes no change in the tariff of the Union, it is closely related to it in that it makes away with the controversies that might arise from a different appraisement of the products by the trade and the administration when one bases its reckoning on the price prevailing in wholesale transactions and the other on the retail price.

Under the aforesaid system the merchandise pays no higher duty than it is actually and equitably subject to, and the reliable basis of appraisement established by the agreement is preferable to the uncertainty consequent upon leaving to the discretion of the customs the right to decide what is the true value of the goods.

In view of the foregoing and on the strength of the cordial commercial relations which prevail between Spain and the United States since the commercial agreement of San Sebastian was reached two years ago, the Government of His Majesty would extremely appreciate the extension to Spain of the concession referred to in this note and granted to France and Great Britain, besides Germany.

Hoping to be able to forward a favorable answer to my Government, I renew, etc.

L. PASTOR.

5727/251

The Acting Secretary of State to the Spanish Minister.

No. 107.]

DEPARTMENT OF STATE,
Washington, September 18, 1908.

SIR: I have the honor to acknowledge receipt of your note of the 12 instant, requesting that the privileges granted by this Government to Germany and certain other countries of Europe as regards acceptance of certificates of value issued by the chambers of commerce in those countries be extended to Spain, under the existing commercial agreement between the United States and Spain.

In reply I have the honor to inform you that, in each instance where the chambers of commerce of a foreign country have been treated on the same footing as the German chambers of commerce under the terms of the commercial agreement between the United States and Germany, it has previously been shown that those organizations are under some measure of official control or supervision, thus giving them a quasi-governmental status and affording reasonable grounds for relying upon the accuracy of the certificates as to values which they issue for use in connection with goods shipped to the United States.

I have, therefore, the honor to request that you advise the department as to the organization and operations of the chambers of commerce in Spain whose certificates your Government desires shall be received as competent evidence by the appraising officers of the United States when accompanying goods exported from Spain to this country, and that you furnish, if possible, copies of the laws and regulations governing those bodies. Upon receipt of this information the department will take pleasure in referring the matter for action to the Department of the Treasury.

Accept, etc.,

ALVEY A. ADEE.

5727/253

The Spanish Minister to the Secretary of State.

[Translation.]

LEGATION OF SPAIN,
New York, September 24, 1908.

MR. SECRETARY: In reply to your department's note dated the 18th instant by which your excellency was pleased, in reference to certificates of the value of merchandise, to request information concerning the organization and actual powers of the chambers of commerce in Spain, I have the honor to inform you that the said institutions are in my country under the direct supervision of the Government, and placed under the ministry of fomento, which is the executive department which has charge of the development of the resources of the country. They are created by royal ordinances, and official notice of their creation is given in the "Gaceta de Madrid," the organ in which all Government measures are published daily.

I have not at hand just now a copy of the law and regulations governing the Spanish chambers of commerce, but am applying to Madrid for them by this mail, and shall forward them to you as

soon as received, none the less venturing to hope that the information above noted may be sufficient to enable the department to transmit to the Treasury the request made in my note of the 12th instant.

I renew, etc.,

L. PASTOR.

5727/253.

The Acting Secretary of State to the Spanish Minister.

DEPARTMENT OF STATE,
Washington, September 30, 1908.

SIR: I have the honor to acknowledge the receipt of your note of the 24th instant, advising the department that the Spanish chambers of commerce are under the direct supervision of your Government, being placed under the ministry of fomento.

In reply I have the honor to inform you that the department has taken pleasure in communicating this information to the Department of the Treasury for its information and action. The department will advise you, upon notification by the Department of the Treasury, of its decision in the matter.

Accept, etc.,

ROBERT BACON.

5727/259.

The Secretary of State to the Spanish Minister.

No. 108.]

DEPARTMENT OF STATE,
Washington, October 14, 1908.

SIR: Referring to previous correspondence relative to the certificates of value issued by the Spanish chambers of commerce, I take pleasure in informing you that the department is in receipt of a letter from the Acting Secretary of the Treasury, under date of the 7th instant, stating that the customs officers of the United States will be instructed in the next issue of Treasury Decisions that the provisions of point "F" of the diplomatic note annexed to the agreement with Germany have been extended to the Spanish chambers of commerce.

Accept, etc.,

ELIHU ROOT.

EXTRADITION OF PAUL O. STENSLAND FROM MOROCCO.¹

USE OF GERMAN VESSEL TO CONVEY FUGITIVE IN COURSE OF EXTRADITION PROCEEDINGS.

File No. 343/50.

The German Chargé to the Secretary of State.

No. 1034/08.]

IMPERIAL GERMAN EMBASSY,
Washington, March 7, 1908.

MR. SECRETARY OF STATE: I have the honor to bring to your excellency's notice the following incident:

Sometime ago the consul general of the United States of America at Tangier put on board the steamship *Prinz Adalbert*, of the Ham-

¹ For correspondence re extradition of Stensland from Morocco see Foreign Relations, 1906, p. 1161.

burg-Amerika Line, for transportation from Tangier to New York, the director of the Milwaukee Avenue State Bank of Chicago, Paul O. Stensland, who had been indicted at Chicago and arrested at Tangier in September, 1906, accompanied by two detectives.

No application for assent to the transportation of Stensland on a German vessel was made either to the German Legation at Tangier or to my Government.

Such an application, however, was needful, as the forcible transportation of a prisoner by sea on board a German vessel is tantamount to outright delivery, in view of the fact that the vessel, especially on the high seas, is to be considered as German territory. But an application of this character can only be assented to through the German Government, and when the assent is obtained it must be carried out through the agency of the German Government, since foreign officers are not permitted to exercise police powers on board German vessels.

While permitting myself, under my instructions, to call your excellency's attention to this matter, I would be under great obligation to your excellency if the consul general of the United States at Tangier were admonished of the irregularity of the course taken by him. I should also be specially thankful to your excellency for a favorable answer.

Accept, etc.,

H. HATZFELDT.

File No. 343/50.

The Secretary of State to the German Chargé.

No. 71.]

DEPARTMENT OF STATE,
Washington, March 16, 1908.

SIR: I have the honor to acknowledge the receipt of your note No. 1034 of the 7th instant bringing to my notice the matter of the transportation from Tangier to New York of Paul O. Stensland on board the steamship *Prinz Adalbert* of the Hamburg-Amerika Line, and to say in response that the representations which you make in this connection with regard to alleged irregularity on the part of the American consul general at Tangier will receive consideration.

Accept, etc.,

ELIHU ROOT.

File No. 343/50.

The Acting Secretary of State to the German Chargé.

No. 764.]

DEPARTMENT OF STATE,
Washington, June 3, 1908.

SIR: Referring to your note of March 7 last and to the department's reply of the 16th of that month, I have now the honor to advise you that the department has made investigation in regard to the circumstances under which one Paul O. Stensland was transported from Tangier to New York on the steamship *Prinz Adalbert* of the Hamburg-Amerika Line. The department directed the American consul general at Hamburg to make arrangements to have the *Prinz Adalbert* touch at Tangier to take on Stensland and his guards.

The department's cablegram was received by the consul general at 10 o'clock on the same day on which the *Prinz Adalbert* was scheduled to sail from Naples at 3 o'clock in the afternoon.

It seems that neither the American consul general at Hamburg nor the authorities of the Hamburg-American Line appear to have been aware that it was deemed necessary to obtain the assent of the German Government to the transportation of Stensland, under the peculiar circumstances surrounding his case. Moreover, the American consul general at Tangier reports that Stensland himself consented to be returned to the United States upon the *Prinz Adalbert*; and his transportation upon that vessel may therefore properly be regarded as having taken place of his free will. Nevertheless, the department regrets that, if through any oversight, any technical violation of the German law may have occurred; and it will bring to the attention of the United States consular officers concerned the views of the German Government as to the legal principles involved.

Accept, etc.,

ROBERT BACON.

**SHOOTING OF FRANK XAVIER DICK, A GERMAN SUBJECT, BY A
POLICEMAN AT SALEM, OREGON.**

PAYMENT OF INDEMNITY AS AN ACT OF GRACE.

File No. 7848/-1.

The German Ambassador to the Secretary of State.

No. 3121/07.]

IMPERIAL GERMAN EMBASSY,
Dublin, N. H., July 25, 1907.

MR. SECRETARY OF STATE: By direction of my Government I have the honor to bring the following incident to your excellency's knowledge.

On the 25th of November of last year, Xavier Dick, a Bavarian subject and bricklayer, was severely wounded at Salem, Oreg., with a revolver shot by a policeman who was at the time in the service of that city. Dick had given no occasion whatever for the assault to the policeman, who, according to his own statement, was then on duty. All the further particulars of the case are set forth in the accompanying inclosures,¹ the return of which is respectfully requested, viz, an examination of the wounded man, a certificate of the physician, Dr. Binswanger, of Portland, and a letter from Veazie & Veazie, attorneys at law in Portland. As your excellency will kindly see from those papers the undeserved injury incapacitated Dick from work for quite a while. No indemnity can be obtained through a civil action from the offender, who is without means and, on the other hand, it seems that under the law of the State of Oregon neither the city of Salem nor the State can be made accountable for the damage sustained.

Under the circumstances my Government has instructed me to leave it to your excellency's kindly consideration whether the Federal

¹ Not printed.

Government might not take steps toward granting, on the ground of equity, a suitable indemnity to Dick, whose ability to earn a livelihood is seriously impaired. Pursuant to my instructions, I venture to remark that the practice in international law is that a State is liable for injuries illegally inflicted upon a subject of another State by an employee in the discharge of his official duties in so far as that other States guarantee reciprocity. The Royal Bavarian Government stands ready to pledge itself to extend to the United States such reciprocity in cases offering the same presumptions as that of Dick.

Thanking your excellency in advance for such action as you may be pleased to take toward meeting the proposition hereinbefore presented, and looking forward to a favorable answer,

I avail, etc.,

STERNBERG.

File No. 7848/2.

The Acting Secretary of State to the German Ambassador.

No. 622.]

DEPARTMENT OF STATE,
Washington, September 26, 1907.

EXCELLENCY: I have the honor to acknowledge the receipt of your note, No. 3121, of July 25 last, bringing to the department's notice the circumstances attending the shooting of Frank Xavier Dick, a German subject, by a policeman at Salem, Oreg., in November, 1906, and submitting the question whether, under the conditions represented in your note, this Government might not take steps toward granting, on the ground of equity, an indemnity to Mr. Dick.

In reply I have the honor to state that immediately upon receipt of your note a copy thereof and translations of its inclosures were transmitted by the department to the governor of Oregon, with a request for a report on the case. The department is now in receipt of an answering communication from the governor of Oregon, together with a report from the prosecuting attorney who conducted the case against the police officer concerned.

Inclosing herewith copies of those papers, I have the honor to say that in view of the facts as stated the department does not consider that the circumstances of the case would justify the payment of an indemnity as an act of grace. The police officer attempting to make the arrest was acquitted after a careful trial, in which it was developed that the evidence did not sustain the charge that a crime had been committed. Moreover, the claimant has his remedy in damages against the police officer, in case he can show that an unjustifiable assault was committed. His allegation that Busick, the police officer, is not financially responsible does not seem to establish an equitable or a legal liability upon the part of this Government.

Regretting that a more favorable response can not be made to the representations submitted, on the part of the Royal Bavarian Government, by your excellency, I have the honor to return, as requested, the papers which were inclosed in your note.

Accept, etc.,

ROBERT BACON.

[Inclosure.]

*The Governor of Oregon to the Acting Secretary of State.*EXECUTIVE DEPARTMENT,
Salem, August 30, 1907.

SIR: Referring to your favor of the 15th instant, inclosing translation of a note and inclosures from the German ambassador bearing upon the shooting of one Frank Xavier Dick, a German subject, by a policeman of Salem, in November, 1906, permit me to say I submitted your letter, together with the inclosures, to the district attorney of the county in which the shooting occurred and who was instrumental in bringing proceedings in the magistrate's court for the purpose of investigating the matter, requesting information from him as to the facts which developed. I am just in receipt of a letter from him, a copy of which I inclose you herewith.

I have the honor to remain, yours, very respectfully,

GEO. E. CHAMBERLAIN.

[Subinclosure.]

*The district attorney to the Governor of Oregon.*OFFICE OF DISTRICT ATTORNEY,
THIRD JUDICIAL DISTRICT,
*Salem, Oreg., August 29, 1907.*HON. GEO. E. CHAMBERLAIN,
Salem, Oreg.

DEAR SIR: Your letter of August the 27th instant, addressed to John H. McNary, regarding the circumstances attending the shooting of Frank Xavier Dick by a policeman of this place during the month of November, 1906, referred to me to answer, as I am more familiar with the subject about which you inquire.

The history of the case was published by the newspapers about the time of the unfortunate occurrence, and with which I assume you are familiar. From a judicial investigation had before the justice of the peace, Daniel Webster, of Salem, Oreg., and from what I know of a personal investigation on behalf of the district attorney's office of the third judicial district, I have to say: That immediately after the shooting hereafter set forth Night Policeman Busick surrendered himself to the custody of Sheriff Culver, of this county. The sheriff made no formal complaint against the officer. Immediately upon Busick's surrender he took the matter up with this office, and it was decided that it was best to wait developments a few days for the purpose of ascertaining the probable results of the injury to Dick. As soon as the attending physicians announced that Dick would likely recover, I suggested to Sheriff Culver that he register a formal complaint against Busick charging him with assault with intent to kill.

In the interim between the shooting and the trial I procured two statements from Dick while at the hospital, also through the kindness of Veazie & Veazie, attorneys at law, Portland, Oreg., another statement from Dick was furnished me. At the earliest date that Dick was able safely to leave the hospital, the trial of Busick took place. The defendant was represented by John A. Carson, a capable attorney of this place, while I represented the State of Oregon as deputy district attorney. A number of witnesses were examined by the court upon the hearing of the case, among them being Dick. The testimony clearly showed that Dick was shot from the rear by Officer Busick, at an early hour in the morning, while it was quite dark. As I recall the testimony, the bullet penetrated Dick somewhere in the back and perforated and buried itself in his bowels. It developed that Dick had no money on his person, but was riding in hobo fashion through the State and had alighted from the train upon its arrival at the depot here, when Officer Busick spied him and thought him a convict for whom he was looking, and commanded him to halt, when Dick started to run. Busick testified that he did not shoot with any intention to hit Dick, but only to scare him so that he would stop. He said he aimed his

pistol down on the ground some distance in the rear of Dick, and if Dick was struck with the ball it was due to the fact that the ball struck some hard substance and glanced. There was no other testimony directly upon this point.

The court, after hearing the evidence, which was extremely meager upon the vital question as to whether the officer had committed a felony, discharged Busick upon the ground that there was not sufficient testimony to show that Busick intended to commit a crime. It was shown that immediately after the shooting Busick sought medical aid for Dick and, I believe, paid his expenses while at the hospital.

It developed at the trial that Busick was a man of family and bore a good reputation, and voluntarily resigned from the police force after the act, and seemed to regret the same exceedingly.

If you desire the statements of Dick I would be pleased to furnish you with a copy of the same upon request. The above record is about a synopsis of my personal knowledge of the matter, and I trust answers the purpose of your inquiry.

Very respectfully, yours,

C. L. McNARY.

File No. 7848/4.

The German Ambassador to the Secretary of State.

No. 5232/07.]

IMPERIAL GERMAN EMBASSY,
Washington, November 23, 1907.

MR. SECRETARY OF STATE: Referring to your excellency's kind note of the 26th of September last, No. 622, I have, by direction of my Government, the honor to take up again the case of the shooting of Xavier Dick at Salem, Oreg.

It appears from the statement of the district attorney of Salem, communicated to me at the time and by me brought to the knowledge of the chancellor of the Empire, that the severe injuries by which Xavier Dick's ability to earn a livelihood was materially impaired were inflicted without any fault of his.

On the other hand, the responsibility of the assailant, Policeman Busick, for the consequences of his act is not removed by the fact that he supposedly acted under a misapprehension and that the ensuing injury was unintentional, even though he could not be punished under the law in force in the State of Oregon. It is, however, a matter of public knowledge that the police officer has no means, so that there can be no question of the claimant obtaining an indemnity from him. If, under the circumstances, the authorities concerned will again take the matter into favorable consideration, they can not fail to recognize that the granting of an indemnity to the injured man by the State of Oregon or the city of Salem, in whose service the police officer was and whose interests he thought he was serving by undertaking to arrest Dick, would seem equitable. In case the injured man should, as appears to be likely from the report of Dr. Binswanger, dated in Portland, March 27 last, has either entirely recovered in the meanwhile or substantially regained his ability to earn a livelihood, the amount of the indemnity could be kept within moderate limits.

I should be particularly obliged to your excellency if you would address the governor of the State of Oregon in that sense.

Looking forward to an obliging answer, I avail, etc.,

STERNBERG.

File No. 7848/4.

The Acting Secretary of State to the German Ambassador.

No. 663.]

DEPARTMENT OF STATE,
Washington, December 6, 1907.

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 5232, of the 23d ultimo, in which you urge, with reference to the shooting of Mr. Frank Xavier Dick, a German subject, by a policeman of Salem, Oreg., in November, 1906, that the State of Oregon or the city of Salem should, in equity, grant an indemnity to Mr. Dick.

In response I have the honor to say that your excellency's representations in this regard have been suitably referred, as requested, to the governor of Oregon.

Accept, etc.,

ROBERT BACON.

File No. 7848/8.

The Acting Secretary of State to the German Ambassador.

No. 734.]

DEPARTMENT OF STATE,
Washington, February 28, 1908.

EXCELLENCY: I duly communicated to the governor of Oregon the representations made in your note No. 5232 of the 23d of November last regarding the case of Mr. Frank Xavier Dick, a German subject, who was shot by a policeman at Salem, Oreg., in November, 1906.

I am now in receipt of Gov. Chamberlain's reply advising the department that the matter was submitted by him in December last to the authorities of the city of Salem, and transmitting, in that connection, a copy of a letter of the 10th instant from the mayor of Salem. From this it appears that Mr. Dick's case, together with all the correspondence relating thereto, was presented to the city council of Salem and carefully considered. The conclusion of the city council is that notwithstanding that the city of Salem is in no way liable for any damages, yet as a matter of equity it was decided to tender the sum of \$100 as a full discharge of all claims Mr. Dick may feel that he has on account of the occurrence under consideration.

In making this decision known to you, in accordance with the wish of the governor of Oregon and the request of the mayor of Salem, I have the honor to add that I shall be pleased to transmit to Gov. Chamberlain your excellency's reply in due course.

Accept, etc.,

ROBERT BACON.

*Memorandum from the German Embassy.*GERMAN EMBASSY,
Washington, April 10, 1908.

By a note of the Department of State, dated February 26, No. 704, this embassy was informed that the city council of Salem, Oreg., had decided to tender to Franz Xavier Dick the sum of \$100 as a full discharge of all claims. According to a report of the German consul

at Seattle, this sum has not yet been handed over to Mr. Dick. It appears further from this report that the sum of \$100 would cover only partially the losses sustained by Mr. Dick in consequence of the wound he received.

No gratuitous treatment was given to the wounded man in the city hospital and he was obliged to pay the sum of \$105 for the treatment alone. Added to this amount his living expenses during the time of his illness amount to about \$200, and these have been in part advanced to him by the German consul.

Mr. Dick is still suffering from his wound and will probably remain partially disabled all his life. For this reason also he was refused admittance as a member of the bricklayers' union, who would not consider him as fully able to exercise this trade.

It would seem only fair if the city of Salem would refund also to Mr. Dick the expenses incurred as explained above to the amount of \$200 outside the sum allotted to him as an indemnity for the wound inflicted by an official of the city.

Memorandum to the German Embassy.

DEPARTMENT OF STATE,
Washington, April 28, 1908.

The Department of State presents its compliments to the German Embassy and has the honor to state, with further reference to the case of Mr. Frank Xavier Dick, that a copy of the embassy's memorandum of the 10th instant has been sent to the governor of Oregon for appropriate direction and consideration.

File No. 7848/10.

The Acting Secretary of State to the German Ambassador.

No. 750.]

DEPARTMENT OF STATE,
Washington, May 16, 1908.

EXCELLENCY: Referring to previous correspondence concerning the case of Mr. Frank Xavier Dick, I have the honor to state that the department is advised by the governor of the State of Oregon that he has been informed by the mayor of the city of Salem, Oreg., that they have paid Mr. Dick \$100 and have taken his receipt in full for all demands.

Accept, etc.,

ROBERT BACON.

MARRIAGE OF AMERICAN CITIZENS IN GERMANY OR ON GERMAN TERRITORY.

(For previous correspondence see Foreign Relations, 1907, pp. 519 et seq.)

Ambassador Tower to the Secretary of State.

No. 1288.]

AMERICAN EMBASSY,
Berlin, January 24, 1908.

SIR: In accordance with the instructions contained in Mr. Bacon's dispatch (No. 731) of the 23d of October, 1907,¹ in regard to mar-

¹ See Foreign Relations, 1907, p. 525.

riages between American citizens in Germany or on German territory, I addressed a note to the imperial German ministry for foreign affairs, in which I made mention of the serious difficulty which invariably presents itself in cases where American citizens, temporarily residing in Germany, wish to be married, in connection with the certificate required by the German law to be exhibited by all aliens, which must set forth that no impediment exists to such marriage under the laws of the country to which such aliens belong, and this certificate must be attested by a diplomatic or consular officer of the German Empire.

I informed the ministry for foreign affairs that, in so far as it is known at the Department of State in Washington, there is at the present time no law, either of the Federal Government or of the government of any of the federated States, which authorizes any magistrate or other officer to issue such a certificate as that required by the German law; and that, therefore, great embarrassment is caused to the parties concerned whenever such American citizens temporarily residing in Germany wish to enter into the contract of marriage.

I informed the ministry for foreign affairs also that I had been instructed by you to bring informally to the attention of the Imperial German Government the difficulties arising in the way of American citizens who may be residing temporarily in Germany in meeting the requirements of the present German law in regard to the certificate named. I asked the secretary of state for foreign affairs to allow me to bring this subject to his attention to the end that an expression of the views of the Imperial Government might be obtained, and that, if practicable, an arrangement might be made which would afford a satisfactory solution of the difficulties now existing.

I have received in reply to my note a note from Herr von Schoen, imperial secretary of state for foreign affairs, under date of the 18th of January, 1908, a copy and translation into English of which are herewith inclosed. The secretary of state, after acknowledging the receipt of my note, in which I brought this subject to his attention, declares that the certificate required by the German authorities in cases where foreigners wish to be married in Germany, to show that no impediment exists in their own country to the legal marriage of such foreigners, has been provided for by statute in Germany in order to protect, in so far as it may be possible, the validity of the marriage contract; and that the German Legislature did not consider that the mere certificate of a diplomatic or consular officer would be sufficient proof that no impediment exists in their own country to the marriage of foreigners who desire to enter into the marriage contract in Germany, but it decided that such a certificate could be given only upon the authority of officials duly empowered by law to issue such certificates in the country of the origin of such foreigners.

The German Government is cognizant of the difficulties which attend the marriage in Germany of American citizens who may be temporarily residing within the Empire; but the secretary of state for foreign affairs suggests as a remedy for this that such difficulties could be avoided by the appointment in the United States, as has been done in most other countries, of officials duly authorized to issue such certificates.

This would appear to mean that the final decision of the German Government is that whilst foreigners are not obliged to come to Germany to be married, yet if they do come here and do wish to be married here they must be prepared to comply with the provisions of the German law.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure.—Translation.]

The Minister for Foreign Affairs to Ambassador Tower.

THE FOREIGN OFFICE,
Berlin, January 18, 1908.

In reply to the note of the 14th of December, 1907 (F. O. No. 1207), the undersigned has the honor to inform his excellency the Hon. Charlemagne Tower, ambassador extraordinary and plenipotentiary of the United States of America, as follows:

The statute now in force in Prussia and in most of the other Federated States of Germany, which requires that foreigners who wish to be married in Germany shall exhibit a certificate, issued by the authorities of their native country, setting forth that no impediment to such marriage is known to exist, is intended to prevent, as far as possible, illegal marriages of aliens in Germany, and, therefore, serves also the interests of the country to which the contracting parties belong. It seemed proper to require a certificate from the home authorities, because the material conditions for the marriage of an alien are made, under the provisions of article 13, paragraph 1, of the law of introduction to the civil code, in accordance with the laws of his own country. The certificate must be issued by one of the home authorities of his own country. Certificates issued by consular or diplomatic representatives are, under the law, inadmissible.

Aliens who are not able to obtain the required certificate may be dispensed in certain cases from the regulaton. This dispensation, which is granted in Prussia by the minister of justice, is not generally granted, however, forthwith, but only after special inquiries have been made into each case.

It is evident that so long as there is no official in the United States of America who has authority to issue certificates setting forth the absence of any hindrance to marriages American citizens wishing to be married in Germany will be likely to meet with difficulties. But these difficulties could be avoided by the appointment in the United States, as has been done in most other countries, of officials duly authorized to issue such certificates.

The undersigned avails himself, etc.,

SHOEN.

File No. 6878/8-10.

The Acting Secretary of State to Ambassador Hill.¹

No. 15.]

DEPARTMENT OF STATE,
Washington, July 24, 1908.

SIR: I have to inclose herewith, for the information of the embassy, a copy of a dispatch, dated February 5, 1908, from the consul at Tsingtau, China, wherein he requests instructions in regard to the authority of consular officers to issue certain certificates required by the regulations of the colony at Kiaochow to persons who desire to be married; also a copy of the department's reply dated July 24, 1908, to which is attached a memorandum prepared by the law officer of the department.

I am, etc.,

ALVEY A. ADEE.

¹ Same mutatis mutandis to China, No. 490.

[Inclosure 1.]

Consul Gracey to the Assistant Secretary of State.

No. 43.]

AMERICAN CONSULATE,
Tsingtau, February 5, 1908.

SIR: I have the honor to communicate to the department certain further particulars regarding the possibility of marriage of Americans within the German colony of Kiaochow.

On April 24, 1907, I addressed my dispatch No. 10 to the department, relative to this subject, and have received reply of July 29, 1907, dispatch No. 22, in which you inform me that the question of marriage of Americans in German territory is still in the same unsatisfactory state.

I have noted the fact that "The department understands that the German local authorities frequently accept an opinion from an American lawyer to the effect that the laws of the State or States of the Union in which the Americans who wish to contract a marriage in Germany reside interpose no obstacle to the marriage, such opinion being supplemented by a certificate of a German consular officer as to the professional standing and competency of the attorney rendering the opinion," and have addressed a dispatch to the colonial officials asking if such a certificate as above outlined would be considered sufficient if accompanying the opinion of an American attorney.

I am now in receipt of the reply, as per inclosure No. 1, from which it would appear that Americans might be married in Tsingtau if they have resided in the colony for the previous six months, on the following conditions:

First. By presenting an opinion from an American lawyer to the effect that the laws of the State or States of the Union to which the Americans belong interpose no obstacle, such opinion being supported by the certificate of a German consular officer.

Second. By proving their birth, either by birth certificates, military papers, certificates of residence, citizenship papers, witnesses, or sworn statements.

Third. By proving that, if they are of age, the consent of parents or other persons is unnecessary, which fact could probably be proved by inclusion of a statement to that effect in the certified opinion of the American attorney or by a certificate from the American consul at Tsingtau to that effect.

The important question here is, however, whether Americans resident in Shangtung Province, at places remote from the American consulate general at Chefoo, which has jurisdiction over them, can, by coming to Tsingtau, be married in accordance with the law of the German colony.

The last paragraph of the dispatch from the colonial governor (referring to copy of the law, par. 5) says: "If for six months previous to the intended marriage the parties have lived outside the colony, a paper from the authorities of the place where they have lived is needed which shows that there are, so far as known, no impediments to the proposed marriage in the place of previous residence." As the United States has extraterritorial rights in China, it would appear that such a certificate should not be obtained from the Chinese authorities, but from the American official who has jurisdiction over the parties; in other words, the American consul.

There appear to be two important questions, therefore:

First. Is the consul at Tsingtau authorized to issue a certificate stating that "according to the terms of the American laws the consent of parents, or other persons, is not necessary to a marriage of persons 21 years of age"?

Second. Is an American consul in China authorized to issue a certificate stating that, "so far as known, there are no impediments to the proposed marriage in the place of previous residence in his district"?

This office has already had inquiries from two parties resident in Shangtung Province of China relative to the possibility of marriage on German territory, and owing to the ease with which this city can be reached by rail, and the difficulty of getting to Chefoo, it seems probable that other cases may occur, especially as it is recognized that a marriage performed on German territory and legal there will be considered legal everywhere, and the legality of a marriage performed in China has never been clearly proven.

It seems important, therefore, to have an opinion from the department as to the possibility of issuing such certificates as herein mentioned, in order that this office may be in a position to advise Americans who may make application to it.

I have, etc.,

WILBUR T. GRACEY.

[Subinclosure.—Translation.]

Governor of the German Colony of Kiaochow to Consul Gracey.

TSINGTAU, January 28, 1908.

I have the honor to reply as follows to your letter No. 365, of the 21st instant: According to paragraph 7 of the law of the German colony regarding marriage, the law of May 4, 1870, is applicable. A copy of paragraph 7 of the colonial law and of paragraphs 3 to 9 of the law of May 4, 1870, which relate to this matter, is inclosed.

According to these regulations (par 3), the engaged couple has to prove to the registrar that they are entitled to marry according to the laws of their country. Proof of this fact can be made in any way which the registrar deems good; therefore, probably also by a certificate from an American lawyer.

Furthermore, however, the parties have to present, in authenticated form, a record of their birth and the consent of the persons whose consent is necessary according to the laws of their country. These documents can not be replaced by the opinion of an attorney. It is permissible, however, for the registrar to forego the presentation of these papers if the facts they would represent are otherwise proved to his satisfaction. This proof might be rendered by such documents as certificates of birth, military papers, certificates of residence, citizenship papers, witnesses, sworn statements, etc.

Finally, if for six months previous to the intended marriage the parties have lived outside the colony, a paper from the authorities of the place where they have lived is needed, which shows that there are no obstacles to a marriage in the place of their last residence. This can not be replaced by the opinion of an attorney.

BEHRING.

(For the Governor.)

[Inclosure 2.]

The Secretary of State to Consul Gracey.

DEPARTMENT OF STATE,

Washington, July 24, 1908.

SIR: I have to acknowledge the receipt of your No. 43, of February 5, 1908, inclosing a copy of a letter from the governor of the German colony of Kiaochow, setting forth the conditions under which Americans may be married in that colony. You request instructions in regard to the authority of certain American consular officers to issue the certificates required by the regulations of the colony of Kiaochow to persons who desire to be married.

As will be observed in the attached memorandum of the law officer of the department, the department answers your first question in the negative and your second question in the affirmative, this second answer being applicable, however, only in the case of a consul exercising extraterritorial jurisdiction. The department desires to emphasize the limitation upon the validity of the proposed certification by an American consul in China set forth in the passage of the solicitor's memorandum, which reads, "so far as is known, there are no impediments to the proposed marriage in the place of previous residence in his district."

I am, etc.,

W. J. CARR, *Chief Clerk.*
(For the Secretary of State.)

[Subinclosure.]

Marriage of American citizens in Germany.

[Memorandum.]

SOLICITOR'S OFFICE, DEPARTMENT OF STATE,

Washington, May 7, 1908.

In his No. 43, of February 5, 1908, Consul Gracey Tsingtau, continuing previous correspondence upon the subject of the marriage of American citizens in the German colony of Kiaochow, China, forwards a copy of a communication from the governor of the colony, setting forth the law regarding the marriage of

foreigners therein. It appears therefrom that Americans may be married in this colony, provided they have resided there for the previous six months, upon these conditions:

First. By presenting an opinion from an American lawyer to the effect that the laws of the State or States of Union to which they belong interpose no obstacle to the marriage, such opinion being supported by a certificate of the German consul as to the legal standing of the one giving it.

Second. By proving their birth, either by birth certificate, military papers, certificate of residence, citizenship papers, witnesses, or sworn statements.

Third. By proving that, if they are of age, the consent of parents or other persons is unnecessary, which fact, says the consul, could probably be proved by the inclusion of a statement to that effect in the certified opinion of the American attorney, or by a certificate from the American consul.

With relation, however, to Americans residing outside the colony, it appears to be necessary for them to submit a statement from the authorities of the place of their residence showing that there is, so far as known, no impediment to the marriage.

The consul says that he has had several inquiries from Americans residing in China, outside the colony, relative to their possible marriage therein, and in the cases of such persons, because of the extraterritorial rights of the United States in China, he considers that the authorities of the place of residence mentioned in the colony law are properly the American consuls.

In view of the foregoing the consul asks two questions, namely, Is the consul at Tsingtau authorized to issue a certificate stating that "According to the terms of the American laws, the consent of parents or other persons is not necessary to the marriage of persons 21 years of age?" Second, Is an American consul in China authorized to issue a certificate stating that "So far as is known there are no impediments to the proposed marriage in the place of previous residence in his district?"

On February 8, 1887, the department issued an order intended to put an end to a practice in vogue at some of our consulates, of certifying as to the marriage laws of particular jurisdictions in the United States. This order was incorporated as section 390 into the Consular Regulations of 1888, and, somewhat amplified, forms section 422 of the Consular Regulations of 1896, which reads as follows:

"Consular officers are not competent to certify, officially, as to the status and ability to marry of persons domiciled in the United States and proposing to marry abroad, nor as to the laws of the United States, or of the States or Territories, touching capacity for marriages or the solemnization thereof. The power to make a certificate as the legal requisites in the United States for a valid marriage abroad is not conferred on consular officers by the laws of the United States, nor by international law, and they have no official powers which are not derived from one of these two sources. Whatever private knowledge a consular officer may have respecting the laws of marriage, he is not authorized to certify the same officially."

This regulation which has continued to represent the attitude of the department on the matter in question would seem to render it necessary to answer "No" to the first of the consul's inquiries.

As to the second inquiry, some interesting questions arise. It is believed that the certificate here called for, since it is in addition to the statement already covered in regard to the "consent of the persons whose consent is necessary according to the laws of their country," merely refers to possible impediments arising out of matters of law and fact within the extraterritorial jurisdiction of the consul making certificates. That is, the matters of law which are to be covered by this certification are simply the questions of American extraterritorial law which the consul administers, not the law of the States of the United States in which the parties in question may, perhaps, have their domicile. (But see Judge Wilfey's recent decision in the matter of Young John Allen, holding that it is possible for an American to acquire legal domicile in China.)

Under these circumstances it is believed that such a certificate as is here suggested is not within the prohibition which the department has so often made against consuls certifying to the laws of the various States and Territories, or even of the United States. The certificate here called for covers only matters of fact, so far as known to the consul, and the law of his district which he administers, and it would seem that a consul exercising extraterritorial jurisdiction should be permitted and instructed to give this certificate in a proper case.

EXPULSION OF MORMON MISSIONARIES FROM GERMANY.

File No. 15971/1.

Ambassador Hill to the Secretary of State.

[Extracts.]

No. 80.]

AMERICAN EMBASSY,
Berlin, September 22, 1908.

SIR: I have the honor to lay before the department the inclosed correspondence, consisting of (1) letter from the consul at Breslau, August 29, 1908; (2) the embassy's reply, September 7, 1908; (3) letter from the consul at Breslau, September 19, 1908, with inclosure from Serge F. Ballif, September 16, 1908; (4) the embassy's reply, September 22, 1908, for the purpose of informing the department of the case.

It will be noted that it is alleged by the Mormon missionaries that polygamy is not preached at present by the Mormon Church, and that it is even prohibited by it. We know, of course, that polygamy is prohibited by law in the United States. It may be that a gross injustice is done these missionaries in expelling them from German territory, but I should be in a far better position to allege it if I had official authority for saying not merely that the practice of polygamy is contrary to the laws of the United States, which is a matter of local jurisdiction, but that the doctrines and teachings of the Mormon Church are entirely free from objection on this ground.

I therefore submit the correspondence to the department and request to be instructed whether or not I should offer any remonstrance against the expulsion of Messrs. Taylor and Rich; and if so, what statement I should make to give weight to this remonstrance.

I have, etc.,

DAVID J. HILL.

[Inclosure 1.]

*Consul Spahr to Ambassador Hill.*AMERICAN CONSULATE,
Breslau, August 29, 1908.

SIR: I have the honor to inform you that on August 14, 1908, two American citizens, Adelbert A. Taylor, bearer of passport No. 31492, issued by the Department of State May 4, 1907, and Henry A. Rich, bearer of passport No. 47995, issued by the Department of State March 21, 1908, called at this consulate and stated that while visiting Breslau they spoke (on August 12) at a public meeting in the interest of the Church of Jesus Christ of Latter-Day Saints and were arrested and imprisoned overnight in the police jail, and then expelled from Prussia with three days' notice.

Thereupon I wrote to the police president, courteously asking the reasons for the arrest and banishment of these men, and requesting that the period allowed them be extended until the matter could be inquired into. The answer, dated August 22, 1908, was as follows:

"Replying to the esteemed communication of the 15th instant, in regard to the expulsion of the Mormon missionaries, Rich and Taylor, I have the honor to inform you that I am not in a position to accede to your request to be informed upon what grounds the aforementioned have been expelled. Nor can the desired extension of time be granted to these missionaries.

"FROST."

Shortly afterwards I received a letter from the president of the Swiss and German mission of the aforesaid church (copy inclosed), entering a formal complaint and asking the intervention of the consul.

I have the honor to submit the matter to the embassy, respectfully requesting instructions as to further procedure.

I have, etc.,

HERMAN L. SPAHR.

[Subinclosure 1.]

Mr. Ballif to Consul Spahr.

ZURICH, August 26, 1908.

HONORABLE SIR: You are no doubt aware that the Church of Jesus Christ of Latter Day Saints, the so-called Mormons, have missionaries in all parts of the world. They are recognized and established in all States of the Union, in England, Holland, Belgium, France, Switzerland, and in the northern countries as well as in the Orient. In most of these lands we are permitted unmolested to announce our doctrines with, we may say at present, comparatively little opposition. Not without a very hard struggle have we gained this recognition. We are now busily engaged in announcing these same principles or doctrines in Germany. Our missionaries are all provided with American passports, and we have been successful in establishing organizations in most of the Provinces of Germany.

We recognize the right of any Government to banish undesirable citizens; still, it must be for just causes; but we do not admit that they can take an innocent man from an open public meeting, which he may be visiting, and without cause or provocation or hearing place him in a damp cell, hold him 24 hours, and without a word of defense being granted, place him in line with murderers and all sorts of criminals and then, without a word of explanation, banish him from this country and Province. This was the case with Messrs. Adelbert Taylor and A. H. Rich, on August 12, 1908, in Breslau. You were called upon and notified of the true conditions.

Now, as citizens of the United States we ask for protection and exoneration.

In Frankfort on the Main the same thing happened; we made the matter known to the American consul, and the petty officer was reprimanded and our missionaries were taken back and given freedom to announce their work in Frankfort. In Switzerland recently our case was taken before the supreme court of the Republic, and we were given perfect religious freedom and speech in Switzerland, all of which was brought about by our consul at Berne.

We kindly ask that you take this case of Taylor and Rich up at once, and that we have justice meted out to us as United States citizens.

Thanking you in advance for your attention, I remain, etc.,

SERGE F. BALLIF,

President of Swiss and German Mission.

[Inclosure 2.]

Mr. Grew to Consul Spahr.

AMERICAN EMBASSY,
Berlin, September 7, 1908.

SIR: In reply to your letter of the 29th ultimo in regard to the arrest and expulsion of Adelbert A. Taylor and Henry A. Rich for speaking at a public meeting in the interest of the Mormon Church, the embassy has to inform you that in a previous analogous case the German Government took action against certain Mormon preachers on the ground that their religion did not exclude the practice of polygamy. The embassy is not, therefore, disposed to take active measures in this case unless you consider it to possess unusual features, in which event the embassy will submit the facts to the department.

I am, sir, etc.,

JOSEPH C. GREW,
Second Secretary of Embassy.

[Inclosure 3.]

*Consul Spahr to Ambassador Hill.*AMERICAN CONSULATE,
Breslau, September 19, 1908.

SIR: Referring to my letter of August 29 and the embassy's reply of September 7, in the matter of the arrest and expulsion of Messrs. Taylor and Rich, I now have the honor to transmit extracts from a second communication from the president of the Swiss and German mission of the Mormon Church, Mr. Ballif, in which earnest request is made for action by the embassy.

Mr. Ballif states positively that "polygamy is not preached, is not practiced, and is positively forbidden by the teachings" of the church in whose interests Messrs. Taylor and Rich spoke at a public meeting in Breslau, and that these men were arrested, imprisoned, and expelled "without cause or hearing."

I have the honor to add that Mormon missionaries have had similar trouble here before and seem likely to have more in the future. For this reason I respectfully join in the request that steps be taken to make this a test case.

I have the honor, etc.,

HERMAN L. SPAHR.

[Subinclosure.]

*Mr. Ballif to Consul Spahr.*ZURICH, *September 16, 1908.*

HONORABLE SIR: Kindly permit me to call your attention to the following facts as recorded in Congressional Record:

In the year 1890 Wilford Woodruff, president of the Church of Jesus Christ of Latter-Day Saints, issued to the world a manifesto, which said church accepted as a binding law with them, and which prohibits, forbids, and discounts polygamists marriages. As you may know, the Edmunds law disfranchised polygamists in Utah in 1882. In 1894 the President of the United States issued "amnesty," and in 1896 Utah was admitted into the Union with a clause in the constitution absolutely prohibiting polygamy.

I wish to state positively that polygamy is not preached, is not practiced, and absolutely prohibited in our teachings. I would also like to say that we positively advise all people to remain in their own land and not to emigrate to America, or to any other land; therefore you may say beyond question that we are absolutely teaching people to remain in their own country, but to live more perfect lives.

In addition to the above-mentioned facts we have the Smoot case, which has made clear the attitude of the Mormon Church in this regard. The question of importance to us, as American citizens, is that our embassy make these facts known to the German Government, that these persecutions be brought to an end. * * *

I should like to make this a test case, and I beg of your honor to see to it that this case be brought to the notice of the highest officials in the German Government. We do not make this appeal as a church, or members of a church, but as full-fledged American citizens, born and raised under "Old Glory." Why an American citizen, regardless of faith, should be brought up and be cast into a dark, damp cell without cause or hearing is beyond all justice and law; and I demand in the name of international law and justice a fair and unbiased hearing.

In March, 1908, we met similar trouble here in Switzerland. Four men had been imprisoned unjustly in Chur, Switzerland. I appealed to our worthy Mr. Weber, of the American legation at Berne, under whose advice and direction the matter was taken up before the bundesgericht. The result was we were granted our full freedom in Switzerland, the decision of lower court was reversed, and the petty officers were reprimanded for unwise, unjust actions.

I demand that this matter be taken before the proper or higher authorities of the German Government, before reasonable men, and we will undoubtedly receive our justice.

Yours, most respectfully,

SERGE F. BALLIF,
President Swiss and German Mission.

[Inclosure 4.]

*Ambassador Hill to Consul Spahr.*AMERICAN EMBASSY,
Berlin, September 22, 1908.

SIR: I write to acknowledge the receipt of your letter of September 19, inclosing a complaint by Mr. Serge F. Ballif, president of the Swiss and German mission of the Mormon Church, who alleges the arrest, imprisonment, and expulsion of Messrs. Taylor and Rich for publicly preaching the doctrines of Mormonism in Breslau.

In view of the attitude previously taken by the Department of State on this subject, I have thought it necessary to ask for further instructions before making a complaint to the German Government.

Very truly, yours,

DAVID J. HILL.

File No. 15971/1.

The Acting Secretary of State to Ambassador Hill.

No. 49.]

DEPARTMENT OF STATE,
Washington, October 16, 1908.

SIR: I have to acknowledge the receipt of your No. 80 of the 22d ultimo submitting copies of correspondence in regard to the expulsion of two Mormon missionaries from Prussia, and requesting instructions as to whether you should remonstrate against this expulsion. You add that you do not feel authorized to act without definite instructions from the department, as you do not feel assured of the innocuous character of Mormon teaching.

In part reply I inclose copy of a note¹ recently sent to the Netherlands legation which by a coincidence deals with several of the points you raise. In the historical résumé therein given you will see that the Mormon Church professes to have discontinued the doctrine of polygamy. The department's attitude has been that if Mormon missionaries observe the civil law of marriage, as they profess to do, and preach and practice no doctrine violating law or morality, they should have the same impartial protection in their just rights as other American citizens. For your further information and guidance you are referred to the correspondence between your embassy and the department in 1898, printed in Foreign Relations for that year, pages 347 et seq., and particularly to the instruction to Mr. Doty, June 25, 1895, Foreign Relations for 1898, page 352, as well as to correspondence on the files of your embassy in 1902 and 1903 reporting the good offices used by Mr. White and Mr. Tower to avert the expulsion of Mormon missionaries.

It is, however, necessarily left to your own investigation to determine whether individual Mormon agents seeking your intervention may not themselves be teaching or secretly practicing polygamy, notwithstanding the avowed tenets of the church. If you are favorably satisfied in this particular, it is proper for you to lay the facts before the German Government in order that there may be no unjust hardship extended to the missionaries by reason of a misapprehension of the present tenets of the church.

I am, etc.,

ROBERT BACON.

¹ See under Netherlands, p. 659.

File No. 15971/2-3.

Ambassador Hill to the Secretary of State.

No. 153.]

AMERICAN EMBASSY,
Berlin, December 1, 1908.

SIR: Referring to my dispatch No. 80 of September 22, 1908, and to your reply, instruction No. 49, of October 16, 1908, I have the honor to inform you that after reading over previous correspondence on the subject of the status of Mormon missionaries in Germany, as indicated in communications from the German foreign office, and apparently assented to in the instructions of the Department of State, I have deemed it expedient to address to the imperial German Government the signed memorandum of which a copy is herewith inclosed.

It will be noted that after stating that Messrs. Taylor and Rich have been arrested, imprisoned, and expelled from Germany, I inquire whether this was owing to the fact that they were Mormon missionaries or to some other circumstance, and also that I direct the attention of the imperial German Government to the fact that the Mormon Church not only professes to have discontinued the practice and teaching of polygamy but that polygamy is contrary to the laws of the United States of America; and, further, that since the name "Mormon" can not properly be understood to imply any immoral practice, our Government desires that this name should give rise to no misunderstanding, and that in this connection it would be a satisfaction to me to be able to report to my Government that American citizens are not expelled from Germany on account of their adherence to particular forms of religion without moral grounds of objection.

The answer to this communication will be sent to the department as soon as it is received, and in the meantime I trust that the step I have taken will receive your approval.

I have, etc.,

DAVID J. HILL.

[Inclosure.]

Ambassador Hill to the Foreign Office.

[Memorandum.]

AMERICAN EMBASSY,
Berlin, November 30, 1908.

The undersigned American ambassador has the honor to state to the imperial German acting secretary of state for foreign affairs that he has been informed of the arrest and imprisonment on August 14, 1908, at Breslau, and subsequent expulsion from Germany, of Adelbert A. Taylor and Henry A. Rich, American citizens and bearers of American passports. These persons, it is understood, are Mormon missionaries, but it is not known whether this fact alone or some other circumstance was the ground of their arrest, imprisonment, and expulsion.

It is perhaps proper that the attention of the imperial German Government should be called to the fact that the Mormon Church not only professes to have discontinued the practice and teaching of polygamy, but that polygamy is contrary to the laws of the United States of America. By a manifesto issued October 9, 1890, the Mormon Church, or Church of the Latter-Day Saints, declared the purpose of that church no longer to sanction the practice of polygamous marriage.

Since the name Mormon can not be properly understood to imply any immoral practice, it becomes the duty of the American Government to cause this fact to be made known in foreign countries and to use all proper means to protect those of its citizens who bear this name from misunderstanding on account of it. It would, therefore, be a great satisfaction to the American ambassador if he were able to report to his Government that American citizens are not expelled from Germany on account of their adherence to particular forms of religion without moral grounds of objection, and that expulsion is resorted to only on definite grounds of objectionable conduct or doctrine.

The undersigned avails, etc.

DAVID J. HILL.

MILITARY-SERVICE CASE OF JOSEPH MAYER.

File No. 9254.

The Acting Secretary of State to Ambassador Tower.

No. 725.]

DEPARTMENT OF STATE,
Washington, October 14, 1907.

SIR: I inclose, for such action as may on proper inquiry be appropriate, copies of correspondence with Mr. Joseph Mayer, of Euphrata, Wash., regarding his German military case, so called.

Mr. Mayer desires to obtain, if possible, the remission of the fine which, he states, has been imposed on him by the German military authorities.

I am, etc.,

ALVEY A. ADEE.

File No. 9254/4.

Ambassador Tower to the Secretary of State.

No. 1289.]

AMERICAN EMBASSY,
Berlin, January 30, 1908.

SIR: I have the honor to acknowledge the receipt of your dispatch No. 763 of the 11th of January, 1908,¹ in which you inclosed to me a copy of a letter from Mr. Joseph Mayer, dated Ephrata, Douglas County, Wash., the 31st of December, 1907, inquiring as to the status of his military case, so called.

I have the honor to report that in accordance with the instructions contained in Mr. Adee's dispatch No. 725 of the 14th of October, 1907, a note was addressed to the imperial German ministry for foreign affairs on the 1st of November, 1907, submitting the case of Mr. Mayer, and requesting that his American citizenship be recognized, his name stricken from the German military lists, any fine that may be outstanding against him for alleged evasion of military service in Germany dismissed, and that he be permitted to visit his former home, as he desires. No reply to this note has yet been received by me, the time required by the German Government for the investigation and decision of military cases being, on an average, four months. I shall not fail to communicate to you the decision of the German Government in this matter as soon as it is received by me.

I have, etc.,

CHARLEMAGNE TOWER.

¹ Not printed.

File No. 9254/5-7.

Ambassador Tower to the Secretary of State.

No. 1331.]

AMERICAN EMBASSY,
Berlin, April 3, 1908.

SIR: In supplement to my dispatch No. 1289 of the 30th of January, 1908, on the subject of the military case of one Joseph Mayer, now of Ephrata, Douglas County, Wash., I have the honor to transmit to you herewith a copy and translation into English of a note from the imperial German ministry for foreign affairs, dated the 2d of April, 1908, which informs me of the decision of the Imperial Government in regard to the case.

The ministry for foreign affairs informs me that Mr. Mayer's American citizenship has been recognized, his name stricken from the German military lists, the judgment against him for alleged evasion of military service in Germany canceled, and that the royal government of Württemberg will allow him to make a visit to Württemberg not to exceed six months in duration. The duly authenticated certificate of naturalization of Joseph Mayer before the superior court of Lewis County, Wash., on the 16th day of June, 1898, is returned herewith.

I have informed the ministry for foreign affairs, at its request, of the address of Mr. Mayer, in order that he may be duly notified by the royal district court of Rawensburg of the judgment which it has issued in his favor.

I have, etc.,

CHARLAMAGNE TOWER.

[Inclosure.—Translation.]

Imperial German Ministry for Foreign Affairs to the American Embassy.

[Note verbale.]

FOREIGN OFFICE,
Berlin, April 2, 1908.

The imperial ministry for foreign affairs has the honor to inform the embassy of the United States of America, in reply to the note verbale of the 1st of November, 1907, F. O. No. 1183, that Joseph Mayer, who was born on the 17th of February, 1867, at Staierhof, Gemeinde Tiefenbach, Oberamt Reutlingen, and emigrated to America in 1884 from Stafflangen, Oberamt Biberach, is recognized as a citizen of the United States of America and his name has been stricken from the German military lists. His certificate of naturalization is returned herewith.

Mayer was condemned to a fine of 400 marks, in case of nonpayment to imprisonment for three months, for evasion of military service, by legal judgment of the penal chamber of the royal district court at Rawensburg, under date of the 19th of October, 1904. This judgment was, however, annulled in a new trial on the 29th of November, 1907, and Mayer was declared not guilty of evasion of military service; furthermore, the seizure of his property in the German Empire, enacted on the 2d of August, 1904, has been canceled.

The royal Württembergian government will permit Mayer a stay in Württemberg, limited to six months, in case he returns to Germany.

The ministry for foreign affairs begs that the embassy will communicate to it Mayer's address, in order that the matter of officially notifying Mayer of the judgment issued in his favor by the royal district court at Rawensburg may be attended to from here

File No. 9254/5-7.

*The Acting Secretary of State to Ambassador Tower.*DEPARTMENT OF STATE,
Washington, April 30, 1908.

SIR: The department has received with gratification your No. 1331 of the 3d instant reporting the favorable decision of the German Government in the military case of Mr. Joseph Mayer, a naturalized American citizen.

I am, etc.,

ROBERT BACON.

MILITARY SERVICE CASE OF CARLOS STOETZEL.

File No. 6807.

The Secretary of State to Ambassador Tower.

No. 663.]

DEPARTMENT OF STATE,
Washington, June 14, 1907.

SIR: I inclose herewith a copy of a letter dated May 29, 1907, from Mr. George Stoetzel, in which he states that his son, Carlos Stoetzel, who came to the United States when he was 4 years of age, with his father, from Mulhausen, Alsace-Lorraine, is now resident at Bale (Basel), Switzerland, where he is learning the trade of a cook, and that he has been summoned to appear for military duty in Germany.

You are instructed to present the case of Mr. Carlos Stoetzel to the German Government, and to request that he be recognized as a citizen of the United States and relieved from military obligations to the German Government.

I inclose in proof of the naturalization of Mr. Carlos Stoetzel's father, before he was 21 years of age, a certificate of naturalization issued in his father's favor October 1, 1901, by the district court of the United States of the southern district of New York, at New York City. This certificate may be returned to the department when it has served its present purpose.

I am, etc.,

E. Root.

[Inclosure.]

*Mr. Stoetzel to the Secretary of State.**NEW YORK, May 29, 1907.*

DEAR SIR: I, the undersigned, George Stoetzel, a citizen of the United States, wish your advice as to the mode of procedure I must take in the following case, viz:

I landed in this country from Mulhausen, Alsace-Lorraine, in 1891. I have a son, Carlos Stoetzel, who landed here when he was 4 years old and graduated from public school in this city. Some two years ago I sent him to Bale, Switzerland, to finish learning his trade, viz, pastry cook and confections. During his sojourn there it has been his practice to visit mine and his relatives in Mulhausen, necessitating him crossing the border. He now informs me that he has been summoned to appear before the military authorities of Germany to show cause why he should not eventually join the army, in accordance with the conscript law of that country. Now, to make him a practical member of his trade he should at least serve another year, which will make him 19 years of age.

If you will advise me or use your good offices in the matter you will confer a favor upon,

Yours, very respectfully,

GEORGE STOETZEL,
No. 222 East Fifty-first Street.

File No. 6807/8-10.

Ambassador Tower to the Secretary of State.

No. 1296.]

AMERICAN EMBASSY,
Berlin, February 6, 1908.

SIR: I have the honor to report to you that in compliance with the instructions contained in your dispatch No. 663, of the 14th of June, 1907, relating to the case of one Carlos Stoetzel, a native of Mulhausen, in Alsace-Lorraine, who came to the United States when he was 4 years of age with his father, George Stoetzel, the latter having been admitted to citizenship of the United States in the year 1901, and the said Carlos Stoetzel, claiming American citizenship through the naturalization of his father by reason of his having lived in the United States during his own minority and subsequently to his father's naturalization, I addressed a note to the imperial German ministry for foreign affairs, in which I presented this case to it and requested that, if the facts should be found to be substantially as stated, the American citizenship of Carlos Stoetzel should be recognized and his name stricken from the German military lists.

I have received from the imperial German ministry for foreign affairs a reply to my note, under date of the 4th of February, 1908, a copy of which and a translation into English are respectfully herewith inclosed, in which the ministry declares that Carlos Stoetzel was born at Mulhausen on the 24th day of March, 1889, and not 1887, as stated by him, and that he is in consequence still a minor; also that he acquired German nationality as a native of Alsace-Lorraine by inheritance, and that he still retains that nationality. The ministry adds that the father of Carlos Stoetzel emigrated to America in the year 1891 with a military passport which entitled him to go abroad, and that he had this passport extended regularly until the year 1899, but that he is still regarded here as a German subject because he has not lived abroad uninterruptedly for a period of 10 years.

This case falls within the category of those military cases which have been treated through this embassy for many years past relating to naturalized American citizens born in the Reichsland of Alsace and Lorraine, upon which I have had the honor to communicate with you somewhat frequently heretofore, notably in my dispatch No. 1121, of the 15th of March, 1907.¹ The German Government still refuses to recognize the right of a German subject, native of Alsace or Lorraine, to renounce his allegiance to Germany by acquiring citizenship in the United States, upon the ground that the Reichsland of Alsace and Lorraine is not included within the provisions of the Bancroft treaties. The ministry for foreign affairs decides, therefore, in the present case that Carlos Stoetzel can not be stricken from the German military lists in accordance with the request made in his behalf by his father, George Stoetzel, who addressed a letter to you from New York on the 29th day of May, 1907.

I inclose also herewith the certificate of naturalization of George Stoetzel before the district court of the United States, in and for

¹ See Foreign Relations, 1907, p. 512.

the southern district of New York, on the 1st of October, 1901, which accompanied your dispatch of the 14th of June, 1907.

I respectfully await your further instructions upon this subject.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure.—Translation.]

NOTE VERBALE.

FOREIGN OFFICE,
Berlin, February 4, 1908.

The imperial ministry for foreign affairs has the honor to inform the embassy of the United States of America, in reply to the notes verbales of the 6th of August, 1907, and of the 11th of September, 1907, that Carlos Stoetzel, who was born on the 24th of March, 1889 (not 1887), at Mulhausen, in Alsace-Lorraine, and is now living at Bale, acquired German nationality as a native of Alsace-Lorraine through inheritance and still retains that nationality. The father of Carlos Stoetzel, who is still a minor, emigrated in the year 1891 with a military passport entitling him to go abroad, and he has had this permission extended regularly until the year 1899; as he has not yet lived abroad uninterruptedly for 10 years since that date he is still a German subject. Carlos Stoetzel can not, therefore, be stricken from the German military lists.

The naturalization certificate of the father, George Stoetzel, is inclosed herewith.

File No. 6807/8-10.

The Acting Secretary of State to Ambassador Tower.

No. 814.]

DEPARTMENT OF STATE,
Washington, April 14, 1908.

SIR: The department has received your No. 1296 of February 6 last, inclosing a copy of a note to you from the imperial German ministry for foreign affairs, dated February 4, in reply to your note sent under the instruction of this department, No. 663, of June 14, 1907, requesting that Mr. Charles Stoetzel should be recognized as a citizens of the United States and relieved from military obligations by the German Government.

Mr. Stoetzel was born at Mulhausen, Alsace-Lorraine, and came to the United States with his father, George Stoetzel, when he was 4 years of age. His father was naturalized as a citizen of the United States by the district court of the United States at New York City, October 1, 1901. The imperial German minister for foreign affairs contends that the father is still a German subject and that his son also retains that nationality.

The contention of this Government in cases of this kind is too well known to require repetition, and you are instructed to inform the German Government that this department adheres to the position it has always taken and dissents from the view expressed by the German Government with reference to Mr. Charles Stoetzel.

I am, etc.,

ROBERT BACON.

File No. 6807/12.

Ambassador Tower to the Secretary of State.

No. 1351.]

AMERICAN EMBASSY,
Berlin, April 30, 1908.

SIR: I have the honor to acknowledge the receipt of Mr. Bacon's dispatch No. 814 of the 14th of April, 1908, in regard to the case of Mr. Charles Stoetzel, a citizen of the United States, who was born at Mulhausen, Alsace-Lorraine, and who wishes to be relieved from military obligations to the German Government.

In compliance with the instructions contained in that dispatch, I have this day addressed a note to the imperial German secretary of state for foreign affairs informing him that the United States Government adheres to the position which it has always taken in regard to the United States citizenship of German subjects born in Alsace-Lorraine and afterwards naturalized in the United States, and that the Government dissents from the view expressed by the German Government with reference to Mr. Charles Stoetzel.

I have requested in this note, also, that the case of Mr. Charles Stoetzel may be brought again to the attention of the competent German authorities and that his American citizenship may be recognized.

I have, etc.,

CHARLAMAGNE TOWER.

EXTENSION OF THE PROVISIONS OF THE NATURALIZATION TREATIES BETWEEN THE UNITED STATES AND GERMANY TO ALSACE-LORRAINE.¹

File No. 6807/8-10.

The Acting Secretary of State to Ambassador Tower.

No. 815.]

DEPARTMENT OF STATE,
Washington, April 14, 1908.

SIR: Supplementing my instruction No. 814, of even date,² dealing with the case of Charles Stoetzel, a native of Alsace-Lorraine, duly naturalized as a citizen of the United States through the naturalization of his father, George Stoetzel, while Charles Stoetzel was a minor residing in the United States, whose citizenship has been denied by the German Government, it is to be observed that this case points the argument of this Government set forth in instruction No. 615, of February 27, 1907,¹ in favor of an agreement by treaty or otherwise with Germany which will put American citizens born in Alsace-Lorraine upon the same footing as other American citizens of German origin returning to Germany for legitimate purposes.

You reported in your No. 1121 of March 15, 1907,³ that you had addressed the imperial secretary of state for foreign affairs upon the subject of such an agreement and that he had expressed an interest in the question and recalled the fact that he had suggested the possibility of a treaty upon the subject in a note which he addressed

¹ See also Foreign Relations, 1907, p. 511.² See Foreign Relations, 1907, p. 512.³ Supra, p. 375.

to you on May 22, 1906, a copy of which you inclosed to the department with your No. 972 of May 30, 1906.¹ He also promised that he would take up the subject with the chancellor of the Empire, the minister of justice, and such other authorities as must be consulted under the German procedure and hoped to give you a reply in the course of the following week.

The department has received no further advice from you on this subject and you are, therefore, instructed again to bring the matter to the attention of the German Government, at the same time urging that the questions involved be given consideration and representing the obvious benefit to the relations of both Governments which would follow the negotiation of the agreement desired.

I am, etc.,

ROBERT BACON.

File No. 6807/11.

Ambassador Tower to the Secretary of State.

No. 1350.]

AMERICAN EMBASSY,
Berlin, April 30, 1908.

SIR: I have the honor to acknowledge the receipt of Mr. Bacon's dispatch No. 815 of the 14th of April, 1908, in relation to the subject of the establishment between the Imperial German Government and the Government of the United States of an arrangement, by treaty or otherwise, under which American citizens born in Alsace-Lorraine shall be placed upon the same footing as other American citizens of German origin upon their return to Germany for legitimate purposes, which subject was reported upon by me in my dispatch to you No. 1121, dated the 15th of March, 1907.²

In compliance with the instructions contained in Mr. Bacon's present dispatch, I have addressed a note this day to the imperial German secretary of state for foreign affairs, in which I have requested that the answer of the German Government to a communication which I made upon this subject in a note dated the 15th of March, 1907,³ may be sent to me in order that I may transmit it to the Government of the United States.

I have, etc.,

CHARLEMAGNE TOWER.

¹ See Foreign Relations, 1906, p. 650.

² See Foreign Relations, 1907, p. 512.

³ See Foreign Relations, 1907, p. 513.

GREAT BRITAIN.

AGREEMENT EFFECTED BY EXCHANGE OF NOTES BETWEEN
THE UNITED STATES AND GREAT BRITAIN RELATING TO NEW-
FOUNDLAND FISHERIES, SIGNED AT LONDON, JULY 15-23, 1908.

The Minister for Foreign Affairs to Ambassador Reid.

FOREIGN OFFICE,
London, July 15, 1908.

YOUR EXCELLENCY: On the 18th ultimo your excellency proposed, on behalf of the United States Government, that, as arbitration in regard to the Newfoundland fisheries question could not be arranged before the forthcoming fishery season, the *modus vivendi* of last year should be renewed with the same elasticity as before for the parties concerned to make local arrangements satisfactory to both sides.

I have the honor to inform your excellency that the Newfoundland Government, having been consulted on the subject, have expressed the desire that the herring fishery during the ensuing season should be conducted on the same principles as in the season of 1907, and formally undertake to permit during this year the conduct of the herring fishery as last year.

As the arrangements for last year were admittedly satisfactory to all concerned in the fishing, His Majesty's Government hope that the United States Government will see their way to accept this formal assurance on the part of the Newfoundland Government as a satisfactory arrangement for the season of 1908. If this course be adopted it would seem unnecessary to enter into any further formal arrangements, seeing that the communication of this assurance to the United States Government and its acceptance by them would be tantamount to a *modus vivendi*.

I have the honor to be, with the highest consideration, your excellency's most obedient, humble servant,

LOUIS MALLET.
(For Sir Edward Grey.)

Ambassador Reid to the Minister for Foreign Affairs.

AMERICAN EMBASSY,
London, July 23, 1908.

SIR: The reply, in your letter of July 15, 1908, to my proposal of June 18, for a renewal of last year's *modus vivendi* for the approaching Newfoundland fisheries season, with the same elasticity as before for local arrangements, has been duly considered.

I am gratified to learn that the Newfoundland Government was so well satisfied with the result of these arrangements under the *modus vivendi* for last year that it offers a formal undertaking that the American fishermen shall be permitted to conduct the herring fisheries this year in the same way.

It is proper to observe that our fishermen would have preferred last year, and would prefer now, to work the fisheries with purse seines, as heretofore, as provided in the *modus vivendi* of 1906. But they yielded last year to the strong wishes of the Newfoundland Government in this matter, and joined in the arrangement under the elastic clause at the close of the *modus vivendi* of 1907 by which, with the approval of the British and American Governments, they gave up also other claims in return for certain concessions. I must reserve their right to these and to purse seines, as heretofore enjoyed, as not now abandoned, and therefore to be duly considered in the pending arbitration before the Hague Tribunal.

But with this reservation, and with the approval of my Government, I now have pleasure in accepting the offer that the herring fishery during the ensuing season shall be conducted on the same principles as in the season of 1907, and the formal undertaking against interference with this by the Newfoundland Government, as a substantial agreement on my proposal of June 18.

We unite also with you in regarding this exchange of letters as constituting in itself a satisfactory agreement for the season of 1908, without the necessity for any further formal correspondence.

I am glad to add that Mr. Alexander, of the United States Fish Commission, will be sent again this year to the treaty shore, and that my Government feels sure that, through his influence, there will be general willingness to carry out the spirit of the understanding and work on the lines of least resistance.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

WHITELAW REID.

**TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN
RELATING TO FISHERIES IN THE WATERS OF THE UNITED
STATES AND CANADA.**

Signed at Washington, April 11, 1908.

Ratification advised by the Senate, April 17, 1908.

Ratified by the President, May 11, 1908.

Ratified by Great Britain, May 12, 1908.

Ratifications exchanged at Washington, June 4, 1908.

Proclaimed, July 1, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the United Kingdom of Great Britain and Ireland, providing for the adoption of uniform and effective measures for the protection, preservation, and propagation of the food fishes in the waters contiguous to the United States and the Dominion of Canada, was concluded by

their respective Plenipotentiaries at Washington, on the eleventh day of April, one thousand nine hundred and eight, the original of which Convention is word for word as follows:

The United States of America and His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, equally recognizing the desirability of uniform and effective measures for the protection, preservation, and propagation of the food fishes in the waters contiguous to the United States and the Dominion of Canada, have resolved to conclude a Convention for these purposes, and have named as their Plenipotentiaries:

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

His Britannic Majesty, the Right Honorable James Bryce, O. M., His Majesty's Ambassador Extraordinary and Plenipotentiary at Washington;

Who, having exchanged their full powers, found in due form, have agreed to and signed the following articles:

ARTICLE I.

The times, seasons, and methods of fishing in the waters contiguous to the United States and Canada as specified in Article IV of this Convention, and the nets, engines, gear, apparatus, and appliances which may be used therein, shall be fixed and determined by uniform and common international regulations, restrictions, and provisions; and to that end the High Contracting Parties agree to appoint, within three months after this Convention is proclaimed, a Commission to be known as the International Fisheries Commission, consisting of one person named by each Government.

ARTICLE II.

It shall be the duty of this International Fisheries Commission, within six months after being named, to prepare a system of uniform and common International Regulations for the protection and preservation of the food fishes in each of the waters prescribed in Article IV of this Convention, which Regulations shall embrace close seasons, limitations as to the character, size, and manner of use of nets, engines, gear, apparatus, and other appliances; a uniform system of registry by each Government in waters where required for the more convenient regulation of commercial fishing by its own citizens or subjects within its own territorial waters or any part of such waters; an arrangement for concurrent measures for the propagation of fish; and such other provisions and measures as the Commission shall deem necessary.

ARTICLE III.

The two Governments engage to put into operation and to enforce by legislation and executive action, with as little delay as possible, the Regulations, restrictions, and provisions with appropriate penalties for all breaches thereof; and the date when they shall be put into operation shall be fixed by the concurrent proclamations of the President of the United States and the Governor-General of the Dominion of Canada in Council.

And it is further agreed that jurisdiction shall be exercised by either Government, as well over citizens or subjects of either party apprehended for violation of the Regulations in any of its own waters to which said Regulations apply, as over its own citizens or subjects found within its own jurisdiction who shall have violated said Regulations within the waters of the other party.

ARTICLE IV.

It is agreed that the waters within which the aforementioned Regulations are to be applied shall be as follows: (1) The territorial waters of Passamaquoddy Bay; (2) the St. John and St. Croix Rivers; (3) Lake Memphremagog; (4) Lake Champlain; (5) the St. Lawrence River, where the said River constitutes the International Boundary; (6) Lake Ontario; (7) the Niagara River; (8) Lake Erie; (9) the waters connecting Lake Erie and Lake Huron, including Lake St. Clair; (10) Lake Huron, excluding Georgian Bay but including North Channel; (11) St. Mary's River and Lake Superior; (12) Rainy River and Rainy Lake; (13) Lake of the Woods; (14) the Strait of San Juan de Fuca, those parts of Washington Sound, the Gulf of Georgia and Puget Sound lying between the parallels of 48° 10' and 49° 20'; (15) and such other contiguous waters as may be recommended by the International Fisheries Commission and approved by the two Governments. It is agreed on the part of Great Britain that the Canadian Government will protect by adequate regulations the food fishes frequenting the Fraser River.

The two Governments engage to have prepared as soon as practicable charts of the waters described in this Article, with the International Boundary Line indicated thereon; and to establish such additional boundary monuments, buoys, and marks as may be recommended by the Commission.

ARTICLE V.

The International Fisheries Commission shall continue in existence so long as this Convention shall be in force, and each Government shall have the power to fill, and shall fill from time to time, any vacancy which may occur in its representation on the Commission. Each Government shall pay its own Commissioner, and any joint expenses shall be paid by the two Governments in equal moieties.

ARTICLE VI.

The Regulations, restrictions, and provisions provided for in this Convention shall remain in force for a period of four years from the date of their executive promulgation, and thereafter until one year from the date when either the Government of the United States or of Great Britain shall give notice to the other of its desire for their revision; and immediately upon such notice being given the Commission shall proceed to make a revision thereof, which Revised Regulations, if adopted and promulgated by the President of the United States and the Governor-General of Canada in Council, shall remain in force for another period of four years and thereafter until one year

from the date when a further notice of revision is given as above provided in this Article. It shall, however, be in the power of the two Governments, by joint or concurrent action upon the recommendation of the Commission, to make modifications at any time in the Regulations.

ARTICLE VII.

The present Convention shall be duly ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty, and the ratifications shall be exchanged in Washington as soon as practicable.

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

Done at Washington the 11th day of April, in the year of our Lord one thousand nine hundred and eight.

ELIHU ROOT [SEAL.]
JAMES BRYCE [SEAL.]

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the fourth day of June, one thousand nine hundred and eight;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this first day of July, in the year of our Lord one thousand nine hundred and eight, and of the Independence of the United States of America, the one hundred and thirty-second.

THEODORE ROOSEVELT.

[SEAL.]

By the President:

ALVEY A. ADEE,
Acting Secretary of State.

ARBITRATION CONVENTION BETWEEN THE UNITED STATES AND GREAT BRITAIN.

Signed at Washington, April 4, 1908.
Ratification advised by the Senate, April 22, 1908.
Ratified by the President, May 11, 1908.
Ratified by Great Britain, May 4, 1908.
Ratifications exchanged at Washington, June 4, 1908.
Proclaimed, June 5, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas an Arbitration Convention between the United States of America and the United Kingdom of Great Britain and Ireland was concluded and signed by their respective Plenipotentiaries at Wash-

ington, on the fourth day of April, one thousand nine hundred and eight, the original of which Convention is word for word as follows:

The President of 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, desiring in pursuance of the principles set forth in Articles 15-19 of the Convention for the pacific settlement of international disputes, signed at The Hague July 29, 1899, to enter into negotiations for the conclusion of an Arbitration Convention, have named as their Plenipotentiaries, to wit:

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

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, The Right Honorable James Bryce, O. M., who, after having communicated to one another their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I.

Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the two Contracting Parties and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of the 29th of July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two Contracting States, and do not concern the interests of third Parties.

ARTICLE II.

In each individual case the High Contracting Parties, before appealing to the Permanent Court of Arbitration, shall conclude a special Agreement defining clearly the matter in dispute, the scope of the powers of the Arbitrators, and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure. It is understood that such special agreements on the part of the United States will be made by the President of the United States, by and with the advice and consent of the Senate thereof; His Majesty's Government reserving the right before concluding a special agreement in any matter affecting the interests of a self governing Dominion of the British Empire to obtain the concurrence therein of the Government of that Dominion.

Such Agreements shall be binding only when confirmed by the two Governments by an Exchange of Notes.

ARTICLE III.

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 at Washington as soon as possible, and the Convention shall take effect on the date of the exchange of its ratifications.

ARTICLE IV.

The present Convention is concluded for a period of five years, dating from the day of the exchange of its ratifications.

Done in duplicate at the City of Washington, this fourth day of April, in the year 1908.

ELIHU ROOT [SEAL]
JAMES BRYCE [SEAL]

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the fourth day of June, one thousand nine hundred and eight;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this fifth day of June, in the year of our Lord one thousand nine hundred and eight, and of the Independence of the United States of America the one hundred and thirty-second.

[SEAL]

THEODORE ROOSEVELT

By the President:

ELIHU ROOT

Secretary of State.

**TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN
RELATING TO THE CANADIAN INTERNATIONAL BOUNDARY.**

Signed at Washington, April 11, 1908.

Ratification advised by the Senate, May 4, 1908.

Ratified by the President, May 11, 1908.

Ratified by Great Britain, May 16, 1908.

Ratifications exchanged at Washington, June 4, 1908.

Proclaimed, July 1, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the United Kingdom of Great Britain and Ireland, providing for the more complete definition and demarcation of the international boundary between the United States and the Dominion of Canada, was concluded and signed by their respective Plenipotentiaries at Washington, on the eleventh day of April, one thousand nine hundred and eight, the original of which Convention is word for word as follows:

The United States of America and His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of

India, being desirous of providing for the more complete definition and demarcation of the international boundary between the United States and the Dominion of Canada, have for that purpose resolved to conclude a treaty, and to that end have appointed as their Plenipotentiaries:

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

His Britannic Majesty, Right Honorable James Bryce, O. M., his Ambassador Extraordinary and Plenipotentiary at Washington;

Who, after having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following articles:

ARTICLE I.

THE BOUNDARY THROUGH PASSAMAQUODDY BAY.

The High Contracting Parties agree that each shall appoint, without delay, an expert geographer or surveyor to serve as Commissioners for the purpose of more accurately defining and marking the international boundary line between the United States and the Dominion of Canada in the waters of Passamaquoddy Bay from the mouth of the St. Croix River to the Bay of Fundy, and that in defining and marking said boundary line the Commissioners shall adopt and follow, as closely as may be, the line surveyed and laid down by the Commissioners appointed under Article II of the Treaty of July 22, 1892, between the United States and Great Britain, so far as said Commissioners agreed upon the location of said line, namely:

(1) From a point at the mouth of the St. Croix River defined by the ranges established by them, by a connected series of six straight lines defined by ranges and cross ranges, to a point between Treat Island and Friar Head, likewise defined by ranges and cross ranges established by them; and also

(2) From a point in Quoddy Roads, defined by the intersection of the range passing through the position of the Beacon of 1886 and Lubec Channel Light, with a range established by them on the west shore of Quoddy Roads along the course of this latter range, which is about $80^{\circ} 35'$ east of true south, into the Bay of Fundy.

In ascertaining the location of the above-described line, the Commissioners shall be controlled by the indications of the range marks and monuments established along its course by said former Commissioners and by the charts upon which the said Commissioners marked the line as tentatively agreed upon by them.

The remaining portion of the line, lying between the two above-described sections, and upon the location of which said former Commissioners did not agree, shall pass through the center of the Lubec Narrows Channel between Campo Bello Island and the mainland, and, subject to the provisions hereinafter stated, it shall follow on either side of the said Narrows such courses as will connect with the parts of the line agreed upon as aforesaid, and such boundary shall consist of a series of straight lines defined by distances and courses; but inasmuch as differences have arisen in the past as to the location of the line with respect to Pope's Folly Island above Lubec Narrows and with respect to certain fishing grounds east of the dredged channel below Lubec Narrows, it is agreed that each of the High Contract-

ing Parties shall present to the other within six months after the ratification of this Treaty a full printed statement of the evidence, with certified copies of original documents referred to therein which are in its possession, and the arguments upon which it bases its contentions, with a view to arriving at an adjustment of the location of this portion of the line in accordance with the true intent and meaning of the provisions relating thereto of the treaties of 1783 and 1814 between the United States and Great Britain, and the award of the Commissioners appointed in that behalf under the treaty of 1814; it being understood that any action by either or both Governments or their representatives authorized in that behalf or by the local governments on either side of the line, whether prior or subsequent to such treaties and award, tending to aid in the interpretation thereof, shall be taken into consideration in determining their true intent and meaning. Such agreement, if reached, shall be reduced to writing in the form of a protocol and shall be communicated to the said Commissioners, who shall lay down and mark this portion of the boundary in accordance therewith and as herein provided.

In the event of a failure to agree within six months after the date of exchanging the printed statements aforesaid, the question of which Government is entitled to jurisdiction over such island and fishing grounds under treaty provisions, and proceedings thereunder, interpreted in accordance with their true intent and meaning as above provided, and by reason of any rights arising under the recognized principles of international law, shall be referred forthwith for decision upon the evidence and arguments submitted as aforesaid, with such additional statement of facts as may be appropriate, and an argument in reply on each side, to an arbitrator to be agreed upon by the two Governments, or, in case of a failure to agree, to be appointed by a third Power selected by the two Governments by common accord, or, if no agreement is thus arrived at, each Government shall select a different Power and the choice of the arbitrator shall be made in concert by the Powers thus selected. The decision of such arbitrator shall be final, and the line shall be laid down and marked by the said Commissioners in accordance therewith and as herein provided.

The arbitrator shall be requested to deliver, together with his award, a statement of all the costs and expenses incurred by him in connection with the arbitration, which shall forthwith be repaid by the two Governments in equal moieties.

It is further agreed that if, under the foregoing provisions, the boundary be located through the channel to the east of the dredged channel above mentioned, the latter shall be equally free and open for the passage of ships, vessels, and boats of both parties.

The entire boundary shall be marked by permanent range marks established on land and, if desirable in the opinion of Commissioners, by buoys in the water, so far as practicable, and by such other boundary marks and monuments and at such points as the Commissioners may determine to be necessary; but the said Commissioners shall proceed to define and mark and chart the portion of the line agreed upon by the former Commissioners under the Treaty of 1892 aforesaid without waiting for the final determination of the location of the remaining portion of the line.

The course of the said boundary line as defined and marked as aforesaid shall be laid down by said Commissioners on quadruplicate sets of accurate modern charts prepared or adopted by them for that purpose, which charts shall be certified and signed by the Commissioners, and two duplicate originals thereof shall be filed by them with each Government; and they shall also prepare in duplicate and file with each Government a joint report or reports under their hands and seals describing in detail the course and location of the boundary line and the range marks and monuments and buoys marking it.

The line so defined and laid down shall be taken and deemed to be the international boundary from the Bay of Fundy to the mouth of the St. Croix River, as established by treaty provisions and the proceedings thereunder.

ARTICLE II.

THE BOUNDARY FROM THE MOUTH TO THE SOURCE OF THE ST. CROIX RIVER.

Whereas Article II of the Treaty of 1783 between the United States and Great Britain provides that a line drawn along the middle of the River St. Croix from its mouth in the Bay of Fundy to its source shall be, between those points, the international boundary between the United States and the British possessions in North America, and the identity of the River St. Croix has been determined by the Commissioners appointed for that purpose under Article V of the Treaty of 1794 between the United States and Great Britain, and the location of the mouth and the source of said river has been duly established, and the course of said river has been described, surveyed, and charted by said Commissioners, as appears from their joint report dated the 25th day of October, 1798, and from the chart or plan of said river prepared and filed by them with said report, but said line of boundary along the middle of said river was not laid down by them on said chart or plan, and was not marked or monumented by them along the course of said river; and whereas, pursuant to an additional article, dated March 15, 1798, supplementing the provisions of the Treaty of 1794 above referred to, a monument was erected by joint action of the two Governments marking the source of the River St. Croix, but said line of boundary through the River St. Croix has not otherwise been monumented and has never been laid down on charts by joint action of the two Governments: therefore, in order to complete and render thoroughly effective the demarkation of the boundary described and established as aforesaid,

It is agreed that each of the High Contracting Parties shall appoint, without delay, an expert geographer or surveyor as a Commissioner, and the Commissioners so appointed shall jointly lay down upon accurate modern charts, to be prepared or adopted by them for that purpose, the line of boundary along the middle of the River St. Croix from its mouth to its source as defined and established by the existing treaty provisions and the proceedings thereunder, above referred to, with the agreed understanding, however, that the line of boundary through said river shall be a water line throughout and shall follow the center of the main channel or thalweg as naturally existing, except where such course would change, or disturb, or conflict with the national character of an island as already established

by mutual recognition and acquiescence, in which case the line shall pass on the other side of any such island, following the middle of the channel nearest thereto, or, if the Commissioners find that the national character of any island is in dispute, the question of its nationality shall be submitted by them to their respective Governments, with a chart or map certified jointly by said Commissioners, showing the depth and volume of the water at its high and low stages between such island and the river banks on each side and indicating the course of the main channel of the river as it passes such island, together with a descriptive statement by said Commissioners showing the reasons for selecting such channel as the main channel; and in all such cases the High Contracting Parties agree that the location of the boundary with respect to each island in dispute shall be determined and settled in accordance with the following rules:

(1) The nationality of each island in dispute shall be determined by the predominance of the claims established on either side to such island, arising from the exercise of jurisdiction and sovereignty over it, including such exercise of jurisdiction by the local governments on either side of the line.

(2) The burden of proving the nationality of any such island shall be upon the party seeking to change the general course of the boundary as above prescribed so as to include such island on its own side of the boundary.

(3) The selection by the Commissioners of the main channel passing such island shall not be conclusive upon the parties hereto and is subject to review, but the burden of proving the main channel to be other than the one selected shall be upon the party proposing the change.

The Government proposing such change in the prescribed course of the boundary shall, upon the submission of the question of the nationality of any island or islands by the Commissioners as aforesaid, promptly present to the other Government a printed statement, with certified copies of any original documents in its possession referred to therein, showing the grounds and arguments upon which its claim of jurisdiction and ownership with respect to such island rests. Unless an agreement is reached upon the presentation of such statement, the Government to which such statement is presented shall within six months after its receipt present in reply a similar statement showing the grounds and arguments upon which the claims of the other Government are contested. If an agreement is reached between the two Governments, it shall be reduced to writing in the form of a protocol and shall be communicated to the said Commissioners, who shall proceed to lay down and mark the boundary so as to leave such island on the side of the boundary to which it is shown it belongs, in accordance with the determination of its nationality arrived at as aforesaid.

In the event of a failure by the two Governments to come to an agreement within six months after the presentation of the printed statements in reply herein above provided for, then the question of the nationality of the islands in dispute shall be referred forthwith for decision under the rules herein above set forth for the determination of that question, and under the recognized principles of international law not inconsistent therewith, and upon the evidence and arguments submitted as aforesaid, with such additional statement of facts as

may be appropriate, and such further printed argument on each side as may be desired, to an arbitrator to be agreed upon by the two Governments, or, in case of a failure to agree, to be appointed by a third Power selected by the two Governments by common accord, or, if no agreement is thus arrived at, each Government shall select a different Power and the choice of the arbitrator shall be made in concert by the Powers thus selected. The decision of such arbitrator shall be final, and the line shall be laid down and marked by the said Commissioners in accordance therewith and as herein provided.

The arbitrator shall be requested to deliver, together with his award, a statement of all the costs and expenses incurred by him in connection with the arbitration, which shall forthwith be repaid by the two Governments in equal moieties.

It is further agreed that so far as practicable the said Commissioners shall establish boundary monuments and ranges and buoys marking the course and location of the said line, and showing on which side of the boundary the several islands lying in said river belong, wherever in their judgment it is desirable that the boundary be so marked.

The charts upon which the boundary is marked as aforesaid shall be in quadruplicate, and shall be certified and signed by said Commissioners, and two duplicate originals thereof shall be filed by them with each Government, and it shall also be the duty of said Commissioners to prepare in duplicate, and file with each Government, a joint report under their hands and seals describing the line so marked by them and the monuments and range marks and buoys marking it.

The line so defined and laid down shall be taken and deemed to be the international boundary from the mouth to the source of the St. Croix River as established by treaty provisions and the proceedings thereunder as aforesaid.

ARTICLE III.

THE BOUNDARY FROM THE SOURCE OF THE ST. CROIX RIVER TO THE ST. LAWRENCE RIVER.

Whereas the remonumenting of the course of the boundary defined and laid down under the provisions of Articles I and VI of the Treaty of August 9, 1842, between the United States and Great Britain has already been undertaken without a formal treaty agreement, but by the joint and concurrent action of the Governments of the United States and Great Britain, certain monuments between Vermont and Canada having been relocated in 1849, and the portion of said boundary extending between Hall's Stream and the St. Lawrence River in part having been remonumented in recent years and in part is now being remonumented under such action on both sides; and whereas the Commissioners appointed under Article VI of the Treaty of 1842 aforesaid were required to and did mark by monuments the land portion only of said line, and were not required to and did not mark by monuments the portions of the boundary extending along water courses, with the exception that the nationality of the several islands in the St. John River was indicated by monuments erected thereon and a series of monuments was placed by them along the edge of certain of the water courses to fix the general direction of the boundary, most of which monuments have since disappeared, but

the entire boundary, including its course through the waterways as well as on land, was charted and marked on maps by said Commissioners under the provisions of Article VI above referred to, and the nationality of the respective islands in the St. John River was determined by them, as appears from the joint report filed by said Commissioners dated June 28, 1847, and the series of maps signed by said Commissioners and filed with their joint report; and whereas the portion of the line through said waterways has not since been monumented or marked along its course by joint action of the two Governments, and the monuments placed by said Commissioners along the land portion of said boundary require repairing and renewing where such work has not already been done in recent years, and additional or supplementary intermediate monuments at convenient points are required under modern conditions: therefore, in order to carry on and complete the work already undertaken as aforesaid, and to reestablish the location of said boundary and render thoroughly effective the demarcation of the said boundary as existent and established,

It is agreed that each of the High Contracting Parties shall appoint, without delay, an expert geographer or surveyor as a Commissioner, and under the joint direction of such Commissioners the lost or damaged boundary monuments shall be relocated and repaired, and additional monuments and boundary marks shall be established wherever necessary in the judgment of the Commissioners to meet the requirements of modern conditions along the course of the land portion of said boundary, and where the said boundary runs through waterways it shall be marked along its course, so far as practicable, by buoys and monuments in the water and by permanent ranges established on the land, and in such other way and at such points as in the judgment of the Commissioners it is desirable that the boundary be so marked; and it is further agreed that the course of the entire boundary, as described in Article I of the Treaty of 1842 and as laid down as aforesaid under Article VI of that Treaty, shall be marked by said Commissioners upon quadruplicate sets of accurate modern charts prepared or adopted by them for that purpose, and that said charts so marked shall be certified and signed by them and two duplicate originals thereof shall be filed with each Government, and said Commissioners shall also prepare in duplicate and file with each Government a joint report or reports describing in detail the course of the boundary so marked by them, and the character and location of the several monuments and boundary marks and ranges marking it.

The line so defined and laid down shall be taken and deemed to be the international boundary as defined and laid down under Articles I and VI of the said Treaty of 1842.

ARTICLE IV.

THE BOUNDARY FROM ITS INTERSECTION WITH THE ST. LAWRENCE RIVER
TO THE MOUTH OF PIGEON RIVER.

The High Contracting Parties agree that the existing International Waterways Commission, constituted by concurrent action of the United States and the Dominion of Canada and composed of three

Commissioners on the part of the United States and three Commissioners on the part of the Dominion of Canada, is hereby authorized and empowered to ascertain and reestablish accurately the location of the international boundary line beginning at the point of its intersection with the St. Lawrence River near the forty-fifth parallel of north latitude, as determined under Articles I and VI of the Treaty of August 9, 1842, between the United States and Great Britain, and thence through the Great Lakes and communicating waterways to the mouth of Pigeon River, at the western shore of Lake Superior, in accordance with the description of such line in Article II of the Treaty of Peace between the United States and Great Britain, dated September 3, 1783, and of a portion of such line in Article II of the Treaty of August 9, 1842, aforesaid, and as described in the joint report dated June 18, 1822, of the Commissioners appointed under Article VI of the Treaty of December 24, 1814, between the United States and Great Britain, with respect to a portion of said line and as marked on charts prepared by them and filed with said report, and with respect to the remaining portion of said line as marked on the charts adopted as treaty charts of the boundary under the provisions of Article II of the Treaty of 1842, above mentioned, with such deviation from said line, however, as may be required on account of the cession by Great Britain to the United States of the portion of Horse Shoe Reef in the Niagara River necessary for the light-house erected there by the United States in accordance with the terms of the protocol of a conference held at the British Foreign Office December 9, 1850, between the representatives of the two Governments and signed by them agreeing upon such cession; and it is agreed that wherever the boundary is shown on said charts by a curved line along the water the Commissioners are authorized in their discretion to adopt, in place of such curved line, a series of connecting straight lines defined by distances and courses and following generally the course of such curved line, but conforming strictly to the description of the boundary in the existing treaty provisions, and the geographical coordinates of the turning points of such line shall be stated by said Commissioners so as to conform to the system of latitudes and longitudes of the charts mentioned below, and the said Commissioners shall so far as practicable mark the course of the entire boundary line located and defined as aforesaid, by buoys and monuments in the waterways and by permanent range marks established on the adjacent shores or islands, and by such other boundary marks and at such points as in the judgment of the Commissioners it is desirable that the boundary should be so marked; and the line of the boundary defined and located as aforesaid shall be laid down by said Commissioners on accurate modern charts prepared or adopted by them for that purpose, in quadruplicate sets, certified and signed by the Commissioners, two duplicate originals of which shall be filed by them with each Government; and the Commissioners shall also prepare in duplicate and file with each Government a joint report or reports describing in detail the course of said line and the range marks and buoys marking it, and the character and location of each boundary mark. The majority of the Commissioners shall have power to render a decision.

The line so defined and laid down shall be taken and deemed to be the international boundary as defined and established by treaty provisions and the proceedings thereunder as aforesaid from its intersection with the St. Lawrence River to the mouth of Pigeon River.

ARTICLE V.

THE BOUNDARY FROM THE MOUTH OF PIGEON RIVER TO THE NORTHWESTERNMOST POINT OF THE LAKE OF THE WOODS.

In order to complete and perfect the demarcation of the international boundary line between the United States and the Dominion of Canada from the mouth of Pigeon River, at the western shore of Lake Superior, to the northwesternmost point of the Lake of the Woods, which boundary is defined in Article II of the Treaty of Peace between the United States and Great Britain dated September 3, 1783, and in Article II of the Treaty of August 9, 1842, between the United States and Great Britain, wherein is defined also the location of the said northwesternmost point of the Lake of the Woods, and the greater part of the said boundary is marked on charts covering that section of the boundary adopted as treaty charts of the boundary under the provisions of Article II of the Treaty of 1842 aforesaid, but has never been actually located or monumented along its course by joint action of the two Governments, and no joint survey of its course has been made since the survey under the direction of the Commissioners appointed under Article VII of the Treaty of December 24, 1814, between the United States and Great Britain, under whose direction the charts above mentioned were prepared,

It is agreed that each of the High Contracting Parties shall appoint, without delay, an expert geographer or surveyor as Commissioners, who shall reestablish and fix the actual location of said entire boundary described and charted as aforesaid, and designate the side of the boundary upon which each island adjacent to the boundary belongs, it being mutually understood that the boundary, so far as practicable, shall be a water line and shall not intersect islands lying along its course, and the Commissioners shall so far as practicable mark such boundary along its course by monuments and buoys and range marks, and such other boundary marks as the Commissioners may determine, and at such points as in their judgment it is desirable that the boundary shall be so marked; and it is further agreed that the course of the entire boundary as described and laid down as aforesaid and as monumented by said Commissioners shall be marked by them upon quadruplicate sets of accurate modern charts prepared or adopted by them for that purpose, and that said charts so marked shall be certified and signed by them and two duplicate originals thereof shall be filed with each Government, and said Commissioners shall also prepare in duplicate and file with each Government a joint report or reports describing in detail the course of the boundary so marked by them and the character and location of the several monuments and boundary marks and ranges marking it.

The line so defined and laid down shall be taken and deemed to be the international boundary as defined and established under the aforesaid treaties from the mouth of Pigeon River to the northwesternmost point of the Lake of the Woods.

ARTICLE VI.

THE BOUNDARY FROM THE NORTHWESTERNMOST POINT OF THE LAKE OF THE WOODS TO THE SUMMIT OF THE ROCKY MOUNTAINS.

In order to complete and render thoroughly effective the demarcation of the international boundary between the United States and the Dominion of Canada from the northwesternmost point of the Lake of the Woods to the summit of the Rocky Mountains, which boundary, according to existing treaties, runs due south from said northwesternmost point to the forty-ninth parallel of north latitude and thence along that parallel to the summit of the Rocky Mountains, and has been surveyed and charted and monumented as appears from the series of twenty-four sectional maps covering this portion of the boundary prepared and filed by the Joint Commission appointed for that purpose by joint action of the two Governments in 1872,

It is agreed that each of the High Contracting Parties shall appoint, without delay, an expert geographer or surveyor as a Commissioner, and under the joint direction of such Commissioners lost or damaged monuments along the course of said boundary shall be relocated and repaired and additional monuments and boundary marks shall be established wherever necessary, in the judgment of the Commissioners, to meet the requirements of modern conditions and to render more effective the demarcation of the existent boundary established under the treaty provisions and proceedings thereunder as aforesaid; and it is further agreed that in carrying out these provisions the said Commissioners shall observe the agreement stated in the protocol of the final meeting, dated May 29, 1876, of the Joint Commission aforesaid, which is as follows:

2. In the intervals between the monuments along the parallel of latitude, it is agreed that the line has the curvature of a parallel of 49° north latitude; and that such characteristic shall determine all questions that may hereafter arise with reference to the position of the boundary at any point between neighboring monuments.

3. It is further agreed that, in the event of any of the said three hundred and eighty-eight monuments or marks being obliterated beyond the power of recognition, the lost site or sites shall be recovered by their recorded position relatively to the next neighboring unobliterated mark or marks.

It is further agreed that the said Commissioners shall mark upon quadruplicate sets of accurate modern charts prepared or adopted by them for that purpose the entire course of said boundary and the location of the boundary monuments and marks established along the course of said boundary, and two duplicate originals thereof shall be filed with each Government, and said Commissioners shall also prepare in duplicate and file with each Government a joint report describing in detail the work done by them in replacing and repairing lost or damaged monuments and the character and location of the several monuments and boundary marks placed by them along said boundary.

The line so laid down and defined shall be taken and deemed to be the international boundary as defined and established by treaty provisions and the proceedings thereunder as aforesaid from the northwesternmost point of the Lake of the Woods to the summit of the Rocky Mountains.

ARTICLE VII.

THE BOUNDARY FROM THE SUMMIT OF THE ROCKY MOUNTAINS TO THE GULF OF GEORGIA.

Whereas, by concurrent action of the Government of the United States and the Government of Great Britain in 1902 and 1903, Commissioners were designated to act jointly for the purpose of renewing lost or damaged monuments and placing additional monuments where such were needed throughout the course of the boundary along the forty-ninth parallel of north latitude, from the summit of the Rocky Mountains westward to the eastern shore of the Gulf of Georgia, as defined in Article I of the Treaty of June 15, 1846, between the United States and Great Britain and as marked by monuments along its course and laid down on a series of charts, seven in number, by a Joint Commission organized in 1858 for that purpose and composed of two Commissioners appointed one by each Government, which charts, duly certified and authenticated in duplicate by said Commissioners, were approved and adopted by the two Governments, as appears from the declaration in writing to that effect signed on February 24, 1870, at Washington by duly authorized Plenipotentiaries of the respective Governments, and it appearing that the remonumenting of this line by the Commissioners first above referred to is now approaching completion;

It is hereby agreed by the High Contracting Parties that when such work is completed the entire course of said boundary, showing the location of the boundary monuments and marks established along the course of the boundary, shall be marked upon quadruplicate sets of accurate modern charts prepared or adopted for that purpose, and the said Commissioners, or their successors, are hereby authorized and required to so mark the line and designate the monuments on such charts, two duplicate originals of which shall be filed with each Government, and the said Commissioners, or their successors, shall also prepare in duplicate and file with each Government a joint report describing in detail the work done by them in replacing and repairing lost or damaged monuments and the character and location of the several monuments and boundary marks placed by them along said boundary.

The line so laid down and defined shall be taken and deemed to be the international boundary as defined and established by treaty provisions and the proceedings thereunder as aforesaid, from the summit of the Rocky Mountains to the eastern shore of the Gulf of Georgia.

ARTICLE VIII.

THE BOUNDARY FROM THE FORTY-NINTH PARALLEL TO THE PACIFIC OCEAN.

The High Contracting Parties agree that each shall appoint, without delay, an expert geographer or surveyor to serve as Commissioners for the purpose of delineating upon accurate modern charts, prepared or adopted by them for that purpose, the international boundary line between the United States and the Dominion of Canada from the forty-ninth parallel of north latitude along the middle of the

channel which separates Vancouver's Island from the mainland and the middle of the Haro Channel and of Fuca's Straits to the Pacific Ocean, as defined in Article I of the Treaty of June 15, 1846, between the United States and Great Britain, and as determined by the award made on October 21, 1872, by the Emperor of Germany as arbitrator pursuant to the provisions of Articles XXXIV-XLII of the Treaty of May 8, 1871, between the United States and Great Britain, and as traced out and marked on a quadruplicate set of charts prepared for that purpose and agreed upon and signed by the duly authorized representatives of the respective Governments, as appears from the protocol of a conference at Washington on March 10, 1873, between such representatives which was signed by them on that date, and as defined by them in a written definition of said boundary signed by them and referred to in and attached to said protocol, and it is agreed that the said Commissioners shall adopt in place of the curved line passing between Saturna Island and Patos Island as shown on said charts a straight line running approximately north and south through a point midway between the eastern point of Saturna Island and the western point of Patos Island and intersecting the prolongations of the two straight lines of the boundary now joined by a curved line. The entire line thus laid down shall consist of a series of connecting straight lines defined by distances and courses; and the Commissioners are authorized to select and establish such reference marks on shore as they may deem necessary for the proper definition and location on the water of the boundary aforesaid. A quadruplicate set of such charts, showing the lines so laid down and marked by them and the location of the several marks or monuments selected or established by them along its course, shall be signed by them and two duplicate originals thereof shall be filed by them with each Government, and the Commissioners shall also prepare in duplicate and file with each Government a joint report, or reports, describing in detail the course of said line and the boundary marks and their location along its course.

The line so defined and laid down shall be taken and deemed to be the international boundary, as defined and established by treaty provisions and the proceedings thereunder as aforesaid, from the forty-ninth parallel of north latitude along the middle of the channel which separates Vancouver's Island from the mainland and the middle of Haro Channel and of Fuca's Straits to the Pacific Ocean.

ARTICLE IX.

GENERAL PROVISIONS.

The Commissioners appointed under the provisions of this Treaty shall proceed without delay to perform the duties assigned to them, but each Commissioner shall, before entering upon his duties, make oath in writing that he will impartially and faithfully perform his duties as such Commissioner.

In case a vacancy occurs in any of the Commissions constituted by this Treaty, by reason of the death, resignation, or other disability of a Commissioner, before the work of such Commission is completed, the vacancy so caused shall be filled forthwith by the appointment

of another Commissioner by the party on whose side the vacancy occurs, and the Commissioner so appointed shall have the same powers and be subject to the same duties and obligations as the Commissioner originally appointed.

If a dispute or difference should arise about the location or demarcation of any portion of the boundary covered by the provisions of this Treaty and an agreement with respect thereto is not reached by the Commissioners charged herein with locating and marking such portion of the line, they shall make a report in writing jointly to both Governments, or severally each to his own Government, setting out fully the questions in dispute and the differences between them, but such Commissioners shall, nevertheless, proceed to carry on and complete as far as possible the work herein assigned to them with respect to the remaining portions of the line.

In case of such a disagreement between the Commissioners, the two Governments shall endeavor to agree upon an adjustment of the questions in dispute, and if an agreement is reached between the two Governments it shall be reduced to writing in the form of a protocol, and shall be communicated to the said Commissioners, who shall proceed to lay down and mark the boundary in accordance therewith, and as herein provided, but without prejudice to the special provisions contained in Articles I and II regarding arbitration.

It is understood that under the foregoing articles the same persons will be appointed to carry out the delimitation of boundaries in the several sections aforesaid, other than the section covered by Article IV, unless either of the Contracting Powers finds it expedient for some reason which it may think sufficient to appoint some other person to be Commissioner for any one of the above-mentioned sections.

Each Government shall pay the expenses of its own Commissioners and their assistants, and the cost of marking and monumenting the boundary shall be paid in equal moities by the two Governments.

ARTICLE X.

This Treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged in Washington as soon as practicable.

In faith whereof the respective Plenipotentiaries have signed this Treaty in duplicate and have hereunto affixed their seals.

Done at Washington the 11th day of April in the year of our Lord one thousand nine hundred and eight.

ELIHU ROOT. [SEAL.]
JAMES BRYCE. [SEAL.]

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the fourth day of June, one thousand nine hundred and eight;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this first day of July, in the year of our Lord one thousand nine hundred and eight, and of the Independence of the United States of America the one hundred and thirty-second.

[SEAL]

THEODORE ROOSEVELT.

By the President:

ALVEY A. ADEE,

Acting Secretary of State.

**TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN
PROVIDING FOR RECIPROCAL RIGHTS FOR THE UNITED STATES
AND CANADA IN THE MATTERS OF CONVEYANCE OF PRISONERS
AND WRECKING AND SALVAGE.**

Signed at Washington, May 18, 1908.

Ratification advised by the Senate, May 20, 1908.

Ratified by the President, June 19, 1908.

Ratified by Great Britain, June 3, 1908.

Ratifications exchanged at Washington, June 30, 1908.

Proclaimed July 10, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Treaty between the United States of America and the United Kingdom of Great Britain and Ireland, providing for reciprocal rights for the United States and the Dominion of Canada in the matters of conveyance of prisoners and wrecking and salvage, was concluded and signed by their respective Plenipotentiaries at Washington on the eighteenth day of May, one thousand nine hundred and eight, the original of which Treaty is word for word as follows:

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, being desirous to make provision for the conveyance of persons in lawful custody for trial or punishment either in the United States or the Dominion of Canada through the territory of the other, and for reciprocal rights in wrecking and salvage in the waters contiguous to the boundary between the United States and the Dominion of Canada, have for that purpose resolved to conclude a treaty, and to that end have appointed as their plenipotentiaries:

The President of the United States of America, Robert Bacon, Acting Secretary of State of the United States; 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, the Right Honorable James Bryce, O. M., His Ambassador Extraordinary and Plenipotentiary at Washington;

who, after communicating to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following articles:

ARTICLE I.

CONVEYANCE OF PRISONERS.

Any officer of the United States of America or of any state or territory thereof, having in his custody without the borders of Canada, by virtue of any warrant or any other lawful process issued by authority of the United States or of any state or territory thereof, any person charged with or convicted of any of the criminal offences specified below, committed within the jurisdiction of the United States or of any state or territory thereof, may, in executing such warrant or process, convey such person through any part of Canada to a place in the United States, if such warrant or process is endorsed, or backed, by a judge, magistrate or justice of the peace in Canada, or if the authority of the Minister of Justice of Canada for such conveyance is first obtained.

During such conveyance of such person through Canada, such officer may keep such person in his custody, and in case of escape may recapture him.

Any officer of the Dominion of Canada or of any province or territory thereof, having in his custody without the borders of the United States of America, by virtue of any warrant or any other lawful process issued by authority of the law of the Dominion or of any province or territory thereof, any person charged with or convicted of any of the criminal offences specified below, committed in Canada, may, in executing such warrant or process, convey such person through any part of the United States to a place in Canada, if such warrant or process is endorsed, or backed, by a judge, magistrate or justice of the peace in the United States, or if the authority of the Secretary of State of the United States for such conveyance is first obtained.

During such conveyance of such person through the United States, such officer may keep such person in his custody, and in case of escape may recapture him.

The foregoing provision shall apply only to persons charged with or convicted of offences of the following descriptions:

1. Offences for which extradition is at the time authorized by a treaty in force between the United States and Great Britain.
2. Assault with intent to commit grievous bodily harm.
3. Assault upon an officer of the law in the execution of his duty.

The United States and the Dominion of Canada may by concurrent legislation make further or other regulations for authenticating the warrant or process under which the person in custody is to be conveyed, as before provided.

ARTICLE II.

WRECKING AND SALVAGE.

The High Contracting Parties agree that vessels and wrecking appliances, either from the United States or from the Dominion of Canada, may salvage any property wrecked and may render aid and assistance to any vessels wrecked, disabled or in distress in the waters or on the shores of the other country in that portion of the St. Lawrence River through which the International Bound-

ary line extends, and, in Lake Ontario, Lake Erie, Lake St. Clair, Lake Huron, and Lake Superior, and in the Rivers Niagara, Detroit, St. Clair, and Ste Marie, and the Canals at Sault Ste Marie, and on the shores and in the waters of the other country along the Atlantic and Pacific Coasts within a distance of thirty miles from the International Boundary on such Coasts.

It is further agreed that such reciprocal wrecking and salvage privileges shall include all necessary towing incident thereto, and that nothing in the Customs, Coasting or other laws or regulations of either country shall restrict in any manner the salvaging operations of such vessels or wrecking appliances.

Vessels from either country employed in salving in the waters of the other shall, as soon as practicable afterwards, make full report at the nearest custom house of the country in whose waters such salving takes place.

ARTICLE III.

This Treaty shall remain in force for ten years after its date and thereafter until terminated by twelve months' written notice given by either High Contracting Party to the other.

ARTICLE IV.

This Treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged in Washington as soon as possible.

In faith whereof the respective Plenipotentiaries have signed this Treaty in duplicate and have hereunto affixed their seals.

Done at Washington the eighteenth day of May, in the year of our Lord one thousand nine hundred and eight.

ROBERT BACON. [SEAL.]
JAMES BRYCE. [SEAL.]

And whereas the said Treaty has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the thirtieth day of June, one thousand nine hundred and eight;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Treaty to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this tenth day of July in the year of our Lord one thousand nine hundred and eight, and of the Independence of the United States of America, the one hundred and thirty-third.

[SEAL.]

THEODORE ROOSEVELT.

By the President:

ALVEY A. ADEE,
Acting Secretary of State.

GREECE.

ILLEGAL IMMIGRATION OF GREEKS INTO THE UNITED STATES.

File No. 16840.

The Secretary of State to the Greek Minister.

No. 35.]

DEPARTMENT OF STATE,
Washington, December 12, 1908.

SIR: I have the honor to send to you for your information and such suggestion as you may be pleased to make thereon, a copy of an interesting report made to the Bureau of Immigration and Naturalization of the Department of Commerce and Labor, by Miltiades M. Constantinides, an interpreter employed in the Immigration Service at Boston, Mass., in relation to the practice of certain Greeks who enter the United States as alleged priests of the Greek Church, but who are in reality either imposters or unordained monks incompetent to perform validly the functions of the priesthood.

In view of the statement that these persons are performing sacerdotal acts which are legally invalid, as the celebration of marriages and the like, the abuse is one which no less affects your Government than our own. It is proposed to instruct the American minister at Athens to confer with the authorities of your Government with a view to adopting regulations and some form of certification which shall effectively prevent this abuse. Before doing so I would be pleased to have your views in the matter as to the extent to which the Greek Government can go in the direction of certifying to the sacerdotal character of this class of emigrants in the manner suggested by Mr. Constantinides and indorsed by the Secretary of Commerce and Labor. In so doing I comply with the request of Secretary Straus, who asks me to ascertain from you "exactly what tests may be applied to detect imposters among aliens applying for admission to this country or alleged to be unlawfully here, who claim to be engaged as missionaries or priests in the Greek Orthodox Church."

Accept, etc.,

ELIHU ROOT.

[Inclosure.]

Miltiades M. Constantinides to Hon. Geo. B. Billings, Commissioner of Immigration at Boston, Mass.

BOSTON, November 21, 1908.

SIR: Under the immigration act now in force priests of all denominations are landed in this country, coming under the exempt classes. As a Greek working amongst Greeks, it has come under my observation for the last two or three years that a good many of the Greek orthodox priests (alleged to be such) have landed in America without a strict examination of their qualifications.

Lately I took the liberty, once by your permission, to investigate a few of these alleged Greek priests, and have found in every case that they were not Greek orthodox priests at all and that they have no authority to perform a marriage ceremony or any other holy ceremony according to the Greek Orthodox Church. Most of them are only Greek monks who ran away from their old-country monastery for one reason or another.

In most cases their papers show that they were inmates of a monastery in Greece or Turkey. On a pretense of going to visit their relatives at their home, or in rare cases under a leave of annual absence, they get out of the monastery and escape to America. Here they go from community to community, offering their services as fully qualified and properly ordained priests of the Greek Orthodox Church amongst their countrymen at half the salary the real priests of that church demand. By their actions and behavior they only bring trouble and discord and scandal into any peaceful Greek church and its congregation.

You will readily understand that, without being exactly priests, having been only ordained as monks, they are not recognized as priests, as they have never been ordained as such and have not been ordered to come here by their higher church authorities. They, therefore, in each and every case have entered this country in violation of law, entering in the garb of a priest when they had no right to do so.

The most important fact connected with the arrival of these alleged priests and their doubtful practices, however, is that any marriage ceremony they have performed or may perform in the future between a Greek (naturalized citizen of the United States or alien) and an American woman, and this Greek should move in later years back to Greece or Turkey, as they quite frequently do, as I know from the many years observation, their American marriage performed by the bogus priest is null and void, and the Greek who returned to his own country is at liberty to marry again without being subject to punishment for bigamy. Furthermore, an American widow and her children from a bogus marriage performed by an alleged priest as above described is not entitled, according to Greek laws, to inherit any property left by her Greek husband in his old country, and there are many cases on record which bear out my statements; and the American consul general at Athens, Mr. Horton, will also testify to these conditions. The Greek courts and the holy orthodox synod in Greece base their decisions in such cases on the fact that these couples were not legally married by the properly ordained priest of the Greek Orthodox Church in the respective American community. For instance, a priest appointed for the diocese of Boston can not, according to the laws of the Greek Orthodox Church and according to the regulations of the Greek Government, perform a lawful ceremony of marriage in the State of New York, or, as a matter of fact, in any other State outside of Massachusetts, unless he has a special permit or special authority to do so.

I respectfully ask you to submit these statements to the Department of Justice in Washington for a thorough investigation.

I wish to state further that there are rumors current in the Greek colonies in this country that a few of these alleged priests are not even monks, but plain outlaws who have come here disguised as priests so as to enter this country without too severe an examination. It goes without saying that in every case where it can be proven that these questionable characters entered in violation of law they should be deported, as they are certainly undesirable aliens.

In conclusion, and after much thought, I beg to submit to you the following suggestion, which I believe will have the approval of the Greek synod as well as the Greek minister at Washington, and last, but not least, the support of the consul general of the United States at Athens, Greece. It is, that every Greek orthodox priest coming to seek entry in the United States must have a properly made out passport signed by the Greek orthodox synod, countersigned by the secretary for ecclesiastical affairs of Greece, and viséed by the United States consul general at Athens, Greece. Such procedure would mean no hardship at all to the regularly ordained and properly qualified priests of the Greek Orthodox Church; in fact, it would be greatly appreciated by the authorities in Greece who are at a perfect loss how to handle these alleged priests, who operate in this country, which is beyond the jurisdiction of the Greek Government or church authorities.

As most of these malefactors have been in the country less than three years, they would come within the limit of our immigration act, having entered in violation of the law under false pretenses, and upon warrant issued by the Secretary of Commerce and Labor could be promptly deported.

Respectfully submitted.

MILTIADES M. CONSTANTINIDES.

File No. 16840/2.

The Greek Minister to the Secretary of State.

[Translation.]

No. 1454.]

GREEK LEGATION,
Washington, December 19, 1908.

MR. SECRETARY OF STATE: I have the honor to acknowledge the receipt of your note transmitting to me a report presented to the Bureau of Immigration in regard to some immigrants unduly admitted into the United States as priests of the Orthodox Greek Church.

According to the author of the report, some of these immigrants are but simple monks or priests who are not sent here to take charge of any parish. According to him, mixed marriages performed by such clergymen would run the risk of not being recognized by our law, thus depriving the woman and the children of all their rights and of any share of inheritance which they might claim in Greece.

It is true that our law requires that mixed marriages in which a Greek belonging to the Orthodox Church is a contracting party be performed according to the rites of this church in order to render them valid. However, the author of the report is mistaken in stating that a marriage performed by a priest outside of his parish or by a priest without a parish has no legal force in Greece. Every marriage performed by a regular priest who has not been forbidden the right to say mass is valid. The only thing, then, would be to certify the capacity of clergymen of the Greek Orthodox Church who have come to America.

You kindly inform me of the desire expressed by the Secretary of Commerce and Labor to have my opinion on this question, which is no less important to Greece than to the United States. I am very happy to reply that an agreement has recently been reached between the holy synod of Greece and the patriarchate of Constantinople, according to which all priests emigrating to North America and belonging to the dioceses of the patriarchates of Constantinople, Jerusalem, and Alexandria, have been placed under the jurisdiction of our holy synod. I think, therefore, that it is possible to have the sacerdotal capacity of orthodox clergymen coming to America certified to by the authorities of the Kingdom of Greece. You will permit me to inform you later on in what manner this certification may be done most easily.

Unfortunately this measure would not cover clergymen of the patriarchate of Antioch, which did not participate in the agreement of the other patriarchates.

I avail, etc.,

L. A. COROMILAS.

File No. 16840/2.

The Acting Secretary of State to the Greek Minister.

No. 36.]

DEPARTMENT OF STATE,
Washington, December 31, 1910.

SIR: I have the honor to acknowledge the receipt of your note of the 19th instant, replying to the department's note of the 12th of the same month transmitting a report regarding immigrants who had entered the United States as alleged priests of the Orthodox Greek Church, in which an expression of your views was requested as to the extent to which the Greek Government could certify to the full sacerdotal character of priests of that church.

The department is gratified to learn that such certification can be given in the cases of clergymen of the patriarchates of Constantinople, Jerusalem, and Alexandria, and will be glad to receive the additional information promised.

Thanking you for your note and for the assurances it conveys, I beg you to accept, etc.,

ALVEY A. ADEE.

GUATEMALA.

COMPLETION OF THE INTEROCEANIC RAILWAY OF GUATEMALA.

The Minister for Foreign Affairs of Guatemala to the Secretary of State.

File No. 10793.

[Translation.]

FOREIGN OFFICE,
Guatemala, November 30, 1907.

EXCELLENCY: I have the honor to address your excellency, by special direction of the President of the Republic, to inform your enlightened Government of the forthcoming happy completion of the Interoceanic Railway of Guatemala, to whose opening on the 15th of January my Government is glad to invite yours to the end that it may be pleased, as I doubt not it will, to be officially represented at the event.

The cordial relations which my Government is striving to cultivate with your excellency's Government and the very special circumstance that the work soon to be put into operation constitutes another step forward of the civilization of our continent, to which may be added that it has been carried out by an American concern, with the full support of Guatemala, lead me to hope for the most satisfactory reply from your excellency.

I renew, etc.,

JUAN BARRIOS.

File No. 10793.

The Acting Secretary of State to the Minister for Foreign Affairs of Guatemala.

DEPARTMENT OF STATE,
Washington, January 6, 1908.

EXCELLENCY: I have the honor to acknowledge the receipt of your polite communication of the 30th of November last, by which you inform this department that the Interoceanic Railway of Guatemala will be formally opened on the 15th of the present month, and are so good as to invite representation by the United States at the ceremonies.

In reply I am happy to inform your excellency that the President has been pleased to select Maj. Gen. George W. Davis, United States Army, retired, to represent the United States on this occasion.

I congratulate your excellency on the completion and inauguration of this enterprise, which will so materially add to the development and growth of the resources and industries of Guatemala.

I avail, etc.,

ROBERT BACON.

File No. 10793/1.

The Minister for Foreign Affairs of Guatemala to the Secretary of State.

[Telegram.—Translation.]

GUATEMALA, January 6, 1908.

Work on Interoceanic Railway completed yesterday. We earnestly wish an American delegation will come to inauguration 19th instant.

JUAN BARRIOS.

File No. 10793/1.

The Secretary of State to the Guatemalan Minister.

No. 14.]

DEPARTMENT OF STATE,
Washington, January 7, 1908.

SIR: I have the honor to inform you that in acceptance of the invitation extended by the Government of Guatemala, the President has commissioned Maj. Gen. George W. Davis, United States Army, retired, to be envoy extraordinary and minister plenipotentiary on special mission as the representative of the United States at the ceremonies attending the formal opening of the Interoceanic Railway of Guatemala on the 15th of this month.

Accept, etc.,

ELIHU ROOT.

File No. 10793/1.

The Secretary of State to the Minister for Foreign Affairs of Guatemala.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 7, 1908.

Your telegram relative to the completion of Interoceanic Railway received. The legation has to-day been directed to advise you of the designation of Maj. Gen. Davis to represent the United States at the opening of the road on the 19th. He departs for Guatemala to-day. Accept congratulations on the completion of this beneficial public work.

ELIHU ROOT.

File No. 10793/1.

The Secretary of State to Minister Heimke.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 7, 1908.

Advise Government of Guatemala that Maj. Gen. George W. Davis, former military governor of Porto Rico, former commanding general of the Philippines, and former President of Panama Canal Commission, leaves to-day with his secretary accredited as minister on special mission to represent the United States at opening of railroad.

ROOT.

File No. 10793/3.

Chargé Sands to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Guatemala, January 9, 1908.

The President of Guatemala requests the legation to express to the American Government its high appreciation of the appointment of so distinguished a delegate to the opening of the Interoceanic Railroad and of the marked friendly spirit of the United States proved by this appointment.

SANDS.

File No. 10793/5.

The Minister for Foreign Affairs of Guatemala to the Secretary of State.

[Telegram.—Translation.]

GUATEMALA, *January 11, 1908.*

We beg you to accept thanks for cordial felicitations Interoceanic Railway as well as for kind compliance of American Government in sending the most excellent Maj. Gen. Davis as its representative, whom we shall be glad immediately to receive in the character of plenipotentiary. Accept, Excellency, distinguished consideration.

JUAN BARRIOS.

File No. 10793/20.

Chargé Sands to the Secretary of State.

No. 74 bis.]

AMERICAN LEGATION,
Guatemala City, February 21, 1908.

SIR: I have the honor to report that Gen. George W. Davis, United States Army, retired, special delegate of the United States to the ceremonies attending the opening of the Interoceanic Railway of Guatemala, left this capital on the 10th instant by special steamer for Colon, Republic of Panama.

Gen. Davis's high rank, and the knowledge in this country of his many distinguished services, gave to the ceremonies a decidedly American character. Gen. Davis and his party attended with the President many functions to which no other diplomats or special delegates were invited.

President Estrada Cabrera made every effort to show his appreciation of the choice of Gen. Davis as delegate of the United States, and to make his stay in Guatemala agreeable and interesting. He could have done no more, with the resources at his disposal, if the Secretary of State had come to this country.

The choice of Gen. Davis for this mission was in every way a happy one. His reputation, his appearance, his rank, and his real services and sound judgment of men, and in particular of the inhabitants of Latin-American countries insured a real respect, which has done a great deal of good to American interests in Guatemala. If I may be permitted to express an opinion, the department could not have chosen more wisely.

His speeches, of which he has sent copies to the department with his report, were well received by all parties. The administration is flattered with this attention on the part of the United States, and the opposition is pleased with the dignified and soldierly bearing with which he has received the attentions of President Cabrera, which they interpret to mean "that he has not been blinded by flattery," while the American colony is flattered by the real respect and esteem which has been expressed by all who knew Gen. Davis during the month of his stay in this Republic.

Gen. Davis's mission has been eminently successful.

I have, etc.,

W. F. SANDS.

File No. 10793/20.

The Acting Secretary of State to Chargé Sands.

No. 89.]

DEPARTMENT OF STATE,
Washington, March 10, 1908.

SIR: I have to acknowledge the receipt of your No. 74 of the 21st ultimo, in regard to the favorable impression made by Maj. Gen. George W. Davis, who attended the opening ceremonies of the Inter-oceanic Railway of Guatemala as special delegate from the United States.

The department is gratified at the success of Gen. Davis's mission and deeply appreciates the many courtesies extended to him by President Cabrera and the officials of the Guatemalan Government.

I am, etc.,

ROBERT BACON.

File No. 10793/18-19.

The Secretary of State to Chargé Sands.

No. 91.]

DEPARTMENT OF STATE,
Washington, March 14, 1908.

SIR: I inclose herewith a personal letter, dated the 4th instant, addressed by President Roosevelt to President Estrada, which you will transmit to the latter through the channel most agreeable to him.

I am, etc.,

E. ROOT.

[Inclosure.]

President Roosevelt to the President of Guatemala.

THE WHITE HOUSE,
Washington, March 4, 1908.

MY DEAR MR. PRESIDENT: I have received your card, dated January 21, 1908, accompanying the gold badge and the little gold railroad spike which you have been so good as to send me as souvenirs of the inauguration of the Inter-oceanic Railway of Guatemala.

I appreciate the kind sentiment which inspired your action and trust that the great work of which these articles are reminders is but the forerunner of others in Guatemala that will aid still further in binding the nations of the American continent more closely together in the bonds of friendship and brotherly love.

I beg you to accept, my dear Mr. Estrada, my best wishes for yourself personally and for the happiness and welfare of the people of Guatemala.

Very sincerely, yours,

THEODORE ROOSEVELT.

**SPECIAL MISSION OF THE MINISTER FOR FOREIGN AFFAIRS OF
GUATEMALA TO THE UNITED STATES.**

File No. 5316/109-111.

The Guatemalan Minister to the Secretary of State.

[Translation.]

No. 9.]

LEGATION OF GUATEMALA,
Washington, October 30, 1908.

MOST EXCELLENT SIR: I have the honor to announce to your excellency the arrival in this city of Licentiate Don Juan Barrios, M., minister of foreign relations of the Republic of Guatemala, who has also been appointed envoy extraordinary and minister plenipotentiary on special mission to your excellency's enlightened Government. The prime object of Mr. Barrios's mission is to express to the Government of the United States the gratitude and responsiveness of the Government of Guatemala for the many attentions and numerous proofs of cordial friendship it has received from it, and on the other hand aims at drawing even closer, if it were possible, the ties of friendly relations which happily bind and have bound the two countries.

For the due accomplishment of so pleasant an errand, I have the honor to transmit to your excellency, in Mr. Barrios's behalf, copies of his credentials and proposed address.

I beg your excellency will, if you deem it appropriate, obtain from the Most Excellent Mr. President that he will designate the audience at which Mr. Barrios, in company with the undersigned, may have the high satisfaction of offering to him the tribute of their respects.

I avail, etc.,

LUIS TOLEDO HERRARTE.

File No. 5316/109-111.

The Acting Secretary of State to the Guatemalan Minister.

DEPARTMENT OF STATE,
Washington, October 30, 1908.

SIR: I have the pleasure to acknowledge your note of to-day acquainting me with the arrival in this capital of Señor Dr. Don Juan Barrios, M., minister of foreign relations of Guatemala, who has been appointed envoy extraordinary and minister plenipotentiary on special mission to the United States. You request an audience with the President in order to present Señor Barrios, and you inclose office copy of his credentials and of his proposed remarks.

In response I am pleased to inform you that the President will receive Minister Barrios and yourself at the White House on Monday afternoon next, November 2, at 2.30 o'clock. If you and he will call at the department a few minutes before that hour I shall be pleased to accompany you.

Accept, etc.,

ALVEY A. ADEE.

[Translation.]

Remarks of Señor Don Juan Barrios M., Minister of Guatemala on special mission, on the occasion of his presentation to the President, November 2, 1908.

EXCELLENCY: It affords me peculiar pleasure to be honored by placing in your hands the autographic letter by which the President of the Guatemalan Republic has been pleased to accredit me envoy extraordinary and minister plenipotentiary in special mission before the illustrious government over which your excellency so worthily presides.

My Government has constantly received from the wonderful country of Washington remarkable evidences of fraternal and kindly regard, and I do not need to recall either the conference of the *Marblehead*, the last celebration in this capital, the sympathy expressed upon the death of my predecessor, Señor Muñoz, or the very many other instances, which are all impressed on the heart of my country.

Guatemala and its highest magistrate can never forget, and ought never to forget, Mr. President, the eloquent demonstration of sincere and loyal friendship which we received on the occasion of the special mission intrusted to His Excellency Maj. Gen. Davis, who, by his presence and high position, gave importance and brilliancy to the greatest undertaking which has been accomplished in Central America by an American company and with American capital—the transcontinental railway of Guatemala.

As the humble fellow worker with my chief, President Estrada Cabrera, I have had daily occasion to feel, Mr. President, the benefits of the existing peace in Central America in the accomplishment of which the efforts of your altruistic Government have played so important a part.

In order to reciprocate these friendly sentiments and to make known to you the lively gratitude of the President and Government (of Guatemala) for this long series of exhibitions of sincere and unqualified regard, the mission of cordiality and sympathy intrusted to me has been undertaken; and, in fulfilling that mission and in having the pleasure of greeting you and congratulating you upon the wisdom with which you are directing the destinies of this great Republic, permit me to express the ardent desire which animates my Government that the ancient ties and loyal friendship which happily bind and have always bound the United States of America and the Republic of Guatemala may be augmented and strengthened more or more, and day by day.

Be pleased to graciously accept, Mr. President, the cordial wishes which, in the name of the people and the Guatemalan Government, I offer you for the happiness of the people and Government of the United States of America, and for your personal welfare.

Reply of the President.

MR. MINISTER: It is a pleasure to receive from your hands the letter of your President accrediting you as envoy extraordinary and minister plenipotentiary on special mission before this Government.

It has been gratifying to the Government of the United States to avail of the opportunities you cite to give expression to its well-known impartial and sincere friendship for the Government of Guatemala and its sister Republics, and to show its earnest desire that the Republics of Central America may continue to enjoy the inestimable blessings of peace. I therefore cordially welcome you, Mr. Minister, in your congenial mission to demonstrate the appreciation of your President and Government for the fraternal interest shown to your country.

The Government of the United States earnestly shares in the desire you express for increasingly closer bonds of friendship between the two countries and for the continuance of the present mutual regard and confidence, and in conveying this assurance to your President I ask you also to extend to him my sincere wishes for the advancement and prosperity of Guatemala and for his personal welfare. I hope, Mr. Minister, that you will have an agreeable visit in this capital.

OUTRAGE ON GEORGE MILLIKEN AND SIMON SHINE, AMERICAN
CITIZENS, IN GUATEMALA.

File No. 9160/18-30.

Chargé Sands to the Acting Secretary of State.

No. 15.]

AMERICAN LEGATION,
Guatemala, October 14, 1907.

SIR: I have the honor to inform you that I have received from the consul general in this city information concerning what seems, at first sight, to have been a very violent and unprovoked attack on several American negroes living in the town of Zacapa, by the governor of the Province, Gen. Ariz, and the officers of his suite.

Immediately upon receipt of Mr. Kent's report, I communicated with the minister for foreign affairs informally, requesting him to cause an investigation to be made of this affair. This he promised me to do, and to-day, in an official interview he again assured me that he would do everything in his power to have a prompt, impartial, and thorough investigation. I have no means of following the progress of the case at Zacapa, unless I am permitted to order the consular agent at Puerto Barrios to proceed to Zacapa and make a full report.

I have, etc.,

W. F. SANDS.

[Inclosure 1.]

Consul General Kent to the American Legation.

No. 782.]

AMERICAN CONSULATE GENERAL,
Guatemala City, October 2, 1907.

SIR: I have the honor to inclose copies of the complaints of Simon Shine and George Milliken, two American citizens, together with copies of several documents,¹ wherein it is shown that a most brutal injury has been inflicted upon these American citizens at Zacapa, this Republic, by the jefe politico, or governor, of that department.

It would seem proper that this officer should be brought to punishment and that an indemnity should be paid to his victims.

I submit these complaints for your consideration and for such action as you may deem proper.

I am, sir, your obedient servant.

WM. P. KENT.

[Inclosure 2.]

Chargé Sands to Consul General Kent.

No. 5 Consular.]

AMERICAN LEGATION,
Guatemala, October 14, 1907.

SIR: Referring to your No. 782 of October 2, and to your 805, dated October 9,¹ concerning the beating of Messrs. Shine and Milliken, American citizens, at Zacapa, I have to inform you that upon receipt of your first communication I requested the minister for foreign affairs to cause an investigation of this affair by the proper authorities, which he promised to do.

I have had to-day an earnest conversation with His Excellency on this subject, in which he gave me every assurance that a strict and impartial investigation was in progress at Zacapa, of which he hoped to furnish me details very shortly. Permit me to observe that the claiming of an indemnity for these men, as you suggest in your No. 782, is a matter for the State Department to decide upon. In no case is it permitted for the legation to bring a money claim

¹ Not printed.

against that Government to which it is accredited without special instructions from the Department of State. Our duty ends with the bringing of the guilty parties to justice, whether they are the Americans or the jefe politico and his officers.

I have to request that you will inform the consular agent at Livingston (Puerto Barrios) that the Government of Guatemala has promised this legation a prompt, thorough, impartial, and strict investigation, and that the minister for foreign affairs has given me his assurance that these men can return to Zacapa in perfect safety.

Let him so inform Milliken and Shine, if they have not already returned to their residence.

I have to request also, that you will instruct Mr. Reed to continue to keep you minutely informed of the progress of the case.

I am, respectfully,

W. F. SANDS.

File No. 9160/33-36.

Chargé Sands to the Acting Secretary of State.

No. 22.]

AMERICAN LEGATION,
Guatemala, October 21, 1907.

SIR: Referring to my No. 15 of October 14, in which I reported to the department an assault on several American negroes living at Zacapa, by the civil and military governor at that place, and others, I have the honor to inform you that having heard nothing from the minister for foreign affairs of the investigation he had promised, I told His Excellency that unless I received prompt assurance that the Zacapa court was acting in this matter, I would be obliged to present a formal complaint against the governor, based upon reports and affidavits I had received through the consulate general.

I informed His Excellency that I had endeavored to avoid such action, as I would regret exceedingly to think that American citizens were only protected by the courts of Guatemala when the American representative demanded protection for them, and that this legation would prefer to have the courts act in the matter upon their own initiative, and without our official intervention.

Mr. Barrios replied that he would give me full details as soon as he had them, and that he could assure me that a severe sentence would be passed upon the culprits, and that Gen. Ariz would be removed from office.

I inclose copies of papers received from the consulate general concerning the case.¹

I have, etc.,

W. F. SANDS.

File No. 9160/38.

Chargé Sands to the Acting Secretary of State.

[Extract.]

No. 24.]

AMERICAN LEGATION,
Guatemala, October 29, 1907.

SIR: Referring to my Nos. 15, October 14, and 22, October 21, concerning the assault on certain American negroes at Zacapa, by Gen. Ariz, the civil and military governor of that department, and several

officers, I have the honor to report that I received in a personal interview the assurance of President Cabrera that the case should be terminated at once, and satisfactorily to the legation.

Immediately after this interview the minister for foreign affairs came to the legation to ask me to fix an indemnity for the injured men, which their assailants would be made to pay, in addition to the sentence imposed upon them by the court which has the case in charge at Zacapa.

I have consented to bring these negroes to Guatemala and shall carefully ascertain if they have suffered any loss, or injury which would cause them loss, before accepting the minister's proposition to indemnify them.

It has been my object to have the court at Zacapa act spontaneously and without pressure from the legation, in according full protection to these Americans.

I have, etc.,

W. F. SANDS.

File No. 9160/31.

Chargé Sands to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Guatemala, November 6, 1907.

Mr. Sands, referring to his Nos. 15, 22, and 24, reports that he has very carefully examined the men and finds the assault entirely unprovoked and of a particularly brutal character, one man being maimed for life, the other injured and a profitable business destroyed. Mr. Sands says he considers \$5,000 each not an exaggerated demand; states that the Guatemalan Government proposes money indemnification to victims by the governor and judicial punishment for the minor offenders. Mr. Sands also asks for instructions as to whether he shall settle on the basis of money indemnification and publication of arrangement or insist on prompt and fair trial of the governor, officers, bodyguard, and jail officials who failed to tend the wounded men and accepted money for their release, while acknowledging the attack unprovoked, imprisonment unjust, and the negroes within their rights.

File No. 9160/37.

Chargé Sands to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Guatemala, November 13, 1907.

Mr. Sands reports that the negroes assaulted at Zacapa are still waiting for department's decision in the case before departing for the United States. Says they are without funds and that they are living at his expense. Mr. Sands asks for instructions.

File No. 9160/37.

The Acting Secretary of State to Chargé Sands.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 15, 1907.

Mr. Bacon acknowledges Mr. Sands's telegrams of November 6 and 13 and informs him that he is authorized to settle on basis of money indemnification of victims and judicial punishment of minor offenders and the publication of the arrangement, providing the indemnity is promptly paid and immediate and energetic prosecution of the minor offenders is promised. States that his suggestion as to fixing indemnity at \$5,000 for each of the two injured negroes is approved.

File No. 9160/50-51.

Chargé Sands to the Secretary of State.

No. 36.]

AMERICAN LEGATION,
Guatemala, November 20, 1907.

SIR: Referring to my No. 32 of November 14,¹ acknowledging the department's No. 56, concerning the assault by the civil and military governor of Zacapa et al., upon two American negroes, Simon Shine and George Milliken, I have the honor to report that I have communicated to the minister of state for foreign affairs the contents of your cabled instructions of November 16.

His excellency considered the sum of \$5,000 indemnity to each of the injured negroes excessive, and wished to consult the President before giving me a reply on that one point. He seemed perfectly willing to agree to the department's terms on all other points.

Gen. Ariz, the official who committed this assault, has informed me that while he is perfectly willing to comply with the orders of President Cabrera in this matter, he can bring witnesses to prove that he had nothing to do with the beating of the two negroes, and he states also that he can, if necessary, discredit Shine and Milliken as witnesses, and show that they might have signed the documents affirming the truth of statements concerning subjects upon which they have not and can not have any knowledge.

As the letter from Shine to President Roosevelt seemed to me to fall within the claim of Gen. Ariz, I questioned him carefully concerning the authorship of the letter and his knowledge concerning the statements to which he signed his name.

Shine admitted that he had not written the letter, but had signed it, and said that he had no knowledge of the statements it contained concerning misconduct in his office.

Later he stated that the letter had been written for him by the consular agent at Livingston, Mr. Reed, but has now again relapsed into a stubborn silence concerning the letter in question. I am convinced that Shine's and Milliken's statements concerning the assault on them are truthful, and that Shine had nothing to do with the composition of the letter to the President which he signed.

¹Not printed.

I have requested the consul general at this capital to cooperate with me in this matter, and cross-examine Shine, as I consider it unfair to proceed with this claim against the Government of Guatemala as long as there can be any doubt as to the man's reliability as a witness.

I have also requested the consul general to bring this matter to the attention of Mr. Reed; to use an affidavit or other official statement made by an illiterate person as a vehicle for one's own opinions or for accusations against a superior officer which one fears to make over one's signature, appears to me to be a matter of sufficient gravity for the consul general to require an explanation.

I am, etc.,

W. F. SANDS.

File No. 9160/58.

Memorandum from the Guatemalan Legation.

[Translation.]

GUATEMALAN LEGATION,
Washington, December 6, 1907.

Under instructions from my Government, I have the honor to make to the honorable Secretary of State the following statement of facts regarding the incident which took place at Zacapa (Republic of Guatemala) respecting the arrest by the local authorities of the American citizens, negroes, Simon Shine, and George Miliquin or Milliken:

On the 16th of last September George Milliken, an employe of the railroad at Zacapa, went to the liquor saloon kept by Simon Shine, where colored people frequently gather for the purpose of drinking and gambling, thereby disregarding the regulations of the authorities and the laws of the country in the matter. Milliken, after having taken liquor until he had completely lost control of himself, caused an extraordinary disturbance by vociferating that he had been beaten and robbed of the money he had while he was in the Shine tavern.

By reason of the above, the police appeared, and as Shine refused to accompany Milliken, making lively efforts to oppose the authorities, it was necessary to put him in handcuffs. From the personal testimony of Milliken the truth of all this is shown, it also appearing that that personage had drunk until intoxicated, in company with other negroes, and that he can not say how he was beaten, which is not to be wondered at, since he himself confesses that when he drinks excessively he becomes crazed to such a point as to cause the worst consequences for him.

The departmental surgeon, who performed an examination upon the above-named persons, stated that there were wounds of a slight character, which would heal in five or six days, and this was confirmed by another surgeon.

From the above it is apparent that the matter concerns a dispute between colored people, who, unfortunately under the influence of alcohol, were accustomed to lose control over themselves; and that the authorities limited themselves to repressing the disturbance in accordance with the duty which the law imposes upon them. Unfortunately Dr. Wailles, in reporting touching the wounds suffered by

Shine and Milliken, evidently made an exaggeration, which induced the chargé d'affaires of the United States, Mr. Sands, to present to the Guatemalan foreign office a formal claim, demanding the immediate payment of \$5,000 to each one of the parties.

The Government of Guatemala, which has as a first principle the maintenance of its good and cordial relations with the United States, and which has always endeavored to arrange the difficulties which arise, is firmly disposed to continue an impartial and active investigation of the facts above related; and even though it believes that it can not be held responsible for a quarrel arising between private parties, it requests, through me, that, in order to determine the justice of this matter, the necessary further time may be conceded to conclude the indispensable steps for the clearing up of the facts and for the submission of documents which will permit a settlement of the incident in an equitable, definite, and satisfactory manner.

File No. 9160/58.

The Acting Secretary of State to Chargé Sands.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 7, 1907.

Mr. Bacon informs Mr. Sands that the Government of Guatemala has requested further time to investigate facts in the cases of Shine and Milliken, and directs that he informally advise the minister of foreign affairs that the United States Government is prepared to allow ample time for a thorough investigation of the facts of these cases. Instructs Mr. Sands to continue his investigations, reporting all material facts to department, and to take no further action in the matter until further instructed by department.

File No. 9160/58.

Memorandum to the Guatemalan legation.

DEPARTMENT OF STATE,
Washington, December 7, 1907.

The Department of State has the honor to acknowledge the receipt of the memorandum dated the 6th instant, in which the minister of Guatemala gives the Government's version of the arrest by the local authorities of Zacapa, Guatemala, of the American citizens Simon Shine and George Milliken. The minister of Guatemala requests that, in order to determine the justice in the matter, the necessary further time be given to finish the indispensable steps for the clearing up of the facts of the case, and for the admission of documents that will permit a settlement of the incident in an equitable, definite, and satisfactory manner.

In reply to the memorandum the Department of State has the honor to say that it desires that these cases shall be settled on their merits, and therefore it courts the fullest investigation of the facts. The American chargé d'affaires ad interim at Guatemala City has accordingly been instructed to advise the Guatemalan minister of foreign affairs, informally, that this Government is prepared to allow ample time for a thorough investigation.

File No. 9160/50-51.

The Acting Secretary of State to Minister Sands.

No. 65.]

DEPARTMENT OF STATE,
Washington, December 10, 1907.

SIR: I have to acknowledge the receipt of your dispatch No. 36 of the 20th ultimo in further relation to the assault on Simon Shine and George Milliken by the civil and military governor at Zacapa, Guatemala.

On the 6th instant the department sent you the following telegram, which I now confirm.¹

In this connection I inclose herewith copies of memorandums from and to the Guatemalan minister at this capital on the subject.

I am, etc.,

ROBERT BACON.

File No. 9160/68.

Chargé Sands to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Guatemala, January 8, 1908.

Mr. Sands reports that former civil governor, Gen. Aris, has sent to ask, through a third person, how he can arrange this matter satisfactorily to the legation, and that the minister for foreign affairs has asked if the legation will accept the removal of Gen. Aris from office and a payment of \$1,000 each to Shine and Milliken, and punishment of the policemen who wounded them. Mr. Sands states that the minister for foreign affairs says nothing of the punishment of the aid-de-camp to Gen. Aris who was, according to the testimony submitted to the department, equally guilty. Adds that the minister for foreign affairs is willing to make this settlement immediately, urging that public disgrace is sufficient punishment for Gen. Aris. Mr. Sands asks if the offer shall be accepted, plus the punishment of the General's aide-de-camp.

File No. 9160/68.

The Secretary of State to Chargé Sands.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 9, 1908.

Mr. Root acknowledges Mr. Sand's telegram of the 8th instant, and informs him that the payment of \$1,000 each to the two injured men and punishment of the policemen who wounded them will be quite acceptable. Says the removal of important officers of the Government is not asked, but that appropriate reprimand to the commanding general may be in order. Mr. Root also states that it is not desired to insist on the public humiliation of those officers, but trusts to the good

¹ Supra.

judgment of the Guatemalan Government for appropriate disavowal of their acts, which it is understood was practically offered and which will be greatly appreciated as evidence of their friendly consideration.

INAUGURATION OF THE INTERNATIONAL CENTRAL AMERICAN BUREAU.

File No 6775/572.

Minister Heimke to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Guatemala City, September 16, 1908.

Yesterday afternoon the President of Guatemala, with the assistance of cabinet members, supreme court, army officers, diplomatic corps and civic bodies, officially inaugurated the International Bureau of Central American Republics, in impressive ceremony and amid greatest enthusiasm.

HEIMKE.

File No. 6775/578.

The President of Guatemala to President Roosevelt.

[Telegram.—Translation.]

GUATEMALA, September 16, 1908.

I have the honor and great satisfaction to inform you that under the pleasantest auspices the International Central American Bureau has been inaugurated. By reason of this, kindly accept my patriotic gratitude and warm greetings in the name of Guatemala and in my own.

M. ESTRADA C.

File No. 6775/576.

The Guatemalan Minister to the Acting Secretary of State.

[Translation.]

No. 51.]

LEGATION OF GUATEMALA,
Washington, September 16, 1908.

Sir: I have the honor to advise you that, in accordance with the convention concluded at Washington, December 20, 1907, the International Central American Bureau was solemnly inaugurated yesterday at Guatemala City.

I beg you to be pleased to accept, etc.,

LUIS TOLEDO HERRARTE.

File No. 6775/577.

The Delegates of Costa Rica, Salvador, Guatemala, Honduras, and Nicaragua to President Roosevelt.

[Telegram.—Translation.]

GUATEMALA, September 16, 1908.

With most respectful greetings, we have the honor to announce to Your Excellency that, in impressive solemnity and amid demonstrations of rejoicing, the International Central American Bureau, of

which we are the members, was inaugurated to-day in this capital by the President of this Republic, and that we have the firm purpose, on our part, of seconding the lofty and beneficent aims of the convention signed in Washington, which creates this most important institution.

RICARDO J. ECHEVERRIA,
Delegate of Costa Rica.

CARLOS GILLEN,
Delegate of Salvador.

JOSÉ PINTO,
Delegate of Guatemala.

MANUEL P. BARAHONA,
Delegate of Honduras.

BENJAMIN F. ZELEDON,
Delegate of Nicaragua.

File No. 6775/574.

The Delegates of Costa Rica, Salvador, Guatemala, Honduras, and Nicaragua to the Secretary of State.

[Telegram—Translation.]

GUATEMALA, *September 16, 1908.*

With most respectful greetings, we have the honor to advise Your Excellency that, in great solemnity and amidst demonstrations of immense rejoicing, the President of this Republic this day inaugurated in this capital the International Central American Bureau, of which we are the members, cherishing for our part the firm purpose of furthering the lofty and beneficent aims of the convention concluded at Washington, by which this most important institution was created.

RICARDO J. ECHEVERRIA,
Delegate of Costa Rica.

CARLOS GILLEN,
Delegate of Salvador.

JOSÉ PINTO,
Delegate of Guatemala.

MANUEL P. BARAHONA,
Delegate of Honduras.

BENJAMIN F. ZELEDON,
Delegate of Nicaragua.

File No. 6775/573.

The President of Guatemala to the Secretary of State.

[Telegram—Translation.]

GUATEMALA, *September 16, 1908.*

It affords me the utmost pleasure to announce to you that the International Central American Bureau has been inaugurated under the most favorable auspices.

M. ESTRADA C.

File No. 6775/579.

Minister Heimké to the Secretary of State.

No. 99.]

AMERICAN LEGATION,
Guatemala City, September 16, 1908.

SIR: I have the honor to report that in accordance with the special convention signed at Washington, D. C., in December last by the delegates of Costa Rica, Guatemala, Honduras, Nicaragua, and Salvador for the establishment at the city of Guatemala of an international bureau of the Central American Republics for the development of Central American commerce, etc., the President of Guatemala, with the assistance of the cabinet ministers, members of the supreme court, high army officers, the diplomatic corps, and civic bodies yesterday officially inaugurated the before-mentioned bureau in impressive ceremony and amidst the greatest enthusiasm, at which inauguration most felicitous, practical, and appropriate addresses were made by the President of the Republic, the minister for foreign affairs, the minister of fomento, the dean of the diplomatic corps, and by each of the delegates to this Central American Bureau.

It is gratifying to me to state that the Government of Guatemala lacked neither energy nor interest in making the occasion of this inauguration a complete success, and every one seems to look forward with more than ordinary concern to the beneficent results of this bureau. As at present constituted, the personnel of the same, composed of men of rare attainments and exceptional intelligence, is as follows:

Costa Rica: Ricardo J. Echeverría (who is also the consul of Costa Rica to Guatemala).

Guatemala: José Pinto (a former chief justice of the supreme court of the Republic of Guatemala).

Honduras: Manuel Echeverría (chargé d'affaires of Costa Rica to Guatemala, temporary, pending the arrival of the duly appointed delegate, who has been unavoidably detained by impassable roads and swollen streams).

Nicaragua: Dr. Benjamin F. Zeledón (newly appointed chargé d'affaires from his country to Guatemala).

Salvador: Dr. Carlos Guillén.

After the close of the ceremonies that attended the inauguration of this International Bureau of the Central American Republics, the before-mentioned delegates had the kindness to pay me a call of courtesy and, at the same time, to solicit my assistance in so far as might be possible and consistent in placing them in proper touch with the International Bureau of the American Republics at Washington, which it seems to be their desire to take as a model and to follow.

I shall take pleasure in forwarding to the department the publications of the before-mentioned bureau as they appear from time to time.

I have, etc.,

WM. HEIMKÉ.

File No. 6775/575.

The Minister of Foreign Affairs of Guatemala to the Secretary of State.

[Telegram—Translation.]

GUATEMALA, *September 17, 1908.*

I have the honor to advise your excellency that the international bureau of Central American Republics was inaugurated to-day in accordance with the convention signed at Washington.

JUAN BARRIOS.

File No. 6675/574.

The Acting Secretary of State to the Delegates of Costa Rica, Salvador, Guatemala, Honduras, and Nicaragua.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 20, 1908.

In the name of the Secretary of State, I extend cordial congratulations to the members of the bureau and good wishes for a useful and broad field of work.

ADEE.

File No. 6775/575.

The Acting Secretary of State to the Minister of Foreign Affairs of Guatemala.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 20, 1908.

Accept appreciative acknowledgment of your gratifying telegram reporting the inauguration of the international bureau.

ADEE.

File No. 6775/574.

President Roosevelt to the Delegates of Costa Rica, Salvador, Guatemala, Honduras, and Nicaragua.

[Telegram.]

THE WHITE HOUSE,
Washington, September 20, 1908.

To you as delegates representing your countries at the inauguration of the International Central American Bureau, I offer my cordial congratulations and good wishes for the success of its high purpose.

THEODORE ROOSEVELT.

File No. 6775/573.

President Roosevelt to the President of Guatemala.

[Telegram.]

THE WHITE HOUSE,
Washington, September 20, 1908.

It affords me pleasure to acknowledge your telegram and to convey my congratulations upon the auspicious inauguration of the international Central American Bureau.

THEODORE ROOSEVELT.

File No. 6775/573.

The Acting Secretary of State to the President of Guatemala.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 20, 1908.

In the name of the Secretary of State, I tender congratulations upon the auspicious opening of the International Bureau.

ALVEY A. ADEE.

File No. 6775/583.

*The Delegates of Costa Rica, Nicaragua, Guatemala, Honduras, and Salvador to the Secretary of State.*¹

[Translation.]

GUATEMALA, September 25, 1908.

MR. SECRETARY: As we had the honor to communicate to you by cable, the International Central American Bureau created by the convention signed at Washington on December 20 last by the representatives of the five Central American countries was formally opened here on the 15th instant.

While informing your excellency of this event again, we take pleasure also in reassuring you of our intention to do all in our power to attain the high purposes for which the said bureau was created, thus acting in conformity with the hopes and desires of our respective Governments.

However, our work would be absolutely fruitless if we could not, as we believe we can, depend on the moral and effective support of eminent personages, who, like your excellency, are interested in behalf of the peace, the union, and the progress of the Central American Republics.

With the assurances of this support, we enter upon the task of this bureau, and we hope your excellency's illustrious mind will always see in these tasks the patriotic motives by which they are inspired.

Availing ourselves of this opportunity to assure you of our high esteem, we take pleasure in being

Your obedient servants,

RICARDO J. ECHEVERRIA,
CARLOS GUILLEN,
MANUEL F. BARAHONA,
JOSÉ PINTO,
B. F. ZELEDON.

File No. 6775/583.

The Secretary of State to the Delegates of Costa Rica, Nicaragua, Guatemala, Honduras, and Salvador.

DEPARTMENT OF STATE,
Washington, October 14, 1908.

GENTLEMEN: I have the honor to acknowledge the receipt of your letter of the 25th ultimo, in which you confirm your telegram of the 16th ultimo, announcing the inauguration, on the 15th ultimo, of the

¹ The delegates also addressed President Roosevelt in the same sense.

Central American International Bureau, created by the convention signed at Washington on December 30, 1907, by the representatives of the five Central American Republics.

The department is much gratified to receive from you the assurance of your intention to do all in your power to attain the high purposes for which the bureau was created; and it fondly hopes that the bureau will prove an effective instrument toward bringing about a lasting peace and brotherhood among the Central American people.

With sentiments of high esteem, I have, etc.,

ELIHU ROOT.

File No. 6775/585.

The Secretary of State to the Delegates of Costa Rica, Salvador, Honduras, Guatemala, and Nicaragua.

DEPARTMENT OF STATE,
Washington, October 19, 1908.

GENTLEMEN: I have the honor to acknowledge the receipt, through reference hither by the President, of your letter to him of the 25th ultimo in which you confirm your telegram to him of the 16th ultimo announcing the inauguration, on the 15th ultimo, of the Central American International Bureau, created by convention signed at Washington on December 20, 1907, by the representatives of the five Central American Republics.

The assurances given in your letter that it is your intention to do all in your power to attain the high purposes for which the bureau was created, has given the President great satisfaction; and he hopes that the work of the bureau will be of a high character, and realize all that is expected of it as one of the instrumentalities in securing a lasting peace, prosperity, and brotherhood among the nations of Central America.

With sentiments of high esteem, I have, etc.,

ELIHU ROOT.

HAITI.

REVOLUTION IN HAITI.

Involving Questions of Asylum, Blockade, Bombardment, and Recognition of the Provisional Government of Haiti.

File No. 2126/42.

Minister Furniss to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Port au Prince, January 16, 1908.

Mr. Furniss reports the outbreak of a revolution headed by Gen. Gumau, who came as emissary of Firman in a sailing vessel from St. Thomas and landed near Gonaives a few days ago, states that information has been received that Gonaives and St. Marc are in the hands of the revolutionists; that telegraphic communication is interrupted; and that the Dominican minister has received private advice to the effect that all department of Artibonite is in arms. Mr. Furniss says the Haitian Government published yesterday officially that there had been an earthquake at Gonaives, but during the night the secretary of state for war embarked on a Haitian war vessel, it is said, with troops. Adds that to-day the Haitian Government published that the Haitian forces have repelled the revolutionists, but this is doubted, it being said that the department of the west and south will join the revolutionists.

File No. 2126/66-68.

Minister Furniss to the Secretary of State.

[Extract.]

No. 278.]

AMERICAN LEGATION,
Port au Prince, January 17, 1908.

SIR: I have the honor to report that the French and German ministers, the Cuban and Dominican chargé d'affaires, and the British consul general attended a meeting at the legation to-day, when it was decided that, in view of the fact that the Haitian war vessel *Nord Alexis*, with the Haitian vice admiral and the secretary of war on board, was before St. Marc, which place it is reported is to be bombarded within the next 24 hours by the said vessel, the representatives of such nations as had citizens or subjects there should protest against such steps being taken against an unfortified

town and should call the Haitian Government's attention to the fact that if the bombardment was proceeded with the Haitian Government would be considered responsible for all loss of life or damages sustained by the citizens or subjects of the protesting representatives.

I inclose herewith copy of my protest and copy in French of the protest of the French, German, and English representatives; the other representatives present at the meeting, though in accord therewith, not sending protest, as they had no citizens in St. Marc.

Present conditions in Haiti were discussed, and from the news at hand it seemed to be the general opinion that the revolutionary movement will spread and will be especially detrimental to the foreigners.

The necessity for foreign warships was likewise discussed and it was thought that for the present no action would be taken, other than that the German and French ministers thought it advisable to request their Governments to have a war vessel near at hand in case of emergency.

Later in the day the French minister informed me that, because of current rumors coupled with the attitude of the Haitian Government toward some Frenchmen who had to-day arrived here by the German boat *Graecia*, which is from New York via Cape Haitian, Port de Paix, and Gonaives, he had decided to cable for a man-of-war to come to Port au Prince at once.

Your excellency will please accept, etc.,

H. W. FURNISS.

[Inclosure I.]

Minister Furniss to the Minister for Foreign Affairs.

No. 242.]

AMERICAN LEGATION,
Port au Prince, January 17, 1908.

SIR: I have reason to believe that the Government of Haiti proposes to bombard St. Marc, at present occupied by the revolutionists.

I desire to call your excellency's attention to the fact that there are American citizens at that place with considerable business interests. As I understand it, the place is unfortified, and I desire to enter protest against bombardment which may cause damage to the persons or property of said Americans, and to inform you that the Haitian Government will be considered as responsible for such damage, etc., as may be caused to them.

Your excellency will please accept, etc.,

H. W. FURNISS.

[Inclosure 2.—Translation.]

Note of protest of the German, French, and English representatives to the Minister for Foreign Affairs.

MR. SECRETARY OF STATE: I have reason to believe that the Government of Haiti proposes to bombard St. Marc, at present occupied by the insurgents.

As there are at St. Marc important French interests, and as on the other hand that city is not fortified, I protest in advance against the bombardment, which can only cause damage to persons or French property, and I have the honor to inform you that, in advance also, I render the Government responsible for those damages.

Please accept, etc.,

File No. 2126/69-71.

Minister Furniss to the Secretary of State.

No. 280.]

AMERICAN LEGATION,
Port au Prince, January 17, 1908.

SIR: I have the honor to inclose herewith copies of the correspondence between this legation and the Haitian Government relative to the blockade decreed at Gonaives and St. Marc.

I have, etc.,

H. W. FURNISS.

[Inclosure 1.—Translation.]

*The Minister for Foreign Affairs to Minister Furniss.*FOREIGN OFFICE,
Port au Prince, January 17, 1908.

MR. MINISTER: I have the honor to inform you that, with a view of promptly assuring the success of the military operations undertaken against the rebel cities of Gonaives and St. Marc, the Government of the Republic has made a decree placing the ports of the said cities of Gonaives and St. Marc in state of blockade.

In begging you to inform your Government to take such such steps as usage demands I take, with pleasure, this occasion to renew, etc.,

H. PAULEUS SANNON.

[Inclosure.]

Minister Furniss to the Minister for Foreign Affairs.

No. 241.]

AMERICAN LEGATION,
Port au Prince, January 17, 1908.

SIR: I am in receipt of your excellency's note of to-day in which you inform me that your Government had decreed the ports of Gonaives and St. Marc, now in the possession of the revolutionists, blockaded, and agreeable to your request have advised my Government of the same.

In acknowledging the receipt of your excellency's note I desire to state that, agreeable to various precedents, your excellency's Government's decree of blockade will be accepted by my Government with the usual reservations acknowledged by international law.

Please accept, etc.,

H. W. FURNISS.

File No. 2126/46.

Minister Furniss to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Port au Prince, January 17, 1908.

Mr. Furniss reports that the Haitian Government has formally notified the Diplomatic Corps that St. Marc and Gonaives are decreed blockaded and that he has replied that the blockade will be recognized according to international law. Says the consular agent at Gonaives reports the fall of that town, which is in full control of the revolutionists, without bloodshed, and that the Government officers who were in command of the district have taken shelter at

the United States consular agency, the revolutionists refusing permission for them to embark. Mr. Furniss states that the Haitian Government will doubtless send a naval vessel to bombard, and that an attempt to take the town will result in loss of life and property. Adds that the French minister has cabled for a man-of-war to come at once, and expresses the opinion that the situation does not warrant a man-of-war at the present time, although there may be necessity at a moment's notice, there being great uneasiness.

File No. 2126/43.

Minister Furniss to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Port au Prince, January 17, 1908.

I have just had interview with the President of Haiti, who insists on bombarding St. Marc, now in the possession of revolutionists, Commander of United States ship *Eagle* has arrived from St. Marc this morning, and reports that he protested against bombardment to Haitian war vessel at St. Marc, and he has had it postponed until now, to permit women and children to get into safety. *Eagle* has returned to St. Marc. There are three American citizens in business in St. Marc. Diplomatic Corps have decided to protest against bombardment.

FURNISS.

File No. 2126/49.

The Haitian Minister to the Secretary of State.

[Translation.]

No. 1711.]

LEGATION OF THE REPUBLIC OF HAITI,
Washington, January 18, 1908.

MR. SECRETARY OF STATE: Pursuant to instructions just received from my Government, I hasten to advise you that the ports of Gonaives and St. Marc have been declared to be in a state of blockade.

I gladly embrace this opportunity to renew to you, etc.,

J. V. LEGER.

File No. 2126/50.

Minister Furniss to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Port au Prince, January 20, 1908.

Haitian Government announces that St. Marc is in the hands of the Government troops.

FURNISS.

File No. 2126/53.

The Secretary of State to Minister Furniss.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 22, 1908.

Mr. Root informs Mr. Furniss that it is understood the revolutionary leader at St. Marc is at the American consulate, and also that there is evidence that he is the agent of the conspirators in New York who are aiding the revolution. Mr. Furniss is directed to inform the Haitian Government of the dismissal of the consul and the cancellation of his commission. Instructs him to go or send a responsible person to receive the archives.

File No. 2126/57.

Minister Furniss to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Port au Prince, January 23, 1908.

Mr. Furniss reports having notified the Haitian Government of the dismissal of the American consular agent at St. Marc, and says that as there are no means of communication it is impossible to go or send anyone to St. Marc. Suggests that unless department desires that the agency be closed that it be temporarily turned over to a responsible person, in which suggestion the minister for foreign affairs concurs. Requests instructions. Mr. Furniss adds that the consular agent at Port de Paix cables that the officials of the Haitian Government have sought shelter at the consulate there, the city being in the hands of the revolutionists.

File No. 2126/88-89.

Minister Furniss to the Secretary of State.

No. 286.]

AMERICAN LEGATION,
Port au Prince, January 24, 1908.

SIR: I have the honor to inclose herewith the acknowledgment by the Haitian Government of the protest which I sent under date of the 17th instant, against the bombardment of St. Marc, copy of which I inclosed in my No. 278 of the 17th instant.

I have, etc.,

H. W. FURNISS.

[Inclosure.—Translation.]

*The Minister for Foreign Affairs to Minister Furniss.*FOREIGN OFFICE,
Port au Prince, January 18, 1908.

MR. MINISTER: Your note of yesterday's date informs me that you have reasons to believe that the Haitian Government proposes to bombard St. Marc, at present occupied by revolutionists.

In that regard, you think it opportune to call my attention to the fact that there are American citizens with large commercial interests in that city; you declare that you are informed that that city is not fortified; you wish to protest against the bombardment that may cause injury to persons as well as to the properties of these Americans, and that further, the Haitian Government would be held responsible for those injuries.

I have the honor to acknowledge the receipt of that communication to which it is necessary that I make the most expressive reserves. I think it my duty, besides, to remark that it is imperiously incumbent on the Government to restore order; consequently it is resolved to take all the measures authorized by the usages of war; it is none the less decided to make all efforts to reconcile its duty to restore peace in the troubled districts with its anxiety to safeguard and protect as far as possible, the lives of inoffensive persons and the interests of foreigners in general.

I take occasion to reiterate to you, etc.,

H. PAULEUS SANNON.

File No. 2126/51.

The British Ambassador to the Secretary of State.

No. 16.]

BRITISH EMBASSY,
Washington, January 20, 1908.

SIR: I have to-day received telegraphic information of His Majesty's Government to the effect that His Majesty's consul general at Port au Prince reports the outbreak of a serious revolution on the island of Haiti. According to this information the ports of Gonaives and St. Marc are in a state of blockade and the lives and property of British subjects resident in those towns are endangered. It is further reported that a United States naval vessel is on the spot and that His Majesty's ship *Indefatigable* has been ordered to proceed there without delay, but can not well arrive in less than a week.

I am instructed further to inquire whether the United States Government would be so good as to instruct their naval authorities to afford protection to British subjects in the island of Haiti pending the arrival of H. M. S. *Indefatigable* to such extent as may be requisite.

I shall be greatly obliged if I might be put in a position to assure my Government on this point as soon as conveniently possible.

I have, etc.,

JAMES BRYCE.

File No. 2126/56.

The Secretary of State to the British Ambassador.

No. 223.]

DEPARTMENT OF STATE,
Washington, January 23, 1908.

EXCELLENCY: I have the honor to inform you, with further reference to your note No. 16 of the 20th instant in connection with the revolutionary outbreak on the island of Haiti, that the Secretary of the Navy informs the department, in response to its request of the 21st instant, that the commanding officer of the U. S. S. *Eagle* has been directed by cable to afford protection to British subjects and property pending the arrival at the island of H. M. S. *Indefatigable*.

I have, etc.,

ELIHU ROOT.

File No. 2126/63.

Minister Furniss to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Port au Prince, January 28, 1908.

Mr. Furniss reports it is announced that Gonaives has surrendered and that the principal revolutionary leaders are at the French consulate there, which, doubtless, will put an end to the revolution. States that the Haitian Government has informed the diplomatic corps that it will oppose the embarkation of the revolutionary leaders in the consulates at Gonaives and St. Marc upon the ground that they have committed crimes punishable by law. Mr. Furniss also states that the revolutionists at St. Marc were at the United States consular agency when the agent was dismissed January 23, and although there has been no agency there since that time, the minister for foreign affairs announces that the revolutionists are considered under the protection of the United States. Adds that the Gonaives archives are in the custody of Hugo Jurgensen, a German merchant, and that as the steamer for New York will call at St. Marc February 1, it will be necessary to designate him agent, temporarily, which course it is the intention of the consulate to pursue.

File No. 2126/63.

The Secretary of State to Minister Furniss.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 28, 1908.

Mr. Root directs Mr. Furniss to convey congratulations to the Government of Haiti on the successful ending of the revolution, and to assure the minister for foreign affairs that the revolutionists are not to be considered under the protection of the United States Government. Mr. Furniss is informed that Hugo Jurgensen may be temporarily designated as agent at St. Marc and that the consular agent at Gonaives should be instructed immediately as follows:

You are not to assist or give asylum to anyone participating in the revolution against Haiti, and if the revolutionists are already in the consulate you will decline to harbor them or facilitate their escape.

File No. 2126/73.

Minister Furniss to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Port au Prince, January 29, 1908.

The Government of Haiti has just advised the legation that the blockade at St. Marc and Gonaives has been removed.

FURNISS.

File No. 2126/75.

The Acting Secretary of State to Minister Furniss.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 31, 1908.

Mr. Bacon, referring to department's telegram of January 28, informs Mr. Furniss that the Haitian minister states that the consular agent at St. Marc continues to protect revolutionary refugees at the consulate. Instructs him to proceed at once to St. Marc and Gonaives if necessary and report the exact condition of affairs, and to see that department's instructions are obeyed. Mr. Bacon says there would seem to be an exceptional condition at Gonaives, as the commander of the *Eagle* reports that besides Haitian refugees there are three British subjects and one Cuban in the American consulate. Directs that the latter be protected, pending full investigation and in the absence of consular representatives of their own nationality.

File No. 2126/78.

Minister Furniss to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Port au Prince, February 1, 1908.

Have received a telegram from consular agent at St. Marc reporting that the Haitian Government has shot 5 of the refugees who were at Miot's and put 10 in prison. Commander of *Eagle* was present and reports that they were shot within 20 minutes after being seized. He further reports that United States consulate at Gonaives guarded by Haitian troops, and that Haitians in the consulate refused to leave. *Indefatigable* at Gonaives. French Government continues to protect revolutionists at its agency in Gonaives. Our consular agent at Port de Paix has notified me that he did have Haitian authorities as refugees, and now has 11 revolutionary refugees. What instructions shall I give to Port de Paix?

FURNISS.

File No. 2126/80.

The Acting Secretary of State to Minister Furniss.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 3, 1908.

Mr. Bacon acknowledges telegram and informs Mr. Furniss that criticisms on the situation at St. Marc are entirely unwarranted, as the condition there was extraordinary, and the consular agent was removed as soon as his connection with the revolution became known, it afterwards appearing that he was harboring fellow revolutionists who had murdered the governor. Says his removal was necessary, and with it the responsibility of the United States Government for Miot's acts, as well as his representation of it, ceased absolutely.

Mr. Furniss is informed that the situation at Gonaives, and probably also at Port de Paix, as he now reports it, is entirely different, although under no circumstances will the United States Government encourage revolution and crime nor permit abuse of the practice of sanctuary, and his instructions as to protecting British and Cuban refugees continue unchanged. Referring to Haitians at Gonaives and Port au Prince, Mr. Bacon directs him to notify the minister for foreign affairs that the United States denies sanctuary against due process of law, but will protect refugees against summary lawless slaughter, such as now appears to have been meted out to the refugees at St. Marc. Instructs him to consult with the commander of the *Eagle* as to the practicability of transferring all the refugees from Gonaives and Port de Paix to Port au Prince to be turned over to his protection for safe-keeping until their status, whatever their nationality, can be determined under international law and until absolute guaranty from the President and Government of Haiti can be obtained for their trial according to the orderly operation of the Haitian law, it being clearly understood that the United States will not consent to nor encourage a premium upon revolution and lawlessness, but in the interest of common humanity will insist upon unequivocal guaranty by international agreement as to the treatment of the refugees.

File No. 2126/80.

Minister Furniss to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Port au Prince, February 5, 1908.

Reports conveying department's cable instructions of the 3d to the Haitian minister for foreign affairs and explaining the observations as to revolutionary refugees. Mr. Furniss says he deems it both impossible and unnecessary at the present moment to have the refugees at Gonaives and Port de Paix brought to Port au Prince and has informed the minister for foreign affairs that the refugees are to be considered as under the legation's protection, to which Haitian Government agrees pending settlement of the questions at issue.

Mr. Furniss urges the department to await dispatches upon the subject of entering into an agreement with Haiti relative to giving up the refugees for trial before acting positively. States that the minister for foreign affairs has informed him that the three British and the Cuban in the consular agency at Gonaives have been ordered expelled, which is satisfactory to the British and Cuban representatives. Adds that the *Eagle* left on Monday.

File No. 2126/81.

Minister Furniss to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Port au Prince, February 5, 1908.

States that at a meeting of the diplomatic corps held this day, he explained the position of the department as to extending asylum to

revolutionists. Mr. Furniss quotes a telegram sent by the French, German, and British representatives to their Governments, stating that the Haitian refugees in the different consulates sought shelter there because it had been customary to do so and believed the custom still existed, and that to give them up would be detrimental to the prestige of the different Governments; also that any guarantees the Haitian Government might offer as to the lives of these refugees would be deceptive, as justice does not exist in Haiti and the prisons are deadly.

Mr. Furniss states that it appears further from the telegram that the above-mentioned representatives desire to request the embarkation of the refugees, on the declaration that they will not return to Haiti during the present presidency. He says the telegram also refers to the abuse of the right of asylum, which in future should be restricted, if not abolished, for Haitians, and in regard to which an understanding will be had later on between the interested governments. Mr. Furniss remarks that he agrees with his colleagues in so far as conditions in Haiti are concerned.

Mr. Root's attention is called to the fact that the President of Haiti gave no definite answer to the French minister's request to embark the refugees in the French consulate at Gonaives, saying that for the present they could remain in the consulate, nor did he say anything as to his desire to have them tried.

File No. 2126/81.

The Acting Secretary of State to Minister Furniss.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 7, 1908.

Mr. Bacon acknowledges telegram of February 5; says note has been taken of the proposal of the other foreign representatives to deport refugees, and directs Mr. Furniss to inform his colleagues that the United States can not join in this proceeding. States that the naval commander reports that it has been suggested to deport all the refugees to Cuba, and advises Mr. Furniss that as that island is now under the responsible administration of the United States, any proposal so to make it a place of political asylum could not be sanctioned. Mr. Bacon instructs him not to lend either official or personal support to any such action.

File No. 2126/120.

Minister Furniss to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Port au Prince, February 10, 1908.

Our consular agent at Gonaives has telegraphed: "Haitian refugees are out."

Investigation shows that they escaped from the consulate at their own risk and peril.

Consul of the United States at Cape Haitien has reported that he has five Haitian refugees who took no part in the revolution, and will probably be allowed to leave consulate.

FURNISS.

File No. 2126/195-197.

Minister Furniss to the Secretary of State.

No. 333.]

AMERICAN LEGATION,
Port au Prince, March 17, 1908.

SIR: I have the honor to inclose herewith the correspondence between this legation and the Haitian Government relative to extending a few days' delay in the execution of the orders of expulsion which had been issued against two parties who claimed American citizenship.

As pointed out in my No. 327 of March 12, 1908, I asked this delay that I might have time to receive the department's instructions on the subject and that I might have opportunity to examine the citizenship of the parties in question. There was not, in fact, any delay in the embarkation of the two parties, as my investigation was finished in time for them to take the first steamer after the promulgation of the decree and before the receipt of the note refusing me the delay requested.

After a careful study and investigation of this matter of expulsion in Haiti, I am convinced that, if the present methods are persisted in, it is going to lead to very serious trouble for the Haitian Government. My colleagues of the diplomatic corps have expressed themselves to me as being particularly hostile to this summary manner of expulsion, and I look for an outbreak against it at any moment. It happens that so far no one of great importance or influence has been expelled; but when such a one is, as now seems to be threatened, it can not help but assume a very serious phase. On the other hand, the apparent injustice of the treatment accorded some of those who have been expelled, makes them worthy of sympathy, even if they have not sufficient influence or importance to obtain protection.

It would seem to me proper that some power, which is a friend to Haiti, should use its influence with Haiti to induce Haiti to stop her drastic action of expelling foreigners on a moment's notice and without a hearing. It may be a sovereign right to expel without assigning causes or giving the party expelled a hearing, but the often repeated injustice of such action can not help but bring that right in question, and particularly so when it happens that the citizens or subjects of more powerful Governments may suffer so much thereby.

If persons chosen for expulsion have broken laws of Haiti, it would seem that they should be fairly tried, and condemned, if guilty. Under such circumstances no self-respecting Government could complain; but with the present arbitrary methods, and when members of the diplomatic corps claim to believe, if not know, that parties are often expelled as a result of intrigue, Haiti, by carrying out summary expulsion, is always liable to have a demonstration of

force which will put in peril that very sovereignty which she claims she is so jealously guarding.

There is another phase to the subject. It is the often expressed desire of the present Government to have foreign capital seek investment in Haiti, and from personal observation there are many opportunities for legitimate investment. But this matter of expulsion without a hearing creates distrust and hinders the entrance of capital. Personally, I have known several such cases, and there must have been numerous other cases which have not come under my observation. Leaving aside present political conditions, no foreigner would advise another to invest here, and most of those who are here would liquidate, if they could, and would withdraw. This matter of expulsion seems to be a constant dread to all and can not help but detract from the prosperity of the country.

I have, etc.,

H. W. FURNISS.

[Inclosure 1.]

Minister Furniss to the Acting Minister for Foreign Affairs.

AMERICAN LEGATION,
Port au Prince, March 10, 1908.

No. 260.]

SIR: In Le Moniteur, of the 7th instant, there appears a decree of His Excellency the President expelling certain persons from Haiti. Among those mentioned are Aristide Lagojannis, at Port au Prince, and Adriano Grullon, at St. Marc, both of whom claim American citizenship and protection.

I understand that notice was yesterday served upon the parties mentioned, informing them that they must leave Haiti by the first steamer, which will be to-day.

As both Mr. Lagojannis and Mr. Grullon are conducting business of considerable importance, it would manifestly be unjust to force them to leave on a day's notice. I have, therefore, to request that you urgently bring this fact to the attention of His Excellency the President, and request of him that a delay of at least a week be given to the execution of the decree.

Please accept, etc.,

H. W. FURNISS.

[Inclosure 2.—Translation.]

The Acting Minister for Foreign Affairs to Minister Furniss.

FOREIGN OFFICE,
Port au Prince, March 13, 1908.

MR. MINISTER: I have the honor to acknowledge the receipt of your note No. 260, of the 10th instant, in which you state that Messrs Aristide Lagojannis and Adriano Grullon, American citizens expelled from Haitian territory, have claimed the protection of your legation, and ask me to request of His Excellency the President of the Republic a delay of about one week in the execution of the decree of the 7th instant, so as to permit your citizens to arrange the important affairs which they have in this country.

The Haitian Government, in taking action on your request, has directed me, while expressing the deep regret that it feels at not being able in this instance to comply with the request of the American legation, to observe that, if in time of peace, it has been able sometimes to find it convenient to put off for a few days the execution of a decree of expulsion, it has only been out of deference to the representatives of the friendly powers, and without in any manner alienating its sovereign rights; at the same time, when the urgency and exceptional gravity of the facts are of a nature to render illusionary, and likewise dangerous, any inclination toward clemency, when the object of the expulsion is for the suppression, not as a preventative, of acts that place the

Interior security of the country in danger, the least weakness would be culpable and the Government authorities have pressing obligations to take all necessary measures to prevent a repetition of events as unfortunate as those that have just troubled the country.

For these reasons, the firm conviction that I have, that only the enemies of public peace can wish for a prolongation of a crisis, the effects of which all our efforts tend to stop, does not permit me to doubt that the United States legation will fail to appreciate the reasons of great propriety which prevent the Government of the Republic from suspending the execution of the decree of March 7, 1908.

Please accept, etc.,

F. MARCELIN.

File No. 2126/221.

Minister Furniss to the Secretary of State.

No. 347.]

AMERICAN LEGATION,
Port au Prince, March 27, 1908.

SIR: I have the honor to report that the idea has become prevalent that our Government has decreed that under no circumstances will it permit its legation and consulates to shelter Haitians, both citizens and officials, who are being pursued for political offenses. Statements to that effect have appeared in the Haitian press, having been copied from our newspapers.

Several of our consular agents have written me for instructions as to asylum, but in the absence of positive instructions from the department I have been unable to comply with their request.

I would therefore thank the department to instruct me as to what is to be the practice of this legation and our consulates relative to the acceptance of parties who are being pursued for the so-called political offenses.

I have, etc.,

H. W. FURNISS.

File No. 2126/221.

The Secretary of State to Minister Furniss.

No. 112.]

DEPARTMENT OF STATE,
Washington, April 11, 1908.

SIR: I have to acknowledge the receipt of your No. 347, of the 27th ultimo, in which you request instructions as to what is to be the practice in your legation and the American consulates in Haiti regarding the acceptance of persons who are being pursued for the so-called political offenses.

In reply I have to say that previous instructions have made it clear that this Government does not recognize the so-called right of asylum. Recent conditions prevented that policy from being carried out with regard to refugees who were then actually under shelter.

Now that the American legation and consulates have been cleared of refugees, you will make it distinctly known that no more Haitian refugees will be admitted to shelter by you or your subordinates and that no pretext will be afforded for reawakening the question of asylum so far as the Government of the United States is concerned.

I am, etc.,

ELIHU ROOT.

File No. 2126/257-262.

Minister Furniss to the Secretary of State.

No. 374.]

AMERICAN LEGATION,
Port au Prince, May 12, 1908.

SIR: I have the honor to state, in further reference to the department's instructions No. 112, of April 11, 1908, that I now consider that our Government's policy as to the matter of asylum is known throughout Haiti.

I inclose herewith copy of my instructions to our various consulates and have to report that they have all acknowledged their receipt and have stated that they have given the matter the greatest possible publicity.

I endeavored to have the local papers make use of the information as a matter of news, but, failing in that, I requested Secretary Borno to assist me in giving publicity to it. He had it published in the official paper and subsequently it has been copied by the daily and weakly press.

I inclose herewith correspondence with Secretary Borno and a copy of the announcement as it appeared in the official paper.

I have, etc.,

H. W. FURNISS.

[Inclosure 1.]

*Minister Furniss to Consul Livingston.*AMERICAN LEGATION,
Port au Prince, April 24, 1908.

SIR: Several of our consuls and consular agents have requested instructions as to what is to be the practice of the American consulates in Haiti regarding the acceptance of persons who are being pursued for the so-called political offenses.

That there might be no misunderstanding I requested the State Department at Washington for positive instructions relative to this matter of asylum, and under date of April 11, 1908, I have been instructed by the Department as follows:

"Now that the American legation and consulates have been cleared of refugees, you will make it distinctly known that no more Haitian refugees will be admitted to shelter by you or by your subordinates and that no pretext will be afforded for reawakening the question of asylum so far as the Government of the United States is concerned."

You are directed to take particular note of these instructions and to see that they are carried out in so far as your office is concerned.

Respectfully,

H. W. FURNISS.

[Inclosure 2.]

*Minister Furniss to Consul Livingston.*AMERICAN LEGATION,
Port au Prince, May 2, 1908.

SIR: In response to inquiries of the various consuls and consular agents I have to say that it is the intention of our Government that the instructions sent you as to sheltering Haitian refugees be given the greatest possible publicity.

The means of giving publicity to the matter will have to be left to your judgment, as I am not cognizant of the method employed in the different sections of Haiti.

I can see no objection to your requesting the Haitian authorities at your place to assist you in making the matter public.

Respectfully,

H. W. FURNISS.

[Inclosure 3.]

Minister Furniss to the Minister for Foreign Affairs.

No. 270.]

AMERICAN LEGATION,
Port au Prince, May 2, 1908.

SIR: I have recently received instructions from my Government as follows: "Now, that the American legation and consulates have been cleared of refugees, you will make it distinctly known that no more Haitian refugees will be admitted to shelter by you or your subordinates."

This is communicated to your excellency with the request that you will assist this legation in giving publicity thereto.

Your excellency will please accept, etc.,

H. W. FURNISS.

[Inclosure 4.—Translation.]

The Minister for Foreign Affairs to Minister Furniss.

FOREIGN OFFICE,
Port au Prince, May 2, 1908.

MR. MINISTER: I have the honor to receive your communication, No. 270, of this date, transmitting to me instructions received from your Government.¹

The department takes note of this information to which it will not fail to give publicity.

Please accept, Mr. Minister, etc.,

LOUIS BORO.

[Inclosure 5.—Translation.]

[From Le Moniteur.]

Department of State for Foreign Relations.

That no one may be ignorant thereof, the department of foreign relations makes known that it has received from the American legation at Port au Prince, the official notice of which the following is a translation:²

* * * * *

Exact copy:

AMILCAR DUVAL, *Chief of Division.*

File No. 2126/269-272.

Minister Furniss to the Secretary of State.

No. 384.]

AMERICAN LEGATION,
Port au Prince, May 22, 1908.

SIR: I have the honor to inclose herewith copy and translation of a note sent for my information by the Haitian Government, in which

¹ Instruction quoted supra.

² Here follows Minister Furniss's note, No. 270, of May 2.

it announces the abolition of the custom of granting asylum by the various legations and consulates in Haiti, and requests that the consular agencies be given precise instructions in conformity therewith.

In acknowledging receipt of the note mentioned, I took occasion to thank the Haitian Government for the publicity which it had assisted me in giving to the department's instructions as to Haitian refugees.

The Haitian Government's note has not been well received by my colleagues of the diplomatic corps. They seem to see in it a menace, in that it virtually conveys orders which can only be issued to them by their own Governments, and brings in question the sanctity of legations which has heretofore been an admitted principle in international law. They have, therefore, merely acknowledged the receipt of the note and stated that it has been referred to their governments for consideration.

I have, etc.,

H. W. FURNISS.

[Inclosure 1.—Translation.]

The Minister for Foreign Affairs to Minister Furniss.

No. 113.]

FOREIGN OFFICE,
Port au Prince, May 20, 1908.

MR. MINISTER: With a view of putting an end to the custom—only too much abused—of asylum in the legations and consulates established in Haiti, my department has just notified the diplomatic corps in this city of the decision that the Haitian Government has deemed necessary to take relative thereto, and of which I have the honor to inclose herewith a copy for the information of your excellency.

I take, with pleasure, this occasion to renew to you, etc.,

LOUIS BORO.

[Inclosure 2.—Translation.]

The Minister for Foreign Affairs to Minister Furniss.

No. 112.]

PORT AU PRINCE, May 20, 1908.

MR. MINISTER: I have the honor to inform your excellency that the Haitian Government has decided to put an end to the custom of asylum in legations and consulates established in this country.

Your legation will kindly take note thereof and issue to your consular agencies precise instructions, that they may strictly comply with that decision.

Please accept, etc.,

LOUIS BORO.

[Inclosure 3.]

Minister Furniss to the Minister for Foreign Affairs.

No. 282.]

AMERICAN LEGATION,
Port au Prince, May 21, 1908.

SIR: I am in receipt of your excellency's note No. 113 of the 20th instant, inclosing copy of a note addressed by you to the diplomatic and consular corps here accredited, stating that your Government has decided to put an end to the practice of granting asylum in Haiti, etc.

I thank you for your courtesy in sending me a copy of the note. At the same time I desire to thank you for the publicity which your excellency recently assisted me in giving to the fact that in future the American Government will no longer permit Haitian refugees in its legation and consulates.

Please accept, etc.,

H. W. FURNISS.

File No. 2126/309.

The Haitian Minister to the Acting Secretary of State.

[Translation.]

LEGATION OF THE REPUBLIC OF HAITI,
Deer Park, Md., July 17, 1908.

MY DEAR MR. BACON: I can not go too far in thanking you and in asking you to thank Mr. Root for kindly forbidding the legation and consulates of the United States to receive hereafter persons that may be wanted by the Haitian authorities. The alleged right of asylum, as exercised in Haiti, was a direct encouragement to the spirit of disorder when it did not paralyze the action of territorial justice. Certain agitators, indeed, did not hesitate to foment insurrections, feeling sure in advance that, in case of failure, they would find a convenient refuge in the legations and consulates; some, who were charged with purely common-law crimes, have been known thus to seek unwarrantable protection.

By taking the initiative in abolishing this alleged right of asylum, the Government of the United States has given the Republic of Haiti unquestionable evidence of its benevolent disposition and, I am sure, it will further testify its sympathy for my country by aiding it in obtaining from the powers of Europe that they will wholly relinquish a practice which, as demonstrated by experience, has more than once threatened to impair the friendly relations with Haiti.

Thanking you in advance, I gladly embrace this opportunity to renew to you, etc.

J. N. LÉGER.

File No. 2126/316.

Minister Furniss to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Port au Prince, November 21, 1908.

Haitian Government has officially notified me that the port of Aux Cayes is declared blockaded. November 21, 4 p. m.

FURNISS.

File No. 2126/316.

The Secretary of State to Minister Furniss.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 23, 1908.

Mr. Root acknowledges his telegram of November 21, and directs Mr. Furniss to convey to the Haitian Government the usual notice that blockade must be proclaimed and maintained by an adequate force in order to be respected.

File No. 2126/322.

Minister Furniss to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Port au Prince, November 26, 1908.

Haitian Government notifies me that the ports declared blockaded have been also declared closed to commerce. As it requires act of Congress to open ports it is not executive prerogative to close them. Haitian minister for foreign affairs admits Government's inability to make blockade effective. Haitian Government has notified local steamship agents that merchandise for ports declared blockaded and closed must be landed here. As now greater part of such merchandise comes from the United States acquiescence to such notification would seriously affect our firms who have sold to ports illegally closed and now under paper blockade.

German vessel has arrived to-day from New York with cargo for Jeremie. What action shall I take concerning American merchandise?

FURNISS.

File No. 2126/322.

The Acting Secretary of State to Minister Furniss.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 27, 1908.

Mr. Bacon informs Mr. Furniss that blockade and closing of ports held by insurgents without previous notice and effective force will not be recognized and that indemnity may be claimed for losses sustained by reason of refusal to clear vessels for such ports.

File No. 2126/322.

The Acting Secretary of State to Minister Furniss.

[Telegram.—Pharaphrase.]

DEPARTMENT OF STATE,
Washington, November 28, 1908.

Mr. Bacon, answering the concluding inquiry in telegram of November 26, advises Mr. Furniss that the German vessel is presumably an Atlas steamer, now under the German flag, but that the circumstance that part of her cargo may be American property does not give the United States Government the right to intervene on behalf of the vessel, as her flag covers the cargo. Says that the German legation is competent to deal with the case.

File No. 2126/384-389.

Minister Furniss to the Secretary of State.

No. 458.]

AMERICAN LEGATION,
Port au Prince, November 28, 1908.

SIR: I have the honor to inclose herewith the correspondence between the Haitian Government and this legation relative to the matter of blockade and closing of the ports of Aux Cayes, Jeremie, and Aquin, together with copies of the official decrees and translations thereof relative to the said ports.

I have, etc.,

H. W. FURNISS.

* [Inclosure 1.—Translation.]

The Minister for Foreign Affairs to Minister Furniss.

No. 351.]

DEPARTMENT OF STATE FOR FOREIGN RELATIONS,
Port au Prince, November 20, 1908.

MR. MINISTER: Gen. Antoine Simon, ex-delegate of the Government in the department of the south, having raised the standard of rebellion at Aux Cayes, the Government of the Republic, with a view of the prompt suppression of that rebellion, has, by decree, a copy of which is inclosed herewith, declared the port of the said city of Aux Cayes to be in a state of blockade.

In giving you the present notification for such action as may be deemed proper, I take this occasion to renew, etc.,

LOUIS BORNO.

[Inclosure 2.—Translation.]

Liberty.

Equality.

Fraternity.

Republic of Haiti.

DECREE.

Nord Alexis, President of the Republic.

Considering that Gen. Antoine Simon, ex-delegate of the Government in the department of the south, has raised the standard of rebellion at Aux Cayes;

Considering that it is necessary, in view of a prompt suppression of the rebellion, that all communication between that city and the outside be stopped:
Decrees:

ARTICLE 1. The port of Aux Cayes is declared in a state of blockade.

ART. 2. The present decree shall be published, printed, and executed at the diligence of the secretaries of state of war and marine, and for foreign relations, each in that which concerns him.

Done at the National Palace, at Port au Prince, November 20, 1908, year 105 of the independence.

NORD ALEXIS.

By the President:

The Secretary of State for War and Marine,
C. CELSTIN.
The Secretary of State for Foreign Relations,
LOUIS BORNO.

[Inclosure 3.—Translation.]

The Minister for Foreign Affairs to Minister Furniss.

No. 356.]

FOREIGN OFFICE,
Port au Prince, November 25, 1908.

MR. MINISTER: I have the honor to inform you that the Government of the Republic, in view of assuring the prompt success of the military operations

against the rebel cities of the department of the south, has just issued two decrees against them, one declaring the ports of the cities of Jeremie and Aquin in a state of blockade and the other closing to commerce the two above-mentioned ports as well as that of Aux Cayes.

In notifying you of these measures, for such action as may be deemed proper, I profit the occasion, to renew, etc.,

LOUIS BORNO.

[Inclosure 4.]

Minister Furniss to the Minister for Foreign Affairs.

No. 331.]

AMERICAN LEGATION,
Port au Prince, November 28, 1908.

SIR: I am in receipt of your excellency's note No. 356 of the 25th instant informing this legation that your excellency's Government has, by decree, proclaimed the ports of Jeremie and Aquin blockaded; and has also, by decree, proclaimed the two ports mentioned, together with Aux Cayes, closed to commerce.

In reply to the first portion of your excellency's note I have to say that my Government will only recognize the blockade provided it is properly promulgated and is effective; that is, provided it is constantly "maintained by an adequate force sufficient to render ingress to and egress from the ports dangerous."

In reference to the decree closing these ports, my Government has consistently refused to acknowledge the right of a Government to close, by decree, ports which at the time of the decree are in the hands of insurgents. At various times in the past this legation has so informed your excellency's Government, and no exceptions will be made in the present case.

In addition to the above I have to inform your excellency that indemnity may be claimed for losses sustained by reason of your excellency's Government refusing to clear vessels laden with American merchandise and bound for the said ports.

Your excellency will please accept, etc.,

H. W. FURNISS.

[Inclosure 5.]

Minister Furniss to the Minister for Foreign Affairs.

No. 332.]

AMERICAN LEGATION,
Port au Prince, November 28, 1908.

SIR: In reference to my note No. 331 of this date, in order to avoid any misunderstanding, I desire to state that the remarks made therein refer to American ships and to American merchandise in American bottoms.

Your excellency will please accept, etc.,

H. W. FURNISS.

File No. 2136/349.

The Secretary of State to Minister Furniss.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 5, 1908.

Mr. Root informs Minister Furniss that in the absence of naval vessel of any European power having interests in Haiti, and upon urgent occasion or request for protection, the American naval forces will afford temporary protection and refuge from immediate violence in the same manner as to American citizens and interests similarly menaced.

File No. 2126/352.

Minister Furniss to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Port au Prince, December 6, 1908.

Haitian navy last night professed loyalty to Simon. The vessels are to be sent north in his interest. Telegram just received from the consular corps Gonaives states that town is much alarmed; many have taken refuge in consulates. Consular corps requests assistance. *Eagle* has left to investigate conditions; movement thought to be Firmin.

A steamer arrived to-day from Jamaica loaded with returning exiles, including Fouchard, who were permitted to land late this afternoon. Landing delayed until Simon could proclaim himself "Chief of the Executive Power," which was done this afternoon. He also convoked Congress for immediate session to elect President. Unsigned placards have been posted here declaring Simon choice for presidency.

FURNISS.

File No. 2126/351.

Minister Furniss to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Port au Prince, December 6, 1908.

Referring to your instructions, supplemental to-day. Was it intentional to exclude Dominicans and Cubans, who are without warships and have large interests and expect protection from the United States? The situation here is most peculiar. Simon is practically just chairman of the local committee on public safety, and before announcing his intentions awaits conference with Fouchard—expected to arrive from Jamaica to-morrow. It is said that Firmin and the other candidates will return immediately from exile. Haitian naval vessels in the harbor and under command of vice admiral refuse to obey instructions from Simon, and it is feared that they will go to north (most probably?) Cape Haitien, where (adhesion?) to Simon has not been expressed, and where local authority, who has large quantity of arms and ammunition, is also a candidate for the presidency.

The President of Haiti, who left here to-day, told Herald correspondent that he will return to Haiti, as he is still constitutional President. He would have following in the north, and assisting candidate there, could give much trouble. It seems very likely that the north will revolt against Simon should he become President or dictate the candidate. Should Simon and his party set up provisional government without the adherence of all Haiti, could I recognize it?

FURNISS.

File No. 2126/351.

The Acting Secretary of State to Minister Furniss.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 7, 1908.

Mr. Bacon informs Mr. Furniss that the supplementary telegram of December 5 was not intended to limit the good offices of the United States to Europeans, as temporary protection will be cheerfully extended as far as practicable to citizens of any friendly State not having naval vessels at hand. Mr. Furniss is instructed to show this to the senior American naval officer.

File No. 2126/365.

Minister Furniss to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Port au Prince, December 11, 1908.

The official paper to-day publishes decree convoking Congress on the 17th instant for election of president. The cabinet of Simon is also given. It contains no one of prominence and is a compromise affair, Simon having allowed the different sections to name a member. This temporarily establishes peace, but as Simon will have himself declared elected president by congress, then trouble will again commence. I have received this afternoon a note from the provisional Haitian minister for foreign affairs stating that:

General Simon—named chief of executive power by the decree of the sixth instant—while awaiting the coming presidential election, has had the kindness to call me as councillor to the department of foreign relations, etc.

While this is not in accord with diplomatic usage, it is presumed to be a request for recognition. This is the only communication which has been received from Simon's government. Under the circumstances can I recognize his provisional government?

FURNISS.

File No. 2126/367.

Minister Furniss to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Port au Prince, December 11, 1908.

In further reference to my telegram of yesterday, the diplomatic corps to-day unanimously decided that the situation is not opportune to recognize the present existing authority lest the Chambers which have been called to elect the president might be influenced thereby in favor of Simon.

FURNISS.

File No. 2126/367.

The Secretary of State to Minister Furniss.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 11, 1908.

Mr. Root acknowledges telegrams of even date, and states that no formal act of recognition is necessary or expedient, as the note addressed to him sufficiently indicates the merely provisional character of the writer's function. Mr. Furniss is directed to answer that, in the absence of constituted government and pending the institution thereof, he must look to the temporary power as de facto responsible for order and the fulfillment of international duties, and will have pleasure in communicating with the provisional councillor should the interests of the United States or of its citizens so require.

File No. 2126/398.

Minister Furniss to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Port au Prince, December 17, 1908.

Simon unanimously elected President by congress to-day at noon. All is calm.

FURNISS.

File No. 2126/399A.

The Acting Secretary of State to Minister Furniss.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 17, 1908.

In view of unanimity of Gen. Simon's election by the national congress, you will forthwith recognize his de facto presidency. Confer with naval commander as to hour of recognition so that salute may be exchanged.

BACON.

File No. 2126/403.

Minister Furniss to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Port au Prince, December 18, 1908.

De facto Government recognized by us at 8 o'clock this morning. The inauguration of the President will be on the 20th instant.

FURNISS.

File No. 2126/416.

Minister Furniss to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Port au Prince, December 21, 1908.

The inauguration of the President took place yesterday morning without incident.

FURNISS.

File No. 2126/44 9-451.

Minister Furniss to the Secretary of State.

No. 478.]

AMERICAN LEGATION,
Port au Prince, December 24, 1908.

SIR: I have the honor to inclose herewith copy and translation of a decree of the Haitian Congress declaring Gen. Antoine Simon duly elected President of Haiti.

I also inclose the presidential decree declaring the appointments to the new cabinet.

I have, etc.,

H. W. FURNISS.

[Inclosure.—Translation.]

Liberty.

Equality.

Fraternity.

Republic of Haiti.

DECREE.

Considering that the National Assembly assembled by virtue of the decree of the chief of executive power, dated December 9, 1908, has proceeded to the election of President of the Republic, and that Gen. F. C. Antoine Simon has obtained a unanimous vote: Decrees:

ARTICLE 1. Gen. Antoine Simon is elected President of the Republic for a period of seven years, in conformity with articles 90 and 93 of the constitution.

ART. 2. He will enter into office immediately and his functions will cease May 15, 1915.

ART. 3. The present decree will be published and executed throughout the Republic under the supervision of the secretary of the interior and general police.

Done at the palace of the National Assembly at Port au Prince December 17, 1908, one hundred and fifth year of the independence.

(Signed)

By the President of the National Assembly.

By the Vice President of the National Assembly.

By the Secretaries of the National Assembly.

National House, Port au Prince, December 17, 1908, 105th year of the Independence,

No. 8.]

NATIONAL ASSEMBLY.

MESSAGE.

To the President of the Republic:

MR. PRESIDENT: The National Assembly has the honor to address you under cover herewith the decree verifying your election to the first magistrate of the Republic.

The National Assembly takes this occasion to renew to you, Mr. President, the assurance of its very high consideration.

The President:

F. P. PAULIN.

Liberty.

Equality.

Fraternity.

Republic of Haiti.

No. 1. National House, Port au Prince, December 17, 1908, 105th year of the independence.

NATIONAL ASSEMBLY.

MESSAGE.

To His Excellency the President of the Republic of Haiti:

Mr. PRESIDENT: The National Assembly informs you by the present message that they, by a unanimous vote, elected you President of the Republic for a period of seven years.

Your functions will end May 15, 1915.

The assembly congratulates you for having been the choice of its vote. Your tried patriotism has quite naturally designated you for its high attention, as well also as the solemn promise that during your seven-year term of office you will raise the country from its ruins. The National Assembly is happy to take this occasion to send you, Mr. President, the assurances of its high consideration.

The President:

F. P. PAULIN.

[Inclosure 2.—Translation.]

FRANCOIS ANTOINE SIMON, *President of the Republic.*

Considering that it is necessary to constitute the cabinet;

Using the prerogatives that articles 98 and 113 of the constitution accords him: Decision:

ARTICLE 1. Gen. Septimus Marius is named secretary of state for war and marine.

ART. 2. Gen. Renaud Hyppolite is named secretary of state for interior and general police.

ART. 3. Mr. Edmond Héraux, judge of the supreme court (cassation), is named secretary of state for finance and commerce.

ART. 4. Mr. Murat Claude is named secretary of state for foreign relations and public instructions.

ART. 5. Mr. J. J. F. Magny is named secretary of state for justice and worship.

ART. 6. Mr. Boisrond Canal, senator of the Republic, is named secretary of state for public works and agriculture.

ART. 7. The present decree will be printed, published, and executed.

Done at the National Palace at Port au Prince, December 19, 1908, one hundred and fifth year of the independence.

A. T. SIMON.

REFUSAL OF THE HAITIAN GOVERNMENT TO PERMIT THE LANDING OF AMERICAN TRAVELERS AT HAITIAN PORTS.

File No. 13116/2.

Minister Furniss to the Secretary of State.

No. 355.]

AMERICAN LEGATION,
Port au Prince, April 9, 1908.

SIR: I have the honor to inclose herewith copies of the correspondence between this legation and the Haitian department of foreign

relations relative to certain Haitian authorities refusing permission to Americans to land at Haitian ports.

It would seem from Secretary Borno's reply that there will be no further difficulty. However, I am not unmindful of the fact that I have several times informally discussed this matter with the Haitian Government and have been promised that there would be no further annoyance, yet there has been no amelioration until now.

I have, etc.,

H. W. FURNISS.

[Inclosure 1.]

Minister Furniss to the Minister for Foreign Affairs.

No. 266.]

AMERICAN LEGATION,
Port au Prince, March 31, 1908.

SIR: I have recently had numerous complaints from American tourists and business men because they have been refused permission to go ashore at the different ports in Haiti where the boats on which they were passengers have touched. While I do not wish to question the right of your excellency's Government to refuse permission to foreigners to land in Haiti, yet, if it is your Government's orders that certain ports are closed against all foreigners who have not tickets for the particular ports at which they wish to land, I am desirous of being made acquainted with that fact, that I may so inform my Government.

If no such orders have been issued, then I desire to call to your excellency's attention that summary and repeated refusal to permit American tourists to land in Haiti for the few hours the steamers which they are on are in Haitian ports, can not help but subject your Government to adverse criticism and create feeling which I am sure can not be your Government's desire to cultivate.

In the case of business men who have come to Haiti to transact legitimate affairs, refusal to permit such to land becomes a more serious matter. In several cases my attention has been called to the fact that such have been refused permission to go ashore at various ports in Haiti, though they were American and Haitian passports in due form and could prove that they were representatives of legitimate American firms and desired to go on shore in Haiti to attend to their legitimate business. There have been several such cases here, and though your excellency's Government has in some instances finally allowed the parties in question to come on shore after this legation had called the matter to your department's attention, yet it has always occasioned a delay of several hours, which means considerable loss to a business man when his stay here is only to be of some hours' duration. Other than the delay mentioned, it occasions this legation great inconvenience and loss of time in having personally to follow up the matter that I may finally ascertain what disposition your Government has toward it.

In some of the other ports in Haiti the difficulty for an American business man with proper credentials to go on shore is even greater. Permission is often seemingly arbitrarily refused by your officials. Particularly is this true at Jacmel. A case in point is that of Mr. Von Jenny, an American, who was here for some weeks prior to the 17th instant, when he took passage on the *S. S. President* for Santo Domingo. Mr. Von Jenny will be remembered as the one who conducted the sale of the yacht *Columbine* to your excellency's Government. He had American and Haitian passports. Upon the arrival of the *President* at Jacmel, on the 21st instant, he desired to go on shore on business. The "chef du port" refused him permission to land and sometime later he succeeded in calling his case to the attention of the consular agent, who communicated with the commandant de l'arrondissement. I inclose herewith copies of this correspondence.

Another case is that of Mr. Guyol, an American, who was passenger from Venezuela on the Dutch *S. S. Prins Willem III*, arriving here on the 28th instant. He has American and Haitian passports, properly viséed, yet he was refused permission to go on shore at Jacmel on the 24th and has suffered considerable business prejudice thereby. At Jeremie, St. Marc, and here he was allowed to land at once.

I would thank you, Mr. Secretary, to bring this matter to the attention of the proper officials, with the request that I be furnished with a prompt reply as to the stand which your excellency's Government takes relative to the matter.

Please accept, Mr. Secretary, the renewed assurances of my high consideration.

H. W. FURNISS.

[Inclosure 2.—Translation.]

The Minister for Foreign Affairs to Minister Furniss.

No. 42.]

FOREIGN OFFICE,
Port au Prince, April 6, 1908.

MR. MINISTER: I have the honor to acknowledge to your excellency the receipt of your letter No. 266, relative to the complaint of several tourists and business men from the United States, to whom permission had been refused to land at certain Haitian ports, although they had both American and Haitian passports.

I can but sincerely regret, Mr. Minister, that the authorities of the ports in question have so badly interpreted, in applying them, the orders that the Government has had to issue to them sometimes concerning certain persons whom the police had serious reasons not to permit to debark. The exaggerating of these orders is more regrettable, since the Government has at heart particularly to facilitate the access into our territory of all foreigners to give them thus the means of rendering to themselves an account of our situation, convinced as we are that an exact knowledge of the country can not but be advantageous, notably in the considerable possibilities that it offers to capitalists.

It is sufficient to say to you that the Government could not fail to give to your letter the attention which it merits, and I have the satisfaction to assure you that by instructions which have just been issued to the authorities at those ports, your legation will never again see renewed the acts of which these peaceful voyagers have complained.

Please accept, etc.,

LOUIS BORNO.

File No. 13116.

The Secretary of State to Minister Furniss.

No. 117.]

DEPARTMENT OF STATE,
Washington, April 27, 1908.

SIR: I have to acknowledge the receipt of your No. 355 of the 9th instant, inclosing copies of correspondence between your legation and the Haitian ministry of foreign affairs, regarding the recent disposition of the Haitian authorities to prevent the landing of American travelers at Haitian ports.

Your course is approved.

The department is pleased to note Mr. Borno's positive assurance that the instructions given will prevent any further interference with the peaceful visits of American business men and tourists to Haitian ports.

I am, etc.,

ELIHU ROOT.

File No. 13116/3-5.

Minister Furniss to the Secretary of State.

No. 376.]

AMERICAN LEGATION,
Port au Prince, May 13, 1908.

SIR: I have the honor to report in further reference to my No. 355, of April 9, 1908, that this legation has again had to call the attention of the Haitian Government to the fact that in spite of the assurances given by Secretary Borno, American passengers in transit on steamers calling here are frequently not allowed to come on shore.

Secretary Borno called on me at the legation on the 11th instant, and during his visit I took occasion to mention the trouble to which I had been put in trying to obtain permission for Mr. Martin J. Iorns to come on shore from the French steamer on Sunday. I showed the manuscript of a note (copy inclosed) which I intended to send to him that day. Mr. Borno expressed himself as grieved that the assurances which he had given me had not been realized. He stated that he had been shown, in the office of the President, copy of and order which should have prevented the incident. He reminded me of the difficulty under which he, as secretary of foreign relations, labored, and begged me not to send him the note, lest I embarrass him personally by forcing him to officially reply to a matter which he had believed the President's orders would adjust. He stated that he would at once go and investigate the matter and would write me as if the refusal to allow Mr. Iorns to land here had been brought to his attention in some other way; that later he would call in person and make explanation.

Yesterday Secretary Borno called and said that the official who had refused to allow Mr. Iorns to come on shore had been punished. Personally I have doubts that even a reprimand has been given to the general of the port, as he is too intimate an adviser of the President for anyone other than the President to say anything to him, and I am sure the President has said nothing.

Personally I can not see how my note intended for Secretary Borno would have embarrassed him. As I understand it, orders were given by the President that in future passengers in transit should be allowed to land in Haiti if they so desired. If these orders were not carried out it would seem to me to be a case of disciplining the officials who had failed to do so. Other than Secretary Borno having to make an apology for the action of the officials who had not carried out the President's orders, I can not see how Mr. Borno would be affected, and as Mr. Borno subsequently did make apology (copy inclosed) I can see no real reason for his requesting me not to send him the note, unless it is the personal embarrassment which he might feel in having to reply to my note, realizing as he must that he can give me no assurances which can be depended upon.

I am confident that there will be repetitions of Sunday's incident whenever it pleases the officials to cause them. If mere apologies are to be taken for the trouble and inconvenience to which this legation and our consular officers, as a result thereof, are put, and for the more serious inconvenience and perhaps monetary loss occasioned our citizens desiring to land, the practice can be expected to be carried on indefinitely.

I have, etc.,

H. W. FURNISS.

[Inclosure 1.]

Minister Furniss to the Minister for Foreign Affairs.

(Not sent but read by Secretary Borno.)

AMERICAN LEGATION,
PORT AU PRINCE, May 11, 1908.

SIR: Under date of March 31, 1908, I addressed a note to your excellency calling your attention to the fact that the authorities at various ports in Haiti were refusing to allow American tourists and business men to go on shore at different

ports in Haiti where the boats, on which they were passengers, touch. I stated that this was not only causing unfavorable comment, but was seriously inconveniencing our business men to the detriment of American trade. I also remarked that this legation had frequently been greatly inconvenienced and annoyed by having to spend time to obtain permission for Americans, who were in transit, to come on shore here during the short time their steamers are in port. With these facts, I requested from your excellency a statement as to what is your Government's policy in this matter.

In reply to my note, your excellency, under date of April 6, 1908, expressed regret that the authorities at the ports named had misinterpreted your Government's orders, and you further stated that your Government particularly desired to facilitate the entrance into Haiti of foreigners, etc.

Your excellency will also recall that a few days subsequent to your official reply you personally called and assured me that orders had been given to the end that there would be no further cause for complaint.

Your excellency's reply was communicated to my Government and in the last mail my Government expressed itself as pleased at the assurances which you gave me.

Yesterday morning, Sunday, Mr. Martin J. Iorns, a horticulturist of the United States Department of Agriculture at the agricultural experiment station, Porto Rico, arrived here on the *S. S. Salvador*. He was in transit for Cuba, but for various reasons was desirous of coming on shore to the legation. He made request of the Haitian official who boarded the *Salvador* for permission to land, which permission was refused. He explained who he was and gave one of his professional cards to the official with the request that it be handed to the general of the port, with the request that permission be granted him to come on shore during the stay of his steamer in port. After considerable delay, word came back that the general had refused the request.

About noon, a Haitian, an employee in the bureau of the port, brought me a letter from Mr. Iorns, in which he stated his case and asked that the permission desired be obtained for him. I explained to the employee who Mr. Iorns is and showed him, for his information, your note of the 6th ultimo referred to above. In addition I gave the said employee my card for delivery to the bureau of the port and on this card I explained who Mr. Iorns is, made request that he be allowed to land, etc. It seems to me that this would be more than enough to accomplish my desire, and, as I was particularly occupied at the legation for the moment, the matter was dropped. At 3 o'clock Mr. Moore of the legation staff, happening to call, I sent him to see what had become of Mr. Iorns, as he had not called at the legation. Mr. Moore went to the bureau of the port where he was told that my card had been received and understood, but that the general had not returned and as strict orders had been given not to allow anyone to land from the *S. S. Salvador*, the officials in charge could not grant the permission requested. Mr. Moore then proceeded on board to explain the matter to Mr. Iorns.

Meanwhile, about 4 o'clock, I went to the bureau of the port and after a short conversation with the official in charge, the same one Mr. Moore had seen, an order granting the permission requested was issued and sent on board the *Salvador*, but as the steamer was announced to sail at 5 o'clock, Mr. Iorns thought it too late to come on shore.

I have gone into details in this matter that you may be aware of all the circumstances.

What I am desirous of knowing is this: (1) If orders were issued, as you say in your note of the 6th ultimo would be, why did the general of the port in the first instance refuse permission to Mr. Iorns to come on shore?

(2) When my personal card with explanation and request was received at the bureau of the port, if the employee in charge was without power to grant the request, why did he not promptly refer it to a superior officer who had such power?

(3) If the officer in charge had not the power to grant the request on my card, or the personal request made by Mr. Moore of this legation, how is it that he had the power to refer it to me in person within half an hour afterward, when he told me that he had not seen the general of the port since the receipt of my card?

Yesterday being Sunday, and not knowing where you might be found, the matter could not be referred to you and attempt was made to settle the matter more speedily. To that end, recourse was had to communication with the bu-

reau of the port direct, as it was the only office of your excellency's Government open.

It was to prevent just this annoyance and waste of time that I addressed to your excellency my note of March 31, 1908, and it was the thought that your assurances would be realized which caused my Government to view your note with the satisfaction which has already been mentioned.

Your excellency will please accept, etc.,

H. W. FURNISS.

[Inclosure 2.—Translation.]

The Minister for Foreign Affairs to Minister Furniss.

No. 91.]

FOREIGN OFFICE,
Port au Prince, May 11, 1908.

MR. MINISTER: I have just learned that Mr. Martin J. Iorns, an American horticulturist, arrived yesterday in our harbor on the French steamer, and wishing to come ashore, he was prevented by the commandant of the port.

I regret very much that that officer should commit such a breach against the orders that he had received and of which I had previously informed you.

In hastening to assure you that that officer will be punished as he deserves, I take this occasion to renew, etc.,

LOUIS BORNO.

File No. 13116/3-5.

The Secretary of State to Minister Furniss.

No. 121.]

DEPARTMENT OF STATE,
Washington, June 1, 1908.

SIR: I have to acknowledge the receipt of your No. 376 of the 13th ultimo, in which you report your conversation with the Haitian minister of foreign relations on the subject of the refusal of the Haitian authorities to allow Mr. Martin J. Iorns, an American citizen, to land in Haiti.

In reply, I have to say that in view of the official expressions of regret in Minister Borno's note to you, the department does not deem it advisable to raise any further question in this instance. Your course in dealing with the matter is approved, and it is hoped will prevent any repetition of the inconvenience to Americans desiring to land.

I am, etc.,

E. Root.

FEES EXACTED FROM AMERICANS FOR PERMITS TO LEAVE HAITI.

File No. 14148/2.

Minister Furniss to the Secretary of State.

No. 389.]

AMERICAN LEGATION,
Port au Prince, June 3, 1908.

SIR: I have the honor to inclose herewith copies of correspondence between this legation and the Haitian Government relative to certain fees exacted from Americans for permits to leave Haiti.

It will be noted that the Haitian department of interior will now change the wording of the permits; it is presumed to make them more in accord with the purpose for which they are issued.

In reference to my complaint as to certain fees charged by the different persons who have to do with the issuing of these permits, nothing has been said by the Haitian Government other than the statement made as to what are legal fees; the fees which I mentioned were not included in that category.

It would seem that the Haitian Government intends to evade any direct reply as to the abuse complained of, and in view of the fact that an American had to pay these legal fees since the receipt of Mr. Borno's note, I have to request the Department to instruct me as to what further representations I shall make relative to the matter.

I have, etc.,

H. W. FURNISS.

[Inclosure 1.]

Minister Furniss to the Minister for Foreign Affairs.

No. 277.]

AMERICAN LEGATION,
Port au Prince, May 14, 1908.

SIR: There seems to be considerable misunderstanding as to the Haitian police law of September 20, 1864, article 9 of which states: "Any person who wishes to leave the territory of the Republic for a foreign country should, within the three days preceding his departure, make the declaration before the commandant of the place and provide himself with a passport taken out at the capital city at the department of state for interior, and in the other cities at the office of the commandant of the district."

As I understand it, what the law calls "passport" is, for foreigners, really a permit to leave Haiti, for it would seem to be inappropriate for your excellency's Government to give, for example, to an American citizen, a passport in which the Government of Haiti recommends him in its name to the civil and military authorities of friendly States. Yet it is such a document that is given him, as can be seen from the inclosed, which is a copy of a "passport" recently given to an American.

Leaving aside the above question, in your excellency's note No. 32 of April 2, 1908, you state that a "passport" is made out on a sheet of stamped paper of the value of 15 gourdes if the person is to go to the American continent or across the ocean, and on a sheet of stamped paper of the value of 4 gourdes if to countries situated this side of these limits. Other than this there is a "passport tax" of \$5 for first-class, \$4 for second-class, and \$3 for third-class passengers bound to the American continent or across the ocean, and \$2 for all classes of passengers for the Antilles.

No mention is made by your excellency of additional certain fees which are always exacted of applicants for "passports" and for which I can find no authorization in law. If these are legal fees, then I would like to know what are the proper amounts, as they seem to vary from day to day or with the urgency with which the party applying for the "passport" needs it. For example, an American recently presented an application for "passport" three days in advance of the arrival of the steamer by which he expected to leave. The employee of the office of the "commandant de la place" exacted a 2-gourdes fee in addition to the fee set forth in the laws above quoted, and the employee of the department of interior exacted an additional 2-gourdes fee.

In another case, that of Mr. McManus, who arrived here from the frontier on the morning of the 13th, and unexpectedly finding the steamer in port by which he cared to leave at once, in proper form made application for "passport." The employee of the "commandant de la place" refused to give his signature to the document unless a 5-gourdes fee was paid, alleging that it was only as a favor that he issued the "passport" on the day of the sailing of the steamer, as the law required applications to be made three days in advance of sailing. As Mr. McManus could not afford to remain here a month for the next steamer, he paid the fee exacted. An examination of the law, though, shows that application should be made "within (dans) three days before the sailing of the steamer." The limitation is that it shall not be made more than three days

before the sailing, and not prohibiting it being made within even a few hours of the sailing of the steamer, as necessity must sometimes demand. By the employee of department of the interior a 3-gourdes fee was exacted for Mr. McManus's "passport."

Further, the employee of the office of the "commandant de la place" requires a certificate from our consulate, which amounts almost to a passport, and this document he keeps. While I have no desire to have our consulate discourteous in refusing reasonable requests of Haitian officials, I can see no reason why an American passport, viséed by our consulate here, if you require it, should not be as good as a like passport from the German legation here and which is accepted by the said employee and is returned to the applicant, as it is his personal property and is to serve as his means of identification in the future.

With the above statements, I would thank your excellency to inform me for my future guidance: (1) Just what are the fees for "passport"; (2) to state what is your Government's interpretation as to the latest time in which application can be made for "passport"; (3) what evidence is required of the applicant as to nationality; and (4) what is the legal form of this "passport" when issued to others than Haitians.

Your excellency will please accept, etc.,

H. W. FURNISS.

[Inclosure 2.]

Minister Furniss to the Minister for Foreign Affairs.

No. 283.]

AMERICAN LEGATION,
Port au Prince, May 27, 1908.

SIR: I have to call your excellency's attention to the fact that up to the present I have received no reply to my note No. 277 of the 14th instant, sent to your Department, relative to the issuance of "passports" to foreigners to leave Haiti.

As it is necessary that I should have a correct understanding relative to this matter, I would thank your excellency to reply to the above-mentioned note at your earliest convenience.

Please accept, etc.,

H. W. FURNISS.

[Inclosure 3.—Translation.]

The Minister for Foreign Affairs to Minister Furniss.

No. 132.]

FOREIGN OFFICE,
Port au Prince, May 29, 1908.

MR. MINISTER: In reply to your communication No. 277 of the 14th instant, I have the honor to inform you that the only payment to be made to obtain a passport and the amount of the passport tax are those mentioned in my letter No. 32 of April 2 last; all other taxes are improper and subject to restitution if they have been collected.

Concerning the period within which the declaration of the departure is to be made, article 9 of the law of September 20, 1864, gives notice that all persons who desire to leave Haiti should, within the three days preceding their departure, make their declaration to the commander of the city.

However, the text of the article does not oppose the declaration being made a few hours before the departure, providing that the exigency of the service at the "bureau de la place" or the department of the interior permits the prompt issuance of the necessary documents.

In regard to the proofs of nationality of the person who makes the declaration, no formality is prescribed by the law, but by a necessary custom foreigners are requested to establish their nationality by the aid of some document issued by the legation or consulate to which they belong.

In concluding I have the honor to inform you that my colleague of the department of the interior, to whom I have communicated your letter No. 277 of the 14th instant, has just written to me to inform me that his attention has already been drawn to the wording of the passport delivered to foreigners. He has ordered the form to be modified.

With the hope that this information will be satisfactory to you, I beg you to accept, etc.,

LOUIS BORNO.

File No. 14148/2.

The Acting Secretary of State to Minister Furniss.

No. 126.]

DEPARTMENT OF STATE,
Washington, July 23, 1908.

SIR: I have to acknowledge the receipt of your No. 389 of the 3d ultimo inclosing copies of correspondence exchanged between your legation and the Haitian Government relative to certain fees exacted from Americans for permits to leave Haiti, and requesting instructions as to what further representations you should make in the matter.

The department has considered the questions raised in the correspondence and observes that the note of the Haitian minister is rather indefinite on the point which you suggest in regard to the failure of the Haitian local officials to receive the same character of evidence of American citizenship—namely an American passport viséed by an American consulate, as is received in the case of German subjects and presumably in the case of other foreigners. If such discrimination as you report in your note to the minister for foreign affairs in regard to this point continues, you should again take the matter up with him, to the end that Americans may receive the same treatment as other foreigners in this respect, and that an American passport properly viséed may be accepted as evidence of American citizenship without any further certificate from the American consulate.

As regards the question of the apparently illegal exaction of small fees in connection with the permits to leave Haiti, which foreigners are required to have, the minister's note having pointed out what taxes are proper, and admitted that all other taxes are "improper and subject to restitution if they have been collected," you are authorized, in case specific instances, properly authenticated, of improper collections are brought to your notice, to bring such instances informally to the attention of the minister for foreign affairs and request that restitution be directed.

I am, etc.

ROBERT BACON.

File No. 14148/3.

Minister Furniss to the Secretary of State.

No. 417.]

AMERICAN LEGATION,
Port au Prince, August 10, 1908.

SIR: I have the honor to acknowledge receipt of the department's No. 126 of July 23, 1908, and in reply thereto have to say that since my representation to the Haitian Government, as stated in my No. 389 of June 3, 1908, there has been no further cause for complaint in so far as the treatment of Americans who have made application for Haitian permits to leave Haiti.

Should there be any further difficulties the department's instructions above mentioned will be used as a basis for settlement of the same.

I have, etc.

H. W. FURNISS.

HONDURAS.

CANCELLATION OF THE EXEQUATURS OF THE AMERICAN CONSUL AND VICE CONSUL AT CEIBA, HONDURAS, BY THE HONDURANEAN GOVERNMENT.

Minister Dodge to the Secretary of State.

No. 30, Honduranean series.

AMERICAN LEGATION,
San Salvador, July 21, 1908.

SIR: I have the honor to inform you that on the 19th instant I received the following telegram "en clair" from Mr. Linard, American consul at La Ceiba:

Local consular corps representing neutral interests in earnest effort to prevent unnecessary bloodshed and the promiscuous killing of innocent noncombatants in giving local commandant pertinent information and advice of intended attack have been maliciously misinterpreted by local authorities, who have made libelous and unwarranted representations to President Davila, eliciting from him ungracious message to us and to the local authorities. Publicity of the telegrams on part of local authorities have emboldened scurrilous and pusillanimous attack by local nonentities, who are endeavoring to arouse feeling against foreign element and are openly countenanced, if not heartily aided, by the authorities. Foreigners and their interests are in great jeopardy as a result. Immediate arrival of war boat necessary to adjust situation. Have advised Washington of facts and request your immediate intervention that local commandant be properly advised as to his attitude in forbidding the printing and distribution of inflammatory and insulting printed matter against the local consular corps.

I immediately addressed a telegram in cipher to Mr. Alger, American consul at Tegucigalpa, giving him the substance of Mr. Linard's report and summarizing it in courteous language for communication to Mr. Fiallos, Honduranean minister for foreign affairs, adding that I trusted that the minister would immediately investigate this matter and the alleged inimical attitude of the local authorities, and would see that all proper measures were taken to insure full protection to American interests and proper respect for the American consul. I advised Mr. Linard of my action, requesting him to keep me informed.

To-day I have received a telegram in reply from Mr. Alger, informing me that the matter will be investigated, and meanwhile that American interests are in no danger and that consuls will have proper respect shown to them. Mr. Alger added that the minister informed him unofficially that if the charges made against the consuls are proved, their exequaturs will be canceled. I have now communicated this information to Mr. Linard, excepting the unofficial information, and have requested him to furnish me with a full report of the matter.

There seems to have been a good deal of apprehension on the Atlantic coast of Honduras of a revolutionary movement breaking out

there, judging from the telegrams sent to me by our consuls at Puerto Cortes and La Ceiba, though this apprehension has apparently not been shared at Tegucigalpa or by the Salvadorean Government, since no movement had occurred there, while the revolutionists were successful at Gracias and Choluteca. After the recapture of these towns and the scattering of the larger bands, any movement on the Atlantic coast seemed most unlikely. Accurate news of the situation there has, however, been impossible to obtain here, though, so far as I have heard, only one movement has taken place, this being at a small town called Porvenir, where it was soon suppressed by the Government.

I have, etc.,

H. PERCIVAL DODGE.

File No. 7357/185.

Minister Dodge to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
San Salvador, July 28, 1908.

Mr. Dodge states that the consul at Tegucigalpa reports the cancellation by the Honduran Government of the exequaturs of the American consul and vice consul at Ceiba, as well as that of the French consular agent. Mr. Dodge says no reason is given for this step, but it is presumably on account of the action lately taken by the consular officials mentioned, which was previously reported to department by the consul.

File No. 7357/294.

Minister Dodge to the Secretary of State.

No. 32. Honduran series.]

AMERICAN LEGATION,
San Salvador, July 28, 1908.

SIR: Referring to my dispatch No. 30, Honduran series, of the 21st instant, I have the honor to inform you that I received a telegram to-day from Mr. Alger, American consul at Tegucigalpa, advising me that the Government of Honduras had canceled the exequaturs of both the American consul and vice consul at La Ceiba as well as that of the French consular agent at that place. Mr. Alger did not state that any reason had been given by the Honduran Government for this measure, but I presume that it was taken in consequence of the recent action of the consular corps, which is mentioned in the telegram from Mr. Linard, American consul at La Ceiba, quoted in my dispatch above referred to, in which he also states that he has advised the department of the facts. I immediately informed you of the foregoing by telegraph, also advising Mr. Linard at the same time, from whom I have as yet heard nothing as to the cancellation of his exequatur.

In my dispatch No. 30, I mentioned a communication I had addressed to Mr. Fiallos, Honduran minister for foreign affairs, requesting him to investigate this incident at La Ceiba and the alleged inimical attitude of the local authorities and to see that all proper measures were taken to insure full protection to American interests and proper respect for the American consul. I also mentioned that I immediately received a reply to this request stating that the matter would be investigated, that meanwhile American interests were in no danger, that consuls would have proper respect shown to them, adding, unofficially, that if the charges made against the consuls were proved their exequaturs would be canceled. I have since then received a further reply to my communication from the President of Honduras, in which the President states that he will severely reprimand the commandant at La Ceiba as to the alleged instigation of feeling against foreigners and consuls, but that at the same time he is convinced that the action of the consuls was incorrect.

As it seemed important that someone should take charge immediately of the consulate at La Ceiba, and as according to paragraph No. 196 of the "Instructions to the Diplomatic Officers," this duty appeared to devolve upon me, I immediately telegraphed to Mr. Brickwood, American consul at Puerto Cortes, inquiring whether Mr. Greely, American vice consul at Puerto Cortes, would consent to take charge temporarily of the consulate at La Ceiba as vice consul, if this should be desired. Mr. Greely appeared to be suitable for this duty and moreover could reach La Ceiba without loss of time. Upon receiving Mr. Greely's reply I shall telegraph to you suggesting his appointment as vice consul at La Ceiba temporarily.

I have, etc.

H. PERCIVAL DODGE.

The Acting Secretary of State to the Honduran Minister.

DEPARTMENT OF STATE,
Washington, July 31, 1908.

SIR: It is alike due to frankness and obedient to the earnest desire and purpose of the Government of the United States to maintain the most cordial relations with Honduras that I should emphasize more formally what I have had the honor to say to you in recent interviews in regard to the recent abrupt action of your Government in canceling the exequaturs of the American consul and vice consul at Ceiba.

It is very unfortunate, and in some regards most embarrassing, that a question of this character should be precipitated at a moment when we are earnestly acting, coincidentally with Mexico, in the interest of peace in Central America, and that your Government should without customary diplomatic notification to this Government, and without opportunity for interchange of views and temperate investigation of the facts, have taken so serious a step.

It was the more surprising and regrettable in view of the course of your Government in appealing to the United States for protection against the acts of other States of Central America, as was done by your note of July 7, and in view of the fact that this Government was at the time fulfilling its rights and exercising its privilege

to the end of insuring Central American peace through the integral observances of the compact of Washington by all the parties thereto. This Government being constrained to act through its agencies in that quarter, not only for the protection of American citizens and interests, but for the carrying out of its international policies, must reasonably expect that those agencies shall be always at its own free disposal and responsible to it alone for the correct performance of its commands. If those agencies are to be liable to dispossession at any time, *ex parte*, without explanation by other authority than our own, an element of uncertainty and hesitancy is introduced which may not conduce to the prompt and effective realization of the efforts of this Government.

If the American consul and vice consul at Ceiba be shown to have done any act contrary to international precept, to the instructions of their Government, or to the friendly and impartial purposes of the United States, a frank ascertainment of the facts, and an equally frank comparison of the views of the two Governments could hardly fail to result in a cordial agreement touching the course to be pursued for a friendly closure of the incident. Your Government, Mr. Minister, like mine, can expect nothing less than fair play in such a case, and it certainly can ask no more.

Under all the circumstances it is conceived to be due to the friendship existing between the two Governments that the cancelation of the American consular exequaturs be withdrawn, and that any complaint which the Government of Honduras may feel constrained to make concerning the course of those officers should take the appropriate diplomatic channel of investigation and amicable settlement.

In the absence of consular representation under the immediate direction of this department, the protection of American life, property, and interests at Ceiba and in its vicinity will be confided to the discretion of our naval commander in those waters pending the diplomatic disposition of the question unfortunately raised by the *ex parte* cancelation of the American consular exequaturs. It is naturally the desire of this Government that the issue be speedily settled and not be allowed longer to obscure the paramount interests of the two Governments in the graver general question.

Accept, etc.,

ROBERT BACON.

The Honduran Minister to the Secretary of State.

[Translation.]

LEGATION OF HONDURAS,
Washington, August 1, 1908.

SIR: I have received your excellency's note, dated yesterday, in which you are pleased to express the displeasure of the Department of State at the action of my Government in canceling the exequaturs of the American consul and vice consul at the port of Ceiba at the very time when the Government of the United States of America is aiding in favor of Honduras in maintaining the cause of peace, and lending its powerful support for the conservation of the respect of Honduras's territorial integrity.

It affords me pleasure to assure your excellency, as I now do, that I am foremost in requesting the timely and disinterested services of the American Government in the cause of peace in Central America, particularly marked during the last year, and of which the Government of my country has received unquestionable proofs; and it affords me satisfaction to add that the said Government, animated by sentiments of profound gratitude, has shown under all circumstances due appreciation of these friendly acts, as I had the honor to inform your excellency on several occasions.

With these premises, and well aware of my Government's sentiments, I thought from the beginning there must have been reasons of great weight for the course taken with regard to the American consul and vice consul, and that the said course must have been founded on satisfactory evidences of the culpability of these functionaries in connection with the recent revolutionary movement. I also thought that local circumstances were of so imperative a character that my Government found itself constrained to take this very important step without any delay whatever, being on that occasion unable to employ the means customary between friendly nations in such emergencies.

In the reply of the minister of foreign relations to the inquiry I sent him on the subject in which he offers to send me information and particulars by mail, I already find confirmation, in part, of the facts I had suspected in the assurances that "the consuls converted themselves into agents of the rebels; asked the commander to surrender the place immediately; concealed the whereabouts of the rebels, and exaggerated their numbers;" adding that, "Public opinion reproves such acts considered by the Government contrary to the friendly attitude of the American Government." To all of which statements I must give entire credit as representative of my Government.

Your excellency is pleased to express in the said note the idea that in view of the existing friendliness of the two countries, the cancellation of the exequaturs of the consuls should be withdrawn, and any reclamation of the Government of Honduras against those officers be given a friendly settlement through the diplomatic channel. In reply to this proposition, I have the honor to inform your excellency that on receiving the first notice of the events under consideration, and gladly complying with the oral suggestion of your excellency, I intimated to my Government that it would be expedient to suspend the decree of cancelation; this, I believe, had no effect, since I have received no information whatever making it known to me, and the omission is probably due to circumstances of national sovereignty touching the internal politics of the country; but in view of the above-stated propositions, I again addressed to-day my Government to which I transmitted the wishes of your excellency, and shall have the pleasure to communicate to you in good time the answer I may receive.

Referring to the last statement in the above-mentioned note of your excellency, in which you are pleased to declare that in the absence of consular representation a naval commander has been charged with the protection of American life, property, and interests at La Ceiba and environs, I have the honor to reply that the said lives, properties, and interests are under the due protection of the laws and authorities of Honduras, as evidenced by the fact that thus far there has been no

complaint made of such rights being violated; and I respectfully call, at the same time, your excellency's attention to the alarm that this kind of exercise of foreign jurisdiction within the territory of the sovereign nation may create in Latin countries, to the detriment of the fraternal intentions and of the sound purposes which I know are animating the American Government toward the nations of the Western Hemisphere.

I avail, etc.,

ANGEL UGARTE.

The Honduranean Minister to the Secretary of State.

[Translation.]

LEGATION OF HONDURAS,
Washington, August 5, 1908.

SIR: I have the honor to inform your excellency that I have to-day received the reply of the minister of foreign relations of Honduras to the cablegram which I addressed to him conformably with your excellency's desires, in the sense of causing the revocation of the decree of cancellation with regard to the exequaturs of the consul and vice consul of the United States at Ceiba.

The Government of Honduras, which has given recent proofs of sympathy and deference to the Government of the United States, and which laments the unfortunate incident in which the consuls of that nation have been involved, does not find it possible to revoke the order in question which has already been published in its official journal, because to do so would profoundly wound the sovereignty and the sentiments of dignity of the Honduranean people, not merely compromising the good name of Honduras, but that of Central America in view of the solidarity which exists between those countries in an international sense.

My Government believes, moreover, that even the American Government itself would be affected by such a revocation, because the weakness with which Honduras would show forth before the world would be correlative to the force or pressure employed to compel it to take such a course.

My Government is confident that the Department of State, when it is acquainted with the proofs which will be presented to it in this case, and inspired by elevated principles of justice, will recognize the justness of our action in the cancellation of the consular exequaturs. It can hope for no less from such a Government as that of the United States, which is governed by law and which has given so many proofs of accepting and maintaining law in its highest signification.

Before or after presenting the proofs which my Government has offered I shall have the greatest pleasure in coming to the Department of State to give such explanations and submit such data as may be deemed necessary in this disagreeable incident.

I renew, etc.,

ANGEL UGARTE.

File No. 7357/289.

Minister Dodge to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
San Salvador, August 9, 1908.

Minister for foreign affairs of Honduras informs:

When the Secretary of State asked minister of Honduras to secure suspension of cancelling exequaturs, Government of Honduras has issued and published decrees of revocation, and therefore could not grant the request of the Secretary of State, and so advised minister of Honduras, who has not again mentioned the subject, thus allowing it to be understood the affair was closed. Government of Honduras is desirous of finding some means of satisfying desires of Secretary of State, but without affecting national dignity.

Suspension of the decree till their successors have been appointed can be secured probably if desired. Consul of the United States at Tegucigalpa states that their investigation convinced Government of Honduras of the consul's incorrect action, and public opinion, you might say, forced them to act.

DODGE.

File No. 7357/350.

Minister Dodge to the Secretary of State.

No. 40. Honduran series.]

AMERICAN LEGATION,
San Salvador, August 11, 1908.

SIR: Referring to my dispatch No. 34 of the 3d instant, I have the honor to acknowledge the receipt on the 5th instant of your telegram informing me that owing to Mr. Sorsby's illness and in view of the cancellations of the exequaturs of Mr. Linard, consul at La Ceiba, and Mr. Virgil C. Reynolds, vice consul at that place, it was desirable for me to proceed immediately to Tegucigalpa and to await there further instructions pending the outcome of a tentative settlement of the matter in Washington.

Having ascertained that there was no steamer leaving until the 12th, I immediately telegraphed this to you, inquiring whether the U. S. S. *Albany*, then lying at Amapala, could come to Acajutla for me, thus enabling me to reach Tegucigalpa in about four days. On the 8th instant I ascertained that the date of departure of the next steamer was changed to the 14th instant, and I accordingly telegraphed this to you, adding that as the land route would not enable me to reach Tegucigalpa any sooner I proposed to leave on the 14th, probably arriving at Tegucigalpa on the 18th.

Accordingly, as it would be impossible for me to reach Tegucigalpa for so long a time, I thought best to make, through Mr. Alger, consul at Tegucigalpa, to Mr. Fiallos, minister for foreign affairs, an assurance in the sense indicated in your telegram of the 5th instant, supplementing my telegram to Mr. Alger by a telegram to Mr. Fiallos, requesting him to take Mr. Alger's communication from me into consideration.

On the following day I received a reply from Mr. Alger, quoting a communication from Mr. Fiallos, stating that, "In reply to your request to the Honduran minister at Washington for a suspension of the decree canceling the exequaturs of Mr. Linard and Mr. Reynolds, the minister had been instructed to inform you that as this decree had already been issued and published its revocation could not be granted." As the minister had not mentioned this matter again, it was understood that it was closed. The Government of Honduras was, however, desirous of finding some means of meeting the wishes of the Secretary of State without affecting the national dignity. This reply I telegraphed to you, adding that it seemed probable, if it should be desired, that a suspension of the decree could be obtained until the appointment of Messrs. Linard and Reynolds's successors, and that Mr. Alger had informed me that the Honduran Government was convinced, from the result of the investigation which they had made, that the action of the consul and vice consul had been incorrect. It might be said, Mr. Alger stated, that public opinion had forced the Honduran Government to act as it had done.

Yesterday I received a telegram from Mr. Fiallos confirming his communication to Mr. Alger.

In this connection I desire to acknowledge the receipt of the department's telegram of the 6th instant, in reply to mine of the 30th ultimo, suggesting the temporary appointment of Mr. A. S. Hackett as vice consul at La Ceiba. The department stated that such an appointment was neither necessary nor desirable for the present. When I made this suggestion it appeared to me to be urgent that there should be some one at this consulate authorized to perform the necessary routine work. Owing chiefly to the partial interruption of telegraphic communication with La Ceiba, I was at that time not aware that the U. S. S. *Marietta* had been ordered to La Ceiba to investigate this matter, and that the appointment of a temporary vice consul was no longer urgent, as Mr. Linard was allowed to continue to issue ship's papers and as Capt. Maxwell would render notarial services.

I have, etc.,

H. PERCIVAL DODGE.

File No. 7357/294.

The Acting Secretary of State to Minister Dodge.

DEPARTMENT OF STATE,
Washington, August 14, 1908.

SIR: I have to acknowledge the receipt of your No. 32, Honduran series, of the 28th ultimo, in regard to the cancellation of the exequaturs of the American consul and vice consul at Ceiba, Honduras. You state that, as it seemed advisable to have some one temporarily in charge of the consulate there, you decided that upon the receipt of instructions from the department you would ask the vice consul at Puerto Cortez to do so.

In this connection reference is made to the department's telegram of the 6th instant stating that it did not seem advisable to place any one in charge of the consulate at Ceiba at present.

I am, etc.,

ALVEY A. ADEE.

File No. 7357/310 B.

The Acting Secretary of State to Minister Dodge.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 14, 1908.

This Government rightfully expostulated against cancellation without notification to us or opportunity for concurrent disposal of the Ceiba incident in the diplomatic way with full consideration of facts on both sides.

Our note to Ugarte was the first statement of international record. When it was written we only had before us the consul's report that his exequatur was revoked. That note was followed by our suggestion that restoration of status quo would permit the two Governments to deal in concert with the question on terms of equality. Ugarte's reply refuses this, treats the cancellation as a finality, and, while promising to produce justificatory proofs, gives no indication of willingness of Honduras to listen to our side of the case. He broadly hints that, having taken the step, Honduras could only reconsider by yielding to the pressure of a strong nation against a weak one. We have merely asked for fair play and a just disposal of the incident by agreement of the two Governments meeting as equals. We can accept no less than this. We could not enter into any discussion which disregards equality and treats the course of Honduras as irrevocable.

A.DEE.

File No. 7357/291-292.

*The Acting Secretary of State to Minister Dodge.*DEPARTMENT OF STATE,
Washington, August 19, 1908.

SIR: Confirming by the copy thereof herewith inclosed the department's telegram of the 14th instant, I transmit for your further information copies of the papers in the case of the cancellation of the exequaturs of the consul and vice consul of the United States at Ceiba that have not already been sent to you. These papers will fully inform you on the subject.

Your attention is especially called to the department's note of the 31st ultimo to the Honduran minister at Washington and to the minister's notes in reply, dated August 1 and 5. The minister's notes have not been answered or acknowledged.

The department can hardly bring itself to believe that Mr. Ugarte correctly represents the attitude of Honduras, especially in view of the statement of the minister for foreign affairs of Honduras, reported in your telegram of August 9, 1908, that the "Government of Honduras is desirous of finding some means of satisfying desires of Secretary of State." The department's note to Mr. Ugarte and its telegram to you of August 14 set forth this Government's expectations. We expect to be dealt with on fair and equal ground in order

that we may reach a satisfactory and honorable conclusion by the diplomatic way, which is the proper resort of friendly nations in composing their differences.

The careful investigation of the commanding officer of the *Marietta*, and the agreement of all the evidence elicited by him as to the facts which led up to the conference of the consular corps with the comandante, as well as to the facts of the conference itself, are so far at variance with the report of the comandante to the authorities at Tegucigalpa upon which the cancellation of the exequaturs was effected ex parte and without affording a hearing to the parties or to their Government, as to present a case which it behooves the two Governments to deal with in a spirit of impartial inquiry and with equal desire to see that right is done to all concerned. It is important that a door to a candid and just determination of the right, which has been so abruptly closed by the sole act of Honduras, should be reopened as befits the relations of two friendly and magnanimous nations.

Much must necessarily be left to your good judgment and discretion and much will depend upon your tactful handling of the matter.

I am, etc.,

ALVEY A. ADEE.

File No. 7357/364.

Minister Dodge to the Secretary of State.

[Telegram.—Extract.]

AMERICAN LEGATION,
Tegucigalpa, September 3, 1908.

After many conferences minister for foreign affairs of Honduras agrees as a settlement of Ceiba incident, subject to the approval of department, to make the following decree:

Whereas the executive power in the exercise of right which international law gives Governments of withdrawing the exequaturs of consular officers, and in compliance with the law of Honduras, ordered that the exequaturs granted Drew Linard and Virgil Reynolds should be revoked on account of their unjustifiable intervention in the political affairs of the country during the recent insurrection;

Whereas the United States of America, although recognizing the right of the Government of Honduras to revoke exequaturs of consular officers for such a cause, considers, nevertheless, that in view of the relations of especial friendship which exists between both Governments, an opportunity ought to have been given for a joint consideration of the matter on the basis of entire equity;

Whereas the action of Honduras was induced by the abnormal conditions then prevailing, and public order now having been reestablished, nothing stands in the way of a proof of strong friendship being give the Government of the United States by affording an opportunity for the consideration of the incident in the manner described in the preceding paragraph. The President, decreeing, revalidates temporarily exequaturs of the aforesaid consular officers while the Governments consider the affair in the spirit of cordial friendship existing between them.

Mexican minister at Tegucigalpa has offered mediation, if necessary, in accordance with instructions the Government of Mexico.

DODGE.

File No. 7357/364.

The Acting Secretary of State to Minister Dodge.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, September 5, 1908.

Mr. Adee informs Mr. Dodge that the suggested settlement of the Ceiba consul question seems to be satisfactory, although possibly the phrase "unjustifiable intervention" may be open to criticism because appearing to forejudge the joint consideration of the matter on the basis of entire equality, which is the purpose of the decree. Says the omission of the adjective "unjustifiable" would not prejudice full opportunity of Honduras to establish its allegation.

Mr. Adee states that the Mexican offer of good offices is appreciated, but the department is glad to believe that a direct settlement, alike honorable and satisfactory to both parties, is in sight.

File No. 7357/368.

Minister Dodge to the Secretary of State.

[Telegram.—Paraphrase.—Extract.]

AMERICAN LEGATION,
Tegucigalpa, September 7, 1908.

Mr. Dodge acknowledges department's telegram of September 5, and reports having arranged with the minister for foreign affairs that the decree will be published, omitting the word "unjustifiable." States that the matter is settled, and that he proposes to return to San Salvador September 11.

File No. 7357/368.

The Acting Secretary of State to Minister Dodge.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, September 8, 1908.

Mr. Adee compliments Mr. Dodge upon the settlement of the Ceiba incident and directs his return to San Salvador. Inquires whether Mr. Gibson has arrived, and instructs Mr. Dodge to notify the Honduran Government of Mr. Gibson's appointment as secretary of the legation, Mr. Gibson is not to act as chargé, however, unless expressly instructed to do so.

File No. 7357/402-404.

Minister Dodge to the Secretary of State.

[Extract.]

No. 51, Honduran series.]

AMERICAN LEGATION,
Tegucigalpa, September 9, 1908.

SIR: Referring to my dispatch No. 42 of the 19th ultimo,¹ in regard to the cancellation of the exequaturs of Mr. Drew Linard and

¹Not printed.

of Mr. Virgil C. Reynolds, American consul and vice consul, respectively, at La Ceiba, I have the honor to inform you that as proposed therein in accordance with the department's instructions I left San Salvador on the 22d ultimo arriving at Tegucigalpa on the 28th ultimo as already reported by telegraph, having been delayed en route by the Pacific Mail steamer and by difficulty in getting mules to come here from the port. Soon after my arrival I called upon President Davila and Mr. Fiallos, minister for foreign affairs, and informed them of the object of my visit. Both expressed themselves as ready to comply with the wishes of the American Government in any way which did not affect the national honor of the country. I explained that my Government merely asked for fair play and a just disposal of the incident by agreement between the two Governments meeting as equals; that my Government considered that the cancellation of these exequaturs without notification to it or any opportunity for a concurrent disposal of the incident in the diplomatic way with full consideration of the facts on both sides was not proper treatment, and that it considered that in order to permit the two Governments to deal in concert with the question on terms of equality the exequaturs ought to be restored.

The President thereupon admitted that his Government ought as a matter of courtesy due to the United States to have given previous notification to the American Government and stated that he regretted that such notification had not been given. When the Secretary of State, however, had asked Mr. Ugarte, Honduran minister at Washington, to secure a suspension of the order cancelling the exequaturs, the decree canceling them had already been published and therefore the request of the Secretary of State could not be granted. He had informed Mr. Ugarte to this effect and as Mr. Ugarte had not subsequently mentioned the matter he supposed that it was closed. The President assured me of the desire of his Government to find a satisfactory solution of the matter and expressed his high regard for the United States and his gratitude for its services in the cause of peace and prosperity of Honduras. He also mentioned that President Zelaya had written to him urging him to settle the matter to the satisfaction of the United States.

I then began a series of conferences with Mr. Fiallos, who at first appeared to believe that it would be impossible to restore the exequaturs and to revoke the former decree without seriously affecting the prestige of the Government, as the matter had attained such notoriety and caused so much bitterness. His Government was certain, moreover, that Mr. Reynolds had aided the insurgents and further had already ceased to be persona grata before this incident for other reasons. His removal was greatly desired. His Government had little against Mr. Linard who it considered had only taken a secondary part in the incident. It had no objection to his remaining at La Ceiba as consul although it could not but feel that after what had occurred his future usefulness as consul there would be impaired and his continuance there might give trouble in the future in case any disturbance should occur. For this reason his Government considered that it would be best if he were transferred after a reasonable time. I explained to Mr. Fiallos that the testimony taken by Commander Maxwell, United States Navy, who had been especially in-

structed to investigate this matter proved that Mr. Linard and Mr. Reynolds had been entirely correct in the steps they had taken, as they had merely acted as neutral go-betweens. Mr. Fiallos replied that the testimony of his Government proved the contrary, but that he did not think it necessary to go into this question. If it was found possible to frame a decree restoring the exequaturs without dishonor to the Honduran Government, the exequaturs would be restored, and his Government would only ask to have Mr. Reynolds removed.

We then proceeded to draft a decree. The draft having been agreed to by the Honduran Government, I telegraphed to you on the same day, the 3d instant, its text and the fact that the agreement was subject to the approval of the department.

On the 5th instant I received your telegram in reply, stating that the suggested settlement appeared to be satisfactory and only criticizing the word "unjustifiable" in the first paragraph of the draft. This word Mr. Fiallos readily consented to eliminate and thereupon on the 6th instant I telegraphed you to this effect and that the decree should be published on the 8th instant. I inclose herewith copies of the decree as published in the official "Gaceta" and the semi-official "Prensa," with translations.

Throughout our conferences I did not fail to lay stress upon the fact that my Government desired nothing but fair play and to deal with the question on the basis of absolute equality and mutual self-respect. The discussions were always of a most friendly character and I am convinced of the desire of both the President and Mr. Fiallos to find a settlement satisfactory to both sides. Mr. Fiallos desired at first to include the French consular agent in the same decree, but I stated to him that this did not appear to be well to me, and, as shown by the inclosures, a separate decree was finally made for the French consular agent restoring his exequatur temporarily.

As to the offer of mediation on the part of the Mexican Government, Mr. Fiallos appeared to think that it must have been made by request of the Department of State. I assured him, however, that this seemed most unlikely to me, although I had no information on the subject. I took occasion upon my arrival to call upon the Mexican minister and to thank him cordially for his Government's friendly offer, while at the same time I assured him that in my opinion the matter would easily be settled, when I would immediately advise him of the result. This I have now done, conveying to him also the appreciation of the department expressed in the telegram of the 5th instant.

President Davalia referred in conversation to the charge, which he had heard had been made, that telegrams addressed to Mr. Linard had been stopped. He denied this emphatically, and also stated that he had never given any order to prevent Mr. Linard from using cipher in telegrams. The President stated further that he regretted the insulting articles which had appeared in the press against foreigners and that care should be taken as to this in the future.

In conclusion I desire to express my sincerest thanks for the department's greatly appreciated complimentary telegram upon the settlement of this matter and to acknowledge the receipt of its instruction of the 19th ultimo, with inclosures as to the same.

I have, etc.,

H. PERCIVAL DODGE.

[Inclosure.—Translation.]

[Official Gazette of the Republic of Honduras, Tegucigalpa, Sept. 8. 1908.]

Foreign relations: Temporary revalidation of the exequaturs of certain consular officials.

TEGUCIGALPA, *September 8, 1908.*

Whereas the executive power, in the exercise of a right which international law gives to governments of withdrawing the exequaturs of consular officers of another nation, and in compliance with the provisions of article 61 of the law of Honduras as to foreign consular missions, ordered by decrees issued July 25, 1908, that the exequaturs granted to Mr. Drew Linard and Mr. Virgil C. Reynolds, consul and vice consul, respectively, of the United States of America at La Ceiba, should be revoked on account of their intervention in the political affairs of Honduras during the recent insurrection;

Whereas the Government of the United States of America, although recognizing the right of the Government of Honduras to revoke the exequaturs of consular officers for such a cause, considers nevertheless that in view of the relations of especial friendship which exists between both Governments, an opportunity ought to have been given for a joint consideration of the matter on a basis of entire equality;

Whereas the action of the Government of Honduras was induced by the abnormal conditions then prevailing in the country, and public order now having been reestablished, nothing stands in the way of a proof of strong friendship being given to the Government of the United States of America by affording an opportunity for the consideration of the incident in the manner set forth in the preceding paragraph:

The President decrees:

To revalidate temporarily the exequaturs of the aforesaid consular officers while the two Governments consider the affair in the spirit of cordial friendship existing between them. Let this be published.

DAVILA.

The Secretary of State for the Department of Foreign Relations:

E. CONSTANTINO FIALLOS.

Temporary revalidation of the exequaturs of consular agent of France at La Ceiba.

TEGUCIGALPA, *September 8, 1908.*

Whereas by a decree of this date the exequaturs of Mr. Drew Linard and Mr. Virgil C. Reynolds, consul and vice consul of the United States of America, respectively, at La Ceiba, have been temporarily revalidated;

Whereas as a matter of equity and courtesy to the French Government the same should be done for Mr. Pierre Devaux, consular agent of France at the said port, the more so since Mr. Devaux took a secondary part in the intervention which was the cause for the revocation of the exequaturs by the Government of Honduras:

The President decrees:

To revalidate temporarily the exequatur of Mr. Pierre Devaux, which was revoked by a decree of July 25 last, while the Government of the French Republic takes the necessary steps in regard to its consular representation at La Ceiba. Let this be published.

DAVILA.

The Secretary of State for the Department of Foreign Relations:

E. CONSTANTINO FIALLOS.

File No. 7357/402-404.

The Acting Secretary of State to Minister Dodge.

DEPARTMENT OF STATE,
Washington, September 30, 1908.

SIR: I have to acknowledge the receipt of your dispatch No. 51 of the 9th instant, reporting your negotiations with the Honduran

Government in the matter of the restoration of the exequaturs of the American consul and vice consul at Ceiba, and inclosing newspaper clippings containing the text of the official decree annulling the cancellations of the exequaturs.

In reply I have to inform you that the department commends your treatment of this question.

I am, etc.,

ROBERT BACON.

EXTRADITION OF WILLIAM ADLER ET AL. FROM HONDURAS.

File No. 12344.

The Acting Secretary of State to Chargé Gregory.

No. 9.]

DEPARTMENT OF STATE,
Washington, March 20, 1908.

SIR: You will ascertain whether, in view of the negotiations pending between the Governments of the United States and Honduras for an extradition treaty, the latter Government would be willing, as an act of comity, to surrender fugitives from the justice of the United States, charged with embezzlement.

While you will, however, be obliged to supplement your inquiry by a distinct statement that you regret that this Government will be unable to reciprocate the favor in similar cases, because, in the absence of treaty stipulations, the laws of the United States preclude the surrender of fugitives from the justice of other countries, yet the imminence of an extradition treaty between the two countries whereby the reciprocal surrender of criminals will be put into operation in accordance with law, leads the department to hope that the Government of Honduras may, as an act of comity, agree to the surrender of fugitives from the justice of the United States, unless such surrender, in the absence of treaty, is precluded by the laws of Honduras,

I am, etc.,

ROBERT BACON.

File No. 12344/1.

Chargé Gregory to the Secretary of State.

No. 9, Honduran series.]

AMERICAN LEGATION,
San Salvador, May 1, 1908.

SIR: In reply to your serial No. 9 of March 20, 1908, Honduran series, relating to whether the Honduran Government would be willing, as an act of comity, to surrender fugitives from the justice of the United States, charged with embezzlement, pending negotiations between the Governments of the United States and Honduras for an extradition treaty, I have the honor to inform you that the Honduran Government will grant extradition of fugitives if the crime is of recent date and the party or parties not Honduraneans.

I have, etc.,

J. H. GREGORY, JR.

Minister Dodge to the Secretary of State.

[Extract.]

No. 14, Honduran series.]

AMERICAN LEGATION,
San Salvador, May 18, 1908.

SIR: Referring to Mr. Gregory's dispatch, No. 9, Honduran series, of the 1st instant, in regard to the surrender, as an act of comity, of fugitives from the justice of the United States, charged with embezzlement, pending the conclusion of an extradition treaty between the Governments of the United States and of Honduras, I have the honor to inclose to you herewith a copy of a note, with a translation into English, which I have prepared, dated the 28th ultimo, addressed by the Honduran foreign office to our consul at Tegucigalpa, stating that the Honduran Government will grant the extradition desired if the crime is of recent date and the party or parties are not Honduraneans.

I have, etc.,

H. PERCIVAL DODGE.

[Inclosure 1—Translation.]

*The Minister for Foreign Affairs of Honduras to Consul Alger.*MINISTRY FOR FOREIGN AFFAIRS,
Tegucigalpa, April 28, 1908.

MR. CONSUL OF THE UNITED STATES OF AMERICA: I have received your esteemed favor of the 21st instant in which in compliance with instructions from the American legation you express a desire to know whether, pending the negotiations between both Governments for concluding an extradition treaty, the Government of Honduras would, as a matter of comity, deliver up fugitives from the justice of the United States accused of malversation of funds, or embezzlement. At the same time you are kind enough to inform me that the American Government can not offer reciprocity in this matter for the reason that the laws of the country expressly forbid it.

In reply I am pleased to inform you that in the interests of justice, which require in all cases the punishment of crimes of a serious nature, and in view of the close relations of friendship existing between Honduras and the United States, my Government will, as an act of international courtesy, accede to the request for extradition before the conclusion of the negotiations mentioned, it being understood that the fugitive or fugitives are not Honduraneans, and that the crime is of recent date and of such a serious character that the surrendering of fugitives from justice is justified by satisfying a public desire for atonement.

With my highest consideration, I am, your obedient servant,

E. CONSTANTINO FIALLOS.

File No. 12344/3-4.

The Secretary of State to Secretary of Legation Gibson.

No. 3.]

DEPARTMENT OF STATE,
Washington, October 15, 1908.

SIR: I inclose herewith a copy of the department's note of the 1st instant to the Honduran minister concerning the proposed extradition treaty between the United States and Honduras and a copy of the extradition treaty with Spain, referred to in that note. I also inclose a copy of Minister Dodge's dispatch No. 14, of May 18, 1908, inclosing a copy of a note from the Honduran minister of foreign affairs, in which the Honduran Government expressed its willingness to surrender fugitives from the justice of the United States pro-

vided that the fugitives are not Honduraneans and that the crimes for which they are wanted are of a serious character and of recent date.

After having acquainted yourself with those communications you will ascertain whether the Honduran Government, as an act of comity and in anticipation of the extradition treaty for which negotiations are now pending, will grant the extradition of the following persons to the United States, at the same time making the customary statement that the United States will be unable, under its laws, to extend the same courtesy to Honduras before the conclusion of the treaty:

William Adler: Charged with embezzling the moneys, funds, and credits of the State National Bank of New Orleans during the period from September 23, 1907, to December 9, 1907. Adler was indicted in New Orleans on March 5, 1908, and a warrant for his arrest issued March 6, 1908. His description is as follows: About 5 feet 2 inches tall; weight about 135 pounds; dark sallow complexion; bald head; black hair and mustache tinged with gray. He is supposed to be located at Puerto Cortes, Honduras.

William H. Simmons: Charged with embezzling funds of the First National Bank of Lake Charles, La., at various times between November 23, 1905, and October 23, 1907. A warrant for his arrest has been issued. He is described as of about 33 years of age; 6 feet 1 inch tall; weight about 195 pounds; brown hair; large light-gray eyes; chin small, pointed, and weak; large mouth. He is reported to be in the employ of the United Fruit Company at Puerto Cortes, Honduras.

John Ripplinger: Charged by the authorities of the State of Washington with larceny by embezzlement, in March, 1906. Warrant for his arrest was issued May 14, 1907. At last account he was supposed to be located about 20 miles south of Yriona (Iraona), Honduras.

I am, etc.,

ELIHU ROOT.

File No. 12344/14.

Minister Dodge to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
San Salvador, November 9, 1908.

William Adler sailed from Puerto Cortes November 3 by steamer *Ellis*, destination New Orleans.

DODGE.

File No. 12344/18-19.

Secretary of Legation Gibson to the Secretary of State.

No. 1.]

AMERICAN LEGATION,
Tegucigalpa, November 18, 1908.

SIR: I have the honor to make the following report upon the subject of the extradition of William Adler, William Simmons and John Ripplinger:

On the 5th of November I was informed that Adler had left Puerto Cortes for the United States with the intention of surrendering to the authorities upon his arrival. I so informed the department in my letter of that date.

In compliance with your instructions I immediately inquired in writing whether the Government of Honduras would grant the ex-

traditions in question as a matter of comity and in anticipation of the treaty for which negotiations are pending. The minister for foreign affairs replied verbally that as the offenses for which the extraditions were desired had all been committed over one year ago, he did not feel that they were of the class for which he had promised extradition without reciprocity on the part of the United States. I brought to his attention his letter to the American consul at Tegucigalpa of April 28, 1908, in which he states that pending the conclusion of the treaty the Government of Honduras was prepared to grant extradition without reciprocity:

It being understood that the fugitive or fugitives are not Honduraneans and that the crime is of recent date and of such a serious character that the surrendering of the fugitives from justice is warranted by satisfying a public desire for atonement.

He replied that by the phrase, "of recent date," he had intended to designate crimes which had been committed within four or five months at most from the time when the extradition was requested and which were still fresh in the public mind.

As I had been instructed merely "to ascertain whether * * * the Honduranean Government will grant the extradition of the following persons to the United States," I did not feel that I was warranted in pursuing the matter without further instructions. I so advised Minister Dodge, as I have no fund available for cabling the department.

Pending further instructions I discussed the matter at some length with the minister for foreign affairs and finally arrived at the understanding set forth in his letter to me of November 9, of which I inclose a copy and a translation into English which I have prepared. In this the minister remarks that according to the constitution of Honduras, article 10, "The Republic of Honduras is a sacred asylum for all persons taking refuge in her territory," and article 16 * * *, "Extradition can be granted only in accord with law or treaty for serious crimes." In recent extraditions fugitives have applied to the supreme court for protection, claiming rightly that they could not be delivered legally, thus creating a conflict between the executive and judicial powers and greatly embarrassing the Government.

Nevertheless, the Government of Honduras, being very desirous of pleasing the department, states that if, in spite of these difficulties, the department will make a formal request for the delivery of these individuals, necessary instructions will be given for their arrest and detention.

The decision of the minister for foreign affairs to grant the desired extraditions under the conditions named was spontaneous upon his part, as I did not consider that I was justified in urging any course of action upon him.

I have, etc.,

HUGH S. GIBSON.

[Inclosure.—Translation.]

The minister of foreign affairs of Honduras to Secretary of Legation Gibson.

TEGUCIGALPA, November 9, 1908.

MR. SECRETARY: I have the honor to acknowledge your note of November 5, in which, in compliance with instructions of your Government, you ask if the

Government of Honduras will grant, as an act of comity, the extradition of William Adler, William Simmons, and John Ripplinger, charged with grand larceny in the United States.

Having given the matter the consideration which it deserves, I have the honor to reply to you in conformity with orders from the President that my Government, with the desire of pleasing that of the United States, reiterates in the present case the offer which it made in communication of this office under date of April 28 of the present year regarding the delivery of criminals who had taken refuge in the territory of Honduras. However, I must now state that on the occasion of the delivery of other criminals difficulties were presented to the Government because they, calling attention to article 10 of the constitution, which says: "The Republic of Honduras is a sacred asylum for all persons who take refuge on her territory," and article 16, which says: "Extradition can be granted only in accord with law or treaties for serious crimes * * *," have intended to appeal to the supreme court of justice for protection, basing their claim on the fact that there is no extradition treaty between Honduras and the United States they can not be legally delivered. Therefore, if the individuals referred to in your note were arrested they might create a conflict between the judicial and executive powers with greater reason, as there can be no reciprocity on the part of the United States.

Nevertheless, if the Government of your excellency will ask formally for the delivery of the aforesaid parties, my Government will issue the necessary orders for their capture and delivery * * *. I beg to advise that, as regards Mr. Adler, I know that he is not on Honduran soil, having left on November 3 or 4 from Puerto Cortes for New Orleans. Therefore the offer of my Government is limited to Messrs. Simmons and Ripplinger.

I avail, etc.,

E. CONSTANTINO FIALLOS.

File No. 12344/18-19.

The Acting Secretary of State to Secretary of Legation Gibson.

No. 5.]

DEPARTMENT OF STATE,
Washington, December 7, 1908.

SIR: I have to acknowledge the receipt of your dispatch, No. 1, dated the 18th ultimo, reporting the action taken by you on instruction No. 3, of October 15 last, in which you were directed to ascertain whether the Honduran Government will, as an act of courtesy, and in anticipation of the extradition treaty for which negotiations are now pending, grant the extradition of William Adler, William H. Simmons, and John Ripplinger to the United States.

In reply I have to inform you that your course in the matter is approved by the department.

I am, etc.,

ALVEY A. ADEE.

DETENTION OF THE "GOLDSBORO" AND EXTRADITION OF FRANCIS G. BAILEY, ALBERT W. BAILEY, ALFRED OXLEY, AND HERBERT H. MEYERS FROM HONDURAS.

File No. 13837.

The Secretary of State to Minister Dodge.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 1, 1908.

Mr. Root states that the governor of New York has requested the department to obtain from Honduras the extradition of Francis G. Bailey, charged with grand larceny in New York, where warrant

has issued. Says that Bailey is alleged to have sailed May 2 from New York on board the tramp steamer *Goldsboro*, both being understood to be at Tela. In view of absence of extradition treaty, Mr. Root instructs Mr. Dodge to ascertain whether the Honduras Government, as an act of comity, and in anticipation of the extradition treaty for which negotiations are now pending, and which the United States is ready to make, will grant the extradition of Bailey for the offense of grand larceny, although the United States would be unable under its laws to extend the same courtesy before making the treaty. Invites his attention to department's No. 9 of March 20 and to Legation's No. 9 of May 1, 1908, relative to a similar request in embezzlement case.

Mr. Root gives a description of Bailey as follows: Six feet tall, or over; weight 200; smooth face; black hair, very thick, turning gray, parted on side; full face; uses glasses for reading, etc.; not a fancy dresser; uses good English; usually wore dark clothes; wore diamond ring on fourth finger of left hand; age 40 to 43 years. Informs Mr. Dodge that if favorable action is taken on foregoing request, he will then request the detention of the *Goldsboro* and cargo, with a view to their return to the jurisdiction of the United States, as proceeds and evidence of the crime charged, in accordance with article 10 of the Spanish treaty, which was mailed with department's No. 29 of May 5, to serve as a model for the proposed treaty with Honduras. Mr. Root adds that larceny, on account of which Bailey's extradition is desired, forms part of a general scheme to defraud, which is alleged to involve the entire cargo in the *Goldsboro*, and some \$40,000, which is alleged to have been fraudulently collected on the drafts drawn against the bill of lading covered by the merchandise on board, it being said that the ship itself was purchased out of the avails of these fraudulent transactions.

Authorizes him to communicate with the consul at Tegucigalpa, in order to expedite action.

File No. 13837/2.

Minister Dodge to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
San Salvador, June 3, 1908.

Mr. Dodge reports that the minister for foreign affairs of Honduras has ordered the arrest of Bailey and the detention of the *Goldsboro* cargo.

File No. 13837/2.

The Acting Secretary of State to Minister Dodge.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 4, 1908.

Mr. Bacon acknowledges his telegram of June 3, and requests him to advise department immediately upon the arrest of Bailey and

detention of the *Goldsboro*. Mr. Bacon instructs Mr. Dodge to ascertain what formalities the Honduran Government will require before turning Bailey and the vessel over to the United States Government.

File No. 13837/6.

Minister Dodge to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
San Salvador, June 7, 1908.

Mr. Dodge reports that the consul at Tegucigalpa informs him that Bailey and the *Goldsboro* are held at Ceiba and that it is advisable that an officer come as soon as possible to take him into custody. The consul wishes to know when the officer will arrive. Mr. Dodge states that the Government of Honduras only requires a copy of the indictment issued by the New York authorities.

File No. 13837/9.

Minister Dodge to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
San Salvador, June 9, 1908.

Bailey and *Goldsboro* will be conveyed to Puerto Cortes.

DODGE.

File No. 13815/12A.

The Acting Secretary of State to Minister Dodge.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 10, 1908.

Mr. Bacon directs Mr. Dodge to convey to the Government of Honduras the satisfaction and high appreciation of the United States Government for the prompt and considerate action of Honduras in the arrest and detention of Bailey and the *Goldsboro*.

File No. 13837/10-12.

The Secretary of State to Consul Alger.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 13, 1908.

Reference *Goldsboro* and Bailey extradition case. Since preferring request in telegram of June 1 through the legation at San Salvador for arrest and detention Francis G. Bailey on charge of

grand larceny committed in New York, the department has received request from Department of Justice for extradition of Francis G. Bailey and Albert W. Bailey, for whom Federal warrants have been issued, on charge of conspiring to commit offense against the United States and using the mails with intent to defraud in violation of sections 5440 and 5480, Revised Statutes.

You will accordingly request the provisional arrest and detention of Albert W. Bailey with a view to his extradition to the United States for the Federal offenses above charged. You will inform the Government of Honduras, if there is no objection on the part of that Government, that it is contemplated to try Francis G. Bailey also for the foregoing offenses as well as for the offense for which his extradition has already been granted.

At the same time you will state that this Government will be unable, under its laws, to extend the same courtesy in the absence of an extradition treaty.

ROOT.

File No. 13837/14.

Consul Alger to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE,
Tegucigalpa, June 14, 1908.

Arranged. Albert Bailey arrested.

ALGER.

File No. 13815/31B.

The Secretary of State to Minister Dodge.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 19, 1908.

Reference department's telegram June 16. Request provisional arrest and detention of H. H. Meyers and Alfred Oxley, for whom Federal warrants have been issued, on charge of conspiring to commit offense against the United States and using the mails with intent to defraud in violation of sections 5440 and 5480, Revised Statutes, with a view to their extradition to the United States for trial for the Federal offenses above charged. You will make at the same time the customary statement that this Government is unable under its laws to extend the same courtesy in the absence of an extradition treaty.

Reference *Goldsboro* and cargo. Department believes that under all the circumstances it would be best for vessel and cargo to be turned over to the Honduran authorities for procedure in accordance with Honduran law. It is understood that the creditors in the United States will take proceedings in the Honduran courts to establish their title to the ship and cargo. You will accordingly

direct the consul at Puerto Cortes to turn the vessel and cargo over to the appropriate official designated by the Honduran Government.

Root.

File No. 13815/32.

Minister Dodge to the Secretary of State.

[Telegram.—Paraphrase.—Extract.]

AMERICAN LEGATION,
Tegucigalpa, June 20, 1908.

Mr. Dodge acknowledges telegram of June 18 and reports Oxley and Meyers detained six days. Says the detention limit will not affect the detention of the Bailey party.

File No. 13815/61.

Consul Alger to the Secretary of State.

[Telegram.—Extract.]

AMERICAN CONSULATE,
Tegucigalpa, June 25, 1908.

Minister for foreign affairs informs Government of Honduras prepared to deliver both Baileys, Oxley, Meyers to agent just arrived without any formal papers, merely upon my certifying that the agent has authority to receive all of them. Minister for foreign affairs, after receiving *Goldsboro* and cargo for proceedings of creditors in the courts of Honduras in accordance with your cipher telegram of the 20th, now informs courts of Honduras will not take jurisdiction. Anxious to deliver ship and cargo at the request of Department of State and would accept them back on deposit if desired.

ALGER.

File No. 13815/61.

The Acting Secretary of State to Minister Dodge.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 26, 1908.

Reference your telegram of the 25th instant, you can inform Honduran Government that President's warrants have been mailed to American consul, Puerto Cortez, said warrants authorizing Peter W. Beery as agent of this Government to receive Francis G. Bailey, Albert W. Bailey, Alfred Oxley, and Herbert H. Meyers (the name Herbert being fictitious). Greeley, vice consul, has been informed that department has no objection to his taking temporary possession

in his individual capacity of *Goldsboro* and cargo pending arrival at Puerto Cortez of a duly accredited agent of the creditors authorized to take steps necessary to secure and have charge of return of vessel to United States. Department can not permit Beery as presidential agent to return on *Goldsboro* and has so informed New York representatives of the creditors.

ADEE.

File No. 13815/70.

Minister Dodge to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
San Salvador, July 1, 1908.

Referring to department's telegram of June 26, Mr. Dodge says the consul at Puerto Cortez has telegraphed to department the delivery of Bailey et al. to the agent on the 29th ultimo and the arrangements made for sailing. Reports the escape of Francis G. Bailey June 30 and his request of the Government of Honduras to make all efforts for his recapture, which has been ordered. Mr. Dodge states that Greeley has refused the custody of the *Goldsboro* and cargo and that he has requested the consul to suggest some one else. Also states that the crew is mutinying, claiming that responsibility for their wages and transportation to New York rests with the Honduran Government; that they are apparently abandoning the ship, in which case she will be lost with her cargo, as she makes 6 feet of water in 24 hours. Mr. Dodge adds that the President of Honduras earnestly desires relief from the ship's custody.

File No. 13815/70.

The Acting Secretary of State to Minister Dodge.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 2, 1908.

Mr. Bacon acknowledges Mr. Dodge's telegram of July 1, and says the department regards the disposition of the *Goldsboro* and cargo and the determination of the rights and remedies of the crew under maritime law as against the vessel and cargo, as a matter to be decided by the appropriate authorities, administrative or judicial, of Honduras. Mr. Bacon states that the substance of Mr. Dodge's cable has been communicated to the American creditors who are interested in the return of the *Goldsboro* and cargo to the United States, and who are understood to be in direct communication with the Honduran Government. Mr. Dodge is directed to communicate the substance of this cable to the Honduran Government.

File No. 13815/91-92.

The Acting Secretary of State to Minister Dodge.

No. 47.]

DEPARTMENT OF STATE,
Washington, July 21, 1908.

SIR: Referring to previous correspondence concerning the extradition of Francis G. Bailey, Albert W. Bailey, Alfred Oxley, and Henry H. Meyers, I have to inform you that the department has received, through the Department of Justice, a letter from the United States district attorney for the southern district of New York, in which he requests that application be made to the Government of Honduras for permission to put the above-named men upon trial, not only for the specific charge for which the Government of Honduras has already granted extradition, but also upon any indictment that may be found against these men, either in the State or Federal courts.

In view of all the circumstances, and bearing in mind the prompt acquiescence of the Honduran Government in all the measures heretofore requested by this Government as an act of comity, the department would be pleased if the desire of the Department of Justice, as indicated by the letter of the district attorney, could be acceded to by the Honduran Government. You are accordingly instructed to bring the matter promptly to that Government's attention and report promptly by cable the result of your action.

I am, etc.,

ALVEY A. ADEE.

File No. 13815/108.

Minister Dodge to the Secretary of State.

No. 37, Honduran series.]

AMERICAN LEGATION,
San Salvador, August 5, 1908.

SIR: I have the honor to acknowledge the receipt of your instruction, No. 47, of the 21st ultimo, stating that the department has received through the Department of Justice a request from the United States district attorney for the southern district of New York, that application may be made to the Government of Honduras for permission to put Francis G. Bailey, Albert W. Bailey, Alfred Oxley, and Henry H. Meyers upon trial, not only for the specific charge for which the Government of Honduras has already granted extradition, but also upon any indictment that may be found against these men, either in the State or Federal courts, and directing me to bring this matter promptly to the attention of the Government of Honduras and to report by cable the result of my action.

I accordingly immediately telegraphed to Mr. Fiallos, Honduran minister for foreign affairs, in the sense of your instruction, and I have to-day received a reply from him stating that his Government is well disposed to yield in every possible way to the desires of the Government of the United States, and therefore agrees that these men may be tried for other criminal charges which may be made against them provided that the crime or crimes with which they are

charged are by their nature or circumstance of those which give occasion for extradition.

While adding that I have to-day telegraphed you the substance of Mr. Fiallos's reply, I have, etc.,

H. PERCIVAL DODGE.

File No. 13815/99.

Minister Dodge to the Secretary of State.

[Telegram.—Extract.]

AMERICAN LEGATION,
San Salvador, August 5, 1908.

Your dispatch No. 47. Minister for foreign affairs of Honduras informs Government of Honduras disposed to yield in every way possible to the desires of the United States and accordingly agrees to the trial of the Baileys, Oxley, and Meyers on other criminal charges, provided crimes are by their nature and circumstances of those giving occasion for extradition.

DODGE.

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ITALY.

IDENTIFICATION REQUESTED BY ITALIAN POSTAL AUTHORITIES.

File No. 13230.

Memorandum from the Italian Embassy.

ROYAL EMBASSY OF ITALY,
*Washington, April 25, 1908.*¹

It very frequently occurs that foreigners who have transactions with the postal offices in the Kingdom complain because their passports, written out in a language other than French, are not recognized.

The Italian postal employees are not required to know any language besides French, and as only in the principal offices interpreters are to be found, it follows that only very seldom they can admit, as a proof of identity, a document they do not understand.

In order to do away with these inconveniences, the royal ministry of posts proposes that the post offices should recognize those passports which are accompanied, if not by a complete translation of the contents in Italian or French, at least by the translation in Italian of the description of the person to whom they are issued.

Such translation ought to be legalized with the signature and the seal of the proper consulate.

The Royal Government is desirous of knowing whether the Government of the United States would be willing, in the interest of American citizens, to instruct their consulates in the Kingdom to comply with these formalities.

Moreover, according to the resolutions passed by the last postal congress held in Rome, the adoption of postal papers of recognition (*livrets d'identité*) was approved. Such papers are the most adapted for establishing the identity of a person.

In any case it would be most desirable that those Americans who travel in Italy and can not obtain such a document in the United States should provide themselves, as soon as they arrive in the territory of the Kingdom, with an Italian postal booklet of recognition.

File No. 13230.

Memorandum to the Italian Embassy.

DEPARTMENT OF STATE,
Washington, April 30, 1908.

The Department of State has received the memorandum of the Italian Embassy, dated the 25th instant, in which it is suggested, in view of complaints made by foreigners in Italy that their passports

¹ Date of receipt.

when written in any other language than French are not recognized by the employees of the Italian post offices, that their passports might be accompanied by a translation of the contents into the Italian or French languages, authenticated by the signature and seal of the proper consular officer.

The Department of State sees no objection that would prevent it from instructing its consular officers in Italy to certify to the translations of passports held by American citizens.

The Department of State will also advise, by public announcement in the press, American travelers to Italy to provide themselves with livrets d'identité.

**CONVENTION BETWEEN THE UNITED STATES AND OTHER
POWERS FOR THE CREATION OF AN INTERNATIONAL INSTI-
TUTE OF AGRICULTURE.**

Signed at Rome, June 7, 1905. Ratification advised by the Senate, June 27, 1906. Ratified by the President, July 7, 1906. Ratification of the United States deposited with the Government of Italy, August 31, 1906. Proclaimed January 29, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA,

A PROCLAMATION.

Whereas a Convention between the United States of America and Italy, Montenegro, Russia, Argentine Republic, Roumania, Servia, Belgium, Salvador, Portugal, the United Mexican States, Luxemburg, the Swiss Confederation, Persia, Japan, Ecuador, Bulgaria, Denmark, Spain, France, Sweden, the Netherlands, Greece, Uruguay, Germany, Cuba, Austria-Hungary, Norway, Egypt, Great Britain, Guatemala, Ethiopia, Nicaragua, Brazil, Costa Rica, Chile, Peru, China, Paraguay, and Turkey, providing for the creation of an International Institute of Agriculture was concluded and signed by their respective Plenipotentiaries at Rome on the seventh day of June, one thousand nine hundred and five, the original of which Convention, being in the French language, is word for word as follows:¹

And whereas the said Convention has been duly ratified by the Government of the United States of America and by the Governments of the Argentine Republic, Belgium, Costa Rica, Cuba, Denmark, Egypt, Ecuador, Ethiopia, France, Japan, Great Britain, Italy, Luxemburg, the United Mexican States, Norway, Peru, Roumania, Spain, Sweden, Switzerland, China, Portugal, Russia, and Salvador and the ratifications deposited with the Government of Italy at Rome;

And whereas the Dominion of Canada, Australia, New Zealand, India, and Mauritius have notified the Government of Italy of their adhesion to the said Convention;

Now, therefore, be it known that I, THEODORE ROOSEVELT, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article

¹ For text of Convention, see Foreign Relations, 1906, p. 947.

and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington, this twenty-ninth day of January, in the year of our Lord one thousand nine hundred and eight, [SEAL.] and of the Independence of the United States of America the one hundred and thirty-second.

THEODORE ROOSEVELT

By the President:

ROBERT BACON

Acting Secretary of State.

PUNISHMENT OF ITALIANS IN ITALY FOR EXTRADITABLE
CRIMES COMMITTED IN THE UNITED STATES.

File No. 12426.

The Secretary of State to Chargé Hitt.

No. 139.]

DEPARTMENT OF STATE,
Washington, March 14, 1908.

SIR: Numerous cases have recently arisen in which Italian subjects have committed crime in the United States and escaped to Italy. In some of these cases attempt has been made to bring about their punishment in Italy.

The department would be pleased to have you, at your early convenience, make a detailed report to it of the cases occurring within the last five years in which request has been made by this department upon the Italian Government for the punishment of these fugitives.

You will also report the result in each case.

I am, etc.,

E. Root.

File No. 12426/1-2.

Ambassador Griscom to the Secretary of State.

No. 358.]

AMERICAN EMBASSY,
Rome, May 12, 1908.

SIR: I have the honor to acknowledge the receipt of your instruction of March 14 last (serial No. 139), stating that the department would be pleased to have a detailed report of the cases occurring within the last five years in which request has been made by the department upon the Italian Government for the punishment in Italy of Italian subjects who had committed crime in the United States and escaped to Italy.

In compliance with your instructions I now have the honor to transmit herewith a report on the subject, prepared by Mr. Winthrop.

I have, etc.,

LLOYD C. GRISCOM.

[Inclosure.]

A report of those cases which have occurred during the last five years in which Italian subjects have committed crimes in the United States and escaped to Italy and in which request has been made of the Italian Government for the punishment of these fugitives.

VINCENZO ADAVASIO.

Instruction No. 221, of May 19, 1904, transmits a copy of a letter from the governor of Ohio, forwarding a copy of the indictment and evidence charging Vincenzo Adavasio, an Italian subject, with murder in the first degree, committed in Mahoning County, Ohio, and directing that the matter be brought to the attention of the Italian Government, with a view to prosecution in Italy, if the accused be found there.

Note to foreign office of June 3, 1904, transmitting the above-mentioned papers and demanding the punishment of Adavasio.

ALFRED CAVALLARO.

Instruction No. 197, of January 25, 1904, transmitting copies of a letter with inclosures from executive department of New York State relative to an indictment found in the city of New York against Alfred Cavallaro, an Italian subject, charging him with rape, assault, and abduction. The said Cavallaro believed to be a fugitive from justice in Italy. Embassy directed to bring the case to the attention of the Italian Government and invite such action as may be deemed proper.

Telegram from Department of State February 11, 1904, giving address of Cavallaro as Circo, Province of Catanzaro.

Note to foreign office of February 16, 1904, giving above facts and requesting that proceedings be instituted in Italian courts.

Note to foreign office of November 4, 1904, requesting to know what action has been taken in the matter.

Note to foreign office August 24, 1905, inquiring as to the present status of the criminal proceedings which were taken against Alfredo, alias Alfonso Cavallaro.

ROMEO MAGNOTTI.

Instruction No. 239, of September 1, 1904, directing that the extradition be asked for of Romeo Magnotti, charged with murder in the State of New York and a fugitive from justice in Italy. Evidence to be personally presented at embassy for transmission to Italian foreign office.

Telegram from the Department of State September 23, 1904, directing that provisional arrest of Magnotti be requested, and giving supposed location.

Note to foreign office of September 24, 1904, requesting provisional arrest of Magnotti, giving his supposed whereabouts and stating that the necessary papers will be forwarded as soon as they reach the embassy.

Note from foreign office of October 12, 1904, states that Magnotti has not been found and asks for all possible evidence and further information.

Note from foreign office April 15, 1905, stating that proceedings against Magnotti have been suspended owing to his escape to the Argentine Republic.

Dispatch No. 3, of April 19, 1905, stating the above information.

STEFANO BONNANO.

Cable instruction from Department of State, April 4, 1905, stating that Stefano Bonnano, Italian subject, is charged with theft of diamonds in New York City, now at Palermo, and that documentary evidence is to be furnished for trial in Italy. Directs matter to be brought to the attention of the Italian Government with a view to arrest and prosecution of accused in Italy and recovery of property.

Note from foreign office April 27, 1905, states that Bonnano has been arrested and requests necessary documentary evidence.

Telegram to Department of State, May 3, 1905, asking for documentary evidence.

Dispatch No. 11, of May 4, 1905, confirms telegram of May 3 and transmits note from foreign office notifying embassy of the arrest of Bonnano and requesting documentary evidence.

Instruction No. 17, of June 6, 1905, transmits evidence.

Note to foreign office of June 24, 1905, transmits documents and evidence duly certified to.

Instruction No. 20, of June 10, 1905, states that documentary evidence was mailed on the 6th instant.

Instruction No. 21, of June 12, 1905, transmits further evidence.

Note from foreign office of May 4, 1906, transmits copy of criminal proceedings against Bonnano.

Dispatch No. 181, of May 5, 1906, transmits note from foreign office with copy and translation of the penal proceedings against Bonnano, from which it appears that he was acquitted by the royal tribunal at Palermo.

HENRY PELIZZARI.

Instruction No. 273, of March 21, 1905, inclosing a copy of a letter from Mr. Thomas Spence, auditor of the Kingan Provision Co., of New York City, in regard to Henry Pelizzari, an Italian who has been indicted in that city for grand larceny in the second degree. Directs case to be brought to the attention of the Italian Government with a view to prosecution in Italy and to ask what documentary evidence should be forwarded.

Note to foreign office, April 8, 1905, carrying out above instructions.

Note from foreign office, May 9, 1905, states that search will be made for Pelizzari, and demands whatever documentary evidence has been prepared in New York.

Note to foreign office of May 15, 1905, stating that the American Government has been asked to send evidence to Rome to sustain a prosecution.

Instruction No. 28, of July 8, 1905, transmitting documentary evidence against Pelizzari.

Note to foreign office, August 10, 1905, transmits legal papers duly certified to, containing evidence against Pelizzari.

REV. LUCIANO MONDA.

Note from foreign office of May 9, 1905, relative to Rev. Luciano Monda and stating that the American consul at Naples had requested the police authorities at Naples, at the instance of the prosecuting attorney of Fayette County, Pa., to arrest the said Monda on a charge of homicide in the United States, and asking the embassy if the charge will be supported with the necessary documents.

Cable to Secretary of State, May 12, 1905, for information.

Cable from Department of State, May 13, 1905, stating that the department has refused to ask for extradition, as the accused is an Italian subject.

Note to foreign office, May 15, 1905, informing Italian Government that the American Government will not ask for extradition of Monda.

Note from foreign office of June 16, 1905, stating that Monda has been arrested, and that failing any evidence from the United States, the prisoner has been released on bail. All documents requested in support of the charge.

Cable to Secretary of State of June 13, 1905, asking for documentary evidence.

Instruction No. 30, of July 10, 1905, transmitting documentary evidence.

Note to foreign office, August 10, 1905, transmitting documentary evidence duly certified to with a view to Monda's prosecution.

Note from foreign office, September 11, 1906, stating that, owing to insufficiency of evidence, by decree of August 24, 1906, the proceedings against Monda have been discontinued.

Dispatch No. 256, of September 14, 1906, giving above information.

GIACOMO CAMPBELI OR CAMPOLI.

Telegraphic instructions from Department of State, June 9, 1905, relative to Giacomo Campeli or Campoli, an Italian subject charged with embezzlement in

Pennsylvania, who recently sailed for Italy from New York, directing that the case be brought to the attention of the Italian authorities with a view to arrest and prosecution of Campoli in Italy.

Note verbale to foreign office, June 9, 1905, making above request.

Note from foreign office, June 30, 1905, stating that Campoli has been arrested on landing at Naples and asking that the papers containing the evidence be sent as soon as possible.

Telegram to Department of State, July 1, 1905, giving information received from foreign office.

Telegram from Department of State, received August 30, 1905, stating that the papers in the case were transmitted to the Italian consul at Philadelphia, who forwarded them to the ministry of justice at Rome.

Note to foreign office, August 30, 1905, stating above information and asking to be informed if papers have been received and are acceptable.

FRANCESCO LUONGO.

Instruction No. 15, of May 31, 1905, directing the embassy at the instance of Mr. Rockwood Hoar to find out the result of the trial in Italy of Francesco Luongo, an Italian subject, who committed murder in Massachusetts in 1901, and fled to Italy and was there arrested.

Note to foreign office, of June 26, 1905, asking for this information.

Note from foreign office, July 7, 1905, stating in reply that Luongo was sentenced on May 13, 1904, to 4 years 11 months and 28 days solitary confinement, the court finding extenuating circumstances; and also that the accused was partially mentally deranged at the time the crime was committed. An appeal was taken against this sentence and was rejected on June 30, 1904, and the sentence thus became *res judicata*.

Dispatch No. 41, July 10, 1905, gives the above information.

GIUSEPPE CALANTE.

Note to foreign office, September 12, 1906, stating that the sheriff of New Castle, Pa., has asked for the arrest of Calante, an Italian subject charged with murder in Pennsylvania, and requesting his arrest upon his landing at Naples.

Telegram to Department of State, September 12, 1906, asking for instructions.

Telegram from Department of State, October 1, 1906, directing that the arrest of Giuseppe Calante be requested for trial and punishment in Italy on a charge of murder in Pennsylvania.

Instruction No. 134, of October 3, 1906, transmits documents in the case.

Note to foreign office, October 12, 1906, making further request for the arrest of Calante.

Note from foreign office, November 6, 1906, stating that he has not yet reached Italy.

Note from foreign office, August 14, 1907, stating that Calante has not yet been arrested, and requesting further details as to his probable place of concealment.

Note to foreign office, August 27, 1907, stating that further information has place of concealment.

Note to foreign office, August 27, 1907, stating that further information has been requested of authorities at Washington.

NICOLA LEONI.

Instruction No. 160 of January 18, 1907, inclosing original papers furnished by governor of Massachusetts asking the arrest, with a view to trial by Italian courts, of Nicola Leoni, charged with murder in Massachusetts, and asking that the department be advised when Leoni is arrested in order that the evidence may be sent.

Note to foreign office of February 2, 1907, requesting arrest of Leoni, and saying that the papers furnishing evidence will be sent in due course.

Note from foreign office of April 12, 1907, stating that Leoni was arrested on January 13, 1907, and that the penal examination is now proceeding, and includes two interrogatories which have already been submitted, transmitted to

the Italian consul at Boston for the execution of which the good offices of the embassy are required.

Dispatch No. 40 of April 19, 1907, giving above information.

CARLO ROSSI.

Note from foreign office, October 14, 1907, stating that the prefect of Naples is in receipt of a letter from the head of the Italian section of police in New York asking for the arrest of Carlo Rossi, now in Italy, for murder committed in New York. Evidence and information are requested in order to proceed against Rossi.

Note to foreign office, October 17, 1907, acknowledging above and stating that information has been requested.

Dispatch No. 191 of October 17, 1907, transmitting letter from foreign office requesting said evidence and information.

Telegram from Department of State, November 21, 1907, stating that the district attorney of New York desires the prosecution of Rossi and that the evidence will be drawn up and forwarded.

Note to foreign office, November 21, 1907, communicating contents of the above-mentioned telegram.

Instruction No. 113 of January 15, 1908, transmitting evidence against Rossi.

Note to foreign office of February 1, 1908, transmitting evidence against Rossi.

GIOVANNI LABAGNARA.

Note from foreign office of November 2, 1907, states that the prefect of Naples has received a letter from Paterson, N. J., advising him of the arrival at Naples of Giovanni Labagnara of Guardia Lanframonte, who is being sought for by the authorities, and requesting information as to the wishes of the American Government in the matter and at the same time stating that Labagnara is under surveillance.

Dispatch No. 207 of November 7, 1907, stating above facts and asking for information.

Note to foreign office, November 12, 1907, acknowledging receipt of above note and stating that the matter has been brought to the attention of the American Government.

Instruction No. 106, December 13, 1907, stating that it has been learned from the governor of New Jersey that no charge exists against Labagnara and inclosing copies of various letters on the subject.

Note to foreign office, December 26, 1907, transmitting above information.

The above cases cover the last five years, with the addition of the first three months of 1908.

File No. 12426/4-7.

The Acting Secretary of State to Ambassador Griscom.

No. 175.]

DEPARTMENT OF STATE,

Washington, July 3, 1908.

SIR: I have to acknowledge the receipt of your No. 358 of May 12 last, in which you transmit a report of the cases within the last five years in which request has been made by this Government upon the Government of Italy for the trial in Italy of Italians for crimes committed in the United States.

In reply I have to say that the department desires to be informed of the outcome, that is whether the accused was convicted or acquitted in each particular case noted in the list of those reported by you. In those cases where the embassy's records do not show the outcome of the proceedings and in which the information can be obtained from the Italian Government, you are directed to make such inquiry of the Italian foreign office as will elicit the facts.

I am, etc.,

ALVEY A. ADEE.

File No. 12426/3.

Ambassador Griscom to the Secretary of State.

No. 417.]

AMERICAN EMBASSY,
Rome, August 26, 1908.

SIR: With reference to the department's instruction No. 175 of the 3d ultimo, relative to the report transmitted in my dispatch No. 358 of May 12 last, giving a summary of the correspondence on file at this embassy with regard to the cases within the last five years in which request has been made by this Government upon the Italian Government for the trial in Italy of Italians for crimes committed in the United States, I have the honor to inform you as follows:

The report covered 12 cases, of which the outcome was stated in 6 only, namely, the case of Romeo Magnotti, in which proceedings were suspended owing to his escape to Argentina; the case of Stefano Bonnano, who was acquitted by the royal tribunal of Palermo; the case of Rev. Luciano Mondo, in which proceedings were discontinued owing to insufficiency of evidence; the case of Giuseppe Calaute, in which further details as to his probable place of concealment were requested of the department, without any reply having been yet received by the embassy; the case of Giovanni Labagnara, in which the charge was dropped by the American authorities; and finally the case of Francesco Luongo, who was convicted.

The archives of the embassy have failed to disclose the outcome of the remaining 6 cases, but in accordance with your instructions I have requested the aid of the foreign office toward procuring all possible information in regard to the outcome of the proceedings in the above-mentioned 6 cases.

I have etc.,

LLOYD C. GRISCOM.

File No. 12426/4-7.

Ambassador Griscom to the Secretary of State.

No. 464.]

AMERICAN EMBASSY,
Rome, November, 19, 1908.

SIR: With reference to the department's instruction No. 175 of July 3 last, and especially to my No. 417 of August 26 last, relative to the outcome of the trial in Italy of Italians who have committed crimes in the United States, I have the honor to transmit herewith a copy of a note from the foreign office, together with a translation thereof. From this it appears as follows:

In the case of Nicolà, and not Vincenzo, Aldovasio, the court decided that a penal suit could not be brought because the said Aldovasio had not returned to Italy. A copy of the court's decision, which was forwarded to the embassy, is forwarded herewith.

In the case of Alfonso Cavallaro the court declared that the said individual could not be tried in Italy for crimes committed in Australia and the United States, because no criminal action had been brought by the injured party. A copy of the court's decision is inclosed herewith.

The case of Nicolà Leone on the point of being sent before the court of assizes, and the embassy is promised that it will be informed of the outcome of the trial.

In the case of Carlo Rossi a warrant for his arrest was issued, but so far all efforts to find him have proved fruitless.

Finally, it transpires that the outcome of the two remaining cases, namely, those of Enrico Pelizzari and Giacomo Campoli, has already been communicated to the embassy by the foreign office, and the embassy, in its turn, duly informed the department of this outcome, with reference to Pelizzari, in Mr. Hitt's dispatch No. 159 of March 31, 1906, and with reference to Campoli, in Mr. Hitt's No. 109 of January 20, 1906, the accused in both cases having been sentenced to a fine of 175 lire and 10 months' imprisonment, respectively, for their several crimes committed in the United States.

I have etc.,

LLOYD C. GRISCOM.

[Inclosure.—Translation.]

The Minister for Foreign Affairs to Ambassador Griscom.

FOREIGN OFFICE,
Rome, November 11, 1908.

Mr. AMBASSADOR: In reply to your esteemed note of the 26th of August last, No. 292, I have the honor to inform your excellency of the result of the cases tried in Italy for crimes committed in the United States by six individuals named in the above mentioned communication.

1. Aldovasio, Nicolà, and not Vincenzo Adovasio: A decision dated April 19, 1906, herewith inclosed, of the council of the court of Larino, has declared that a penal suit could not be brought against Nicolà Aldovasio, because he had not returned to the Kingdom.

2. Cavallaro, Alfonso: A sentence, copy herewith inclosed, dated July 9, 1906, of the court of Monteleone, has declared that the said individual can not be tried for the crimes committed in Australia and continued in the United States, because no action has been brought by the injured party.

3. Pelizzari, Enrico: A reply concerning this individual has already been sent to the embassy in the note of the 26th of March, 1906, No. 1678-21.

4. Campoli, Giacoma: Also for this individual a reply has been sent in my note of the 19th of January, 1906, No. 2026-7, whereby I informed the embassy that he had been condemned to 20 months in prison for theft of gold bullion.

5. Leone, Nicolà: The penal proceedings are over and the case has reached the incriminating section of the court at Ariano di Puglia, in order that it may be sent before the court of assizes. As soon as the trial is finished I will inform your excellency of its result.

Rossi, Carlo: A warrant for the arrest of this individual for a murder committed in America was issued, but the researches made to find him have proved so far fruitless.

Please accept, Mr. Ambassador, the assurances of my highest consideration.

BOLLATI.

DESTRUCTION OF TOBACCO BELONGING TO THE ITALIAN GOVERNMENT.

[Continued from Foreign Relations, 1906, p. 949, et seq., and 1907, p. 745, et seq.]
File No. 2976/16.

Memorandum from the Italian Embassy.

[Translation.]

PRO-MEMORIA.

ITALIAN EMBASSY,
Washington, February 15, 1908.

By a "memorandum" dated December 23 last, the Department of State was pleased to advise the royal embassy that it had received assurances from the governor of the State of Kentucky that there was no further danger of a recurrence of the regretted disturbances

affecting the stores of tobacco belonging to His Majesty's Government. The governor himself had also added that he had taken steps to have the situation thoroughly inquired into, and should protection be found necessary, he would not fail to take immediate measures for the protection of the Italian Government's interests at the places named.

In fact, while the state of things would at present appear to be more reassuring, the serious attempt—happily balked by the watchman of the property—to destroy, in the night of the 28th to 29th of January last, the factory of the Royal Government, of Madisonville, Ky., by fire and petroleum, and other damages inflicted by well-known assailants on various tobacco planters, leave room for a suspicion that the present truce is but transient and that, a few weeks hence, when the stores are well stocked with tobacco, grave occurrences will again take place unless the protective action of the State authorities be effective and energetic.

As in Kentucky, the situation in the State of Tennessee appears to give cause for serious apprehension. Indeed, facts of special gravity have quite recently taken place there, among which it may be well to recall, for instance, the attempt of three negroes—probably acting for others—to destroy by means of petroleum and dynamite the Royal Government's factory (Hayes Sory Tobacco Co.) at Clarksville, Tenn., in the night of the 21st and 22d of January last. Fortunately, they were discovered in time by the watchman of the place and the criminal act, which might have caused enormous loss of life and property if carried out, was energetically defeated.

His Majesty's Government having four large tobacco factories in Kentucky [Tennessee] (Clarksville, Springfield, Martin, and Paris) finds in these threatening prospects serious reason to apprehend injury to its interests in that State also. The royal embassy, therefore, while renewing its appeal to the Federal Government in order that it will by all means at its disposal urge upon the proper authorities of Kentucky the continuance of the measures of prevention and protection they have initiated and promised, earnestly begs that the attention of the governor of Tennessee be promptly called to the alarming condition of affairs hereinbefore set forth, so that nothing be omitted on his part to avert by prompt and energetic provisions the apprehended occurrence of unpleasant incidents.

File No. 2976/16.

Memorandum to the Italian Embassy.

DEPARTMENT OF STATE,
Washington, February 21, 1908.

The Department of State has received the memorandum of the Italian embassy, dated the 15th instant, in which the embassy states that it has reason to apprehend attacks by night riders on tobacco, the property of the Italian Government, stored at certain points in Kentucky and Tennessee.

The Department of State has communicated copies of the memorandum to the governors of those States, and has requested them to urge the proper authorities to use all precautions to prevent the infliction of injury on any property of the Italian Government in those States.

File No. 2976/18.

Memorandum to the Italian Embassy.

DEPARTMENT OF STATE,
Washington, March 16, 1908.

The Department of State has received a letter from the governor of Kentucky, dated the 24th ultimo, in which he refers to the memorandum of the Italian embassy, dated February 15 last, and makes the following statement in regard to the danger apprehended by the Italian Government to tobacco held at Hopkinsville, Ky.:

Precautions have been continued ever since the former request, and a force is still on duty at Hopkinsville and recently increased, and everything possible is being done to ascertain in advance any damage to the property of the Italian Government. Mr. Hodge is one of the most intelligent and thoughtful of men, and we have been ready to respond to any information or appeal from him very promptly. There is some probability that this troublesome situation will lose its chief provocation this week, as it is believed now that the tobacco has been sold.

The last part of the memorandum of the Italian Government, on the second page, recites that His Majesty's Government, having four large tobacco factories in Kentucky, Clarksville, Springfield, Martin, and Paris, evidently mistakes Kentucky for Tennessee, and this should be changed. It will not need any correction to me.

The memorandum of the Italian embassy was also communicated on February 20 last to the governor of Tennessee.

File No. 2976/31.

The Italian Ambassador to the Secretary of State.

[Translation.]

No. 3656.]

ROYAL EMBASSY OF ITALY,
Washington, November 6, 1908.

MR. SECRETARY OF STATE: The agent of the Royal Italian Tobacco Regie at New York advises me that the season for the purchase of tobacco during the fiscal year 1908-9, on account of the Italian monopoly, is about to open. For your timely information, I deem it advisable to give herein below the list of the factories engaged by the said agent of the Italian Monopoly to pack the tobacco during the forthcoming season in the States of Kentucky and Tennessee: General agent, W. G. Dunning & Co., Louisville, Ky. Local and packing agents: T. J. Stahl Tobacco Co., factory, Paducah, Ky.; Fields Hamlet Tobacco Co., factory, Fulton, Ky.; John H. Hodge Tobacco Co., factory, Henderson, Ky.; John H. Hodge Tobacco Co., factory, Slaughterville, Ky.; John H. Hodge Tobacco Co., factory, Sebree, Ky.; John H. Hodge Tobacco Co., factory, Madisonville, Ky.; Lewis & Moss Tobacco Co., factory, Martin, Tenn.; H. B. Douthit Tobacco Co., factory, Paris, Tenn.

The Italian agent, besides confining his purchases to places generally known as being less dangerous, will take such precautionary measures as may lie in his power. The conditions as to the safety of life and property in the above-named States make it a duty for me to beg that your excellency will, with your high authority, invoke

the special vigilance and protection of the State powers over the goods purchased by the Italian monopoly over the places where they are deposited and the persons charged with their custody.

Accept, etc.,

MAYOR.

File No. 2976/32.

The Acting Secretary of State to the Italian Ambassador.

No. 703.]

DEPARTMENT OF STATE,
Washington, December 5, 1908.

EXCELLENCY: Referring to the department's note of the 24th ultimo,¹ I have the honor to advise you that the governor of Kentucky has informed this department that, as far as he has learned, no danger threatens the factories at points in Kentucky where the tobacco of the Royal Italian Tobacco Regie has been stored, but that it is the purpose of the State government to suppress the disorders if they should be renewed, and to do everything that is possible to protect life, liberty, and property.

Accept, etc.,

ALVEY A. ADEE.

ARRANGEMENT BETWEEN THE UNITED STATES AND OTHER POWERS FOR THE ESTABLISHMENT OF THE INTERNATIONAL OFFICE OF PUBLIC HEALTH.

Signed at Rome, December 9, 1907.

Ratification advised by the Senate, February 10, 1908.

Ratified by the President, February 15, 1908.

Ratification of the United States deposited with the Government of Italy, August 1, 1908.

Proclaimed November 17, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas an Arrangement between the United States of America and Belgium, Brazil, Spain, the French Republic, Great Britain, Italy, the Netherlands, Portugal, Russia, Switzerland, and Egypt, providing for the establishment of the international office of public health mentioned in Article 181 of the International Sanitary Convention, signed at Paris, December 3, 1903, was concluded and signed by their respective Plenipotentiaries at Rome on the ninth day of December, one thousand nine hundred and seven, the original of which Arrangement, being in the French language, is word for word as follows:

[Translation.]

ARRANGEMENT.

The Governments of Belgium, Brazil, Spain, the United States, the French Republic, Great Britain and Ireland, Italy, the Netherlands, Portugal, Russia, Switzerland, and the Government of His Highness the Khedive of Egypt, deeming it expedient to organize the

¹ Not printed.

International Office of Public Hygiene, referred to in the Paris Sanitary Convention of December 3, 1903, have resolved to conclude an arrangement to that effect and agreed upon the following:

ARTICLE I.

The High Contracting Parties engage to found and maintain an International Office of Public Hygiene with headquarters at Paris.

ARTICLE II.

The Office will perform its functions under the authority and supervision of a Committee composed of delegates of the contracting Governments. The membership and rights and duties of the Committee, as well as the organization and powers of the said Office are determined by the organic by-laws which are annexed to the present arrangement and are considered as forming an integral part thereof.

ARTICLE III.

The costs of installation, as well as the annual expenses for the conduct and maintenance of the Office shall be covered by the quotas of the contracting States determined in accordance with the provisions of the by-laws referred to in Article II.

ARTICLE IV.

The sums representing the quotas of the several contracting States shall be deposited by the said States through the Ministry of Foreign Affairs of the French Republic, at the beginning of every year in the "Caisse des dépôts et consignations" at Paris, from which they shall be drawn as needed against warrants of the Director of the Office.

ARTICLE V.

The High Contracting Parties reserve the right to make, by joint agreement, in the present arrangement any change of which the usefulness shall have been demonstrated by experience.

ARTICLE VI.

Governments that have not signed the present arrangement are, on their request, admitted to adhere thereto. Their adhesion shall be notified, through the diplomatic channel, to the Royal Government of Italy, and, by the latter, to the other Contracting Governments; it will imply a pledge to contribute to the payment of the expenses of the Office in the manner referred to in Article III.

ARTICLE VII.

The present arrangement shall be ratified and the ratifications shall be deposited at Rome as soon as possible; it shall be put into operation from the date on which the deposit of ratifications shall have been effected.

ARTICLE VIII.

The present arrangement is concluded for a term of seven years. At the expiration of that period, it shall continue in force for new periods of seven years between the States that shall not have notified, one year before the expiration of each period, their intention to terminate the effects so far as they are concerned.

In faith whereof the undersigned, duly empowered thereto, have drawn up the present arrangement to which they have affixed their seals.

Done at Rome, the ninth of December one thousand nine hundred and seven, in one copy which shall remain deposited in the archives of the Royal Government of Italy and duly certified copies thereof shall be delivered, through the diplomatic channel, to the contracting Parties.

For Belgium:	E. BECO O. VELGHE
For Brazil:	DR. LYGDIO DE SALLES GUERRA DR. HENRIQUE DE ROCHA LIMA
For Spain:	MANUEL DE TOLOSA LATOUR PABLO SOLER
For the United States:	A. M. LAUGHLIN R. S. REYNOLDS HITT
For France:	CAMILLE BARRERE J. DE CAZOTTE ER. RONSSIN
For Great Britain:	THEODORE THOMSON B. FRANKLIN
For Italy:	ROCCO SANTOLIVIDO ADOLFO COTTA
For the Netherlands:	H. DE WEEDE
For Portugal:	M. DE CARVALHO E VASCONSELLOS
For Russia:	BARON KORFF
For Switzerland:	J. B. PIODA
For Egypt:	IBRAHIM NEGUIB MARC ARMAND RUFFER

ANNEX.

ORGANIC BY-LAWS OF THE INTERNATIONAL OFFICE OF PUBLIC HYGIENE.

ARTICLE I.

There is established in Paris an International Office of Public Hygiene under the States which accept participation in its operation.

ARTICLE II.

The Office cannot in any way meddle in the administration of the several States.

It is independent of the authorities of the country in which it is placed.

It corresponds directly with the higher health authorities of the several countries and with the Boards of Health.¹

ARTICLE III.

The Government of the French Republic shall, on the application of the International Committee referred to in Article VI, take such steps as may be requisite to have the Office recognized as an institution of public utility.

ARTICLE IV.

The main object of the Office is to collect and bring to the knowledge of the participating States facts and documents of a general character concerning public health and especially regarding infectious diseases, notably the cholera, plague and yellow fever, as well as the measures taken to check these diseases.

ARTICLE V.

The Government shall inform the Office of the measures taken by them towards the enforcement of the international sanitary conventions.

ARTICLE VI.

The Office is placed under the authority and supervision of an International Committee consisting of technical representatives designated by the participating States in the proportion of one representative for each State.

Each State is allowed a number of votes inversely proportioned to the number of the class to which it belongs as regards its participation in the expenses of the Office. (See Article XI.)

ARTICLE VII.

The Committee of the Office meets periodically at least once a year; the length of its sessions is unlimited.

The members of the Committee elect, by secret ballot, a chairman whose term of office shall be three years.

ARTICLE VIII.

The business of the office is conducted by a salaried staff including:
A Director;

A Secretary General,

such force as may be necessary to perform the work of the Office.

The personnel of the Office shall not be permitted to fill any other salaried office.

The Director and Secretary General shall be appointed by the Committee.

The Director shall attend the meetings of the Committee in an advisory capacity.

The appointment and dismissal of employés of all classes appertain to the Director and shall be reported by him to the Committee.

¹ It is understood that the phrase "Boards of Health" applies to the Sanitary Councils of Alexandria, Constantinople, Tangier, Teheran and to any other Councils that may be charged with the duty of enforcing International Sanitary Conventions.

ARTICLE IX.

The information collected by the Office shall be brought to the knowledge of the participant States by means of a Bulletin or of special communications addressed to them either in regular course or at their request.

In addition, the Office shall show periodically the results of its labors in official reports to be communicated to the participating Governments.

ARTICLE X.

The Bulletin, which shall be issued at least once a month, shall include especially:

1. The laws and general or local regulations promulgated in the several countries in regard to contagious diseases;
2. Information concerning the progress of infectious diseases;
3. Information concerning the work done or measures taken toward the sanitation of localities.
4. Statistics concerning public health.
5. Notices of publications.

The official language of the Office and Bulletin shall be the French language. The Committee may order parts of the Bulletin to be published in other languages.

ARTICLE XI.

The expenses necessary for the performance of the duties of the Office, estimated at 150,000 francs per annum, shall be defrayed by the States signatory to the Convention, their quotas being determined according to the following classes:

First class: Brazil, Spain, the United States, France, Great Britain, British India, Italy, Russia, at the rate of 25 units;

Second class, at the rate of 20 units;

Third class, Belgium, Egypt, the Netherlands, at the rate of 15 units;

Fourth class, Switzerland, at the rate of 10 units;

Fifth class, at the rate of 5 units;

Sixth class, at the rate of 3 units;

This sum of 150,000 francs cannot be exceeded except by consent of the signatory Powers.

Every State is at liberty to have itself entered into a higher class at some future time.

The States that may hereafter adhere to the Convention shall select the class in which they wish to be entered.

ARTICLE XII.

A sum intended to form a reserve fund shall be taken from the annual resources. The total sum of said reserve, which cannot exceed the amount of the annual budget, shall be invested in first class State securities.

ARTICLE XIII.

The members of the Committee shall receive, out of the working funds of the Office, an allowance for traveling and other expenses.

They shall also receive an attendance counter for each meeting which they attend.

ARTICLE XIV.

The Committee shall fix the amount to be set aside annually from its budget for a fund intended to secure a retirement pension for the Office force.

ARTICLE XV.

The Committee shall draw up its annual estimates and shall approve the account of expenditures. It shall make the organic regulations governing the personnel, as well as all the arrangements necessary for the performance of the duties of the office.

The regulations as well as the arrangements shall be reported by the Committee to the participant States and cannot be modified without their assent.

ARTICLE XVI.

A statement of the financial management of the Office shall be submitted annually to the participant States at the close of the fiscal year.

For Belgium:	E. BECO O. VELGHE
For Brazil:	DR. EGYDIO DE SALLES GUERRA DR. HENRIQUE DE ROCHA LIMA
For Spain:	MANUEL DE TOLOSA LATOUR PABLO SOLER
For the United States:	A. M. LAUGHLIN R. S. REYNOLDS HITT
For France:	CAMILLE BARRERE J. DE CAZOTTE ER. RONSSIN
For Great Britain:	THEODORE THOMSON B. FRANKLIN
For Italy:	ROCCO SANTOLIVUDO ADOLFO COTTA
For the Netherlands:	H. DE WEEDE
For Portugal:	M. DE CARVALHO E VASCONCELLOS
For Russia:	BARON KORFF
For Switzerland:	J. B. PIODA
For Egypt:	IBRAHIM NEGUIB MARC ARMAND RUFFER

In testimony whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington, this seventeenth day of November, one thousand nine hundred and eight, and of the
[SEAL] Independence of the United States of America the one hundred and thirty-third.

THEODORE ROOSEVELT

By the President:
ELIHU ROOT
Secretary of State.

EARTHQUAKE IN SOUTHERN ITALY.

File No. 17172/4.

Ambassador Griscom to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Rome, December 29, 1908.

A terribly disastrous earthquake occurred yesterday in Sicily and southern Italy. The town of Messina is said to be entirely destroyed. There are no official estimates of mortality, but the newspapers announce 50,000 killed. I saw the King this morning before he left for the scene and expressed to him the heartfelt sympathy of the President and the American people. He informed me that the latest news is that fires are everywhere adding to the disaster. I am trying to obtain news of our consulate at Messina and of other Americans who may have suffered.

GRISCOM.

File No. 17172/2A.

President Roosevelt to the King of Italy.

[Telegram.]

WASHINGTON, December 29, 1908.

With all my countrymen, I am appalled by the dreadful calamity which has befallen your country. I offer my sincerest sympathy. American National Red Cross has issued appeal for contributions for the sufferers and notified me that they will immediately communicate with the Italian Red Cross.

THEODORE ROOSEVELT.

File No. 17192.

The Acting Secretary of State to Ambassador Griscom.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 29, 1908.

Communicate following message at once to the Italian Red Cross through its president, Count Taberna, or other appropriate official:

The American Red Cross desires to tender to the Italian Red Cross its profound sympathy because of the terrible earthquake in Sicily and Calabria. An appeal has been issued by the American Red Cross for contributions for the benefit of the sufferers.

WILLIAM H. TAFT,
President of the American Red Cross.

BACON

File No. 17172/8.

Ambassador Griscom to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Rome, December 30, 1908.

Having received no word from consul at Messina and Palermo, have asked the foreign office to furnish me information. They have promised to use every effort through their army and navy officers

to obtain immediate news. British consul at Messina is reported injured and his wife and child dead. It is reported that ninety Americans were in the Hotel Trinacria at Messina, which is reported totally destroyed. It is known that some of the guests escaped.

The foreign office informs me that several foreign nations are hurrying warships to the scene to offer assistance. I think it would be highly appreciated if we sent one or two warships at earliest possible moment. Much assistance might be rendered American citizens. Will you authorize sending Naples vice consul to Messina immediately?

GRISCOM.

File No. 17192/1A.

The Acting Secretary of State to Ambassador Griscom.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 30, 1908.

The National Red Cross will cable to-morrow for account of the Italian Red Cross \$50,000 for the relief of the earthquake sufferers.

BACON.

File No. 17172/12.

The Acting Secretary of State to Ambassador Griscom.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 31, 1908.

Regret no warships could reach Italy before the arrival of the fleet in those waters about January 14, about which we will cable you further. *Scorpion* ordered last night from Constantinople. You may possibly find her of use in rendering assistance to American citizens or others in distress or to facilitate communication. Telegram 31st received. May draw for \$5,000 if necessary.

BACON.

File No. 17172/12.

Ambassador Griscom to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Rome, December 31, 1908.

The prime minister has invited me to proceed to Messina and offered steamship accommodations from Naples. I have accepted the offer, in order to avail of exceptional opportunity of getting transportation for two or three consular officers and to profit by special opportunities which are offered me for obtaining and sending news. I leave Rome January 1, taking with me Vice Consul Cutting from Milan, and will place him temporarily in charge of consulate at Messina and secure recognition of Italian Government; also taking

interpreter of the embassy and one of the staff of Naples consulate, and Winthrop Chanler, a private citizen, to do special work searching for and relieving American citizens. As soon as I have organized and distributed the work I will return to Rome. Expect to be absent few days only. I would be glad to have a few thousand dollars in case necessary for relieving Americans.

A newspaper telegram this morning from Messina states that Lupton is dead, as well as Consul Cheney and family and Vice Consul Pierce and family. The nephew of the German consul at Messina, on arrival at Naples, confirms death of Consul Cheney and family.

The foreign office this morning consider that the estimate of 100,000 dead is not exaggerated.

The foreign office informs me that foreign aid for sufferers will be gratefully accepted, owing to immensity of disaster.

GRISCOM.

File No. 17192/2A.

The Acting Secretary of State to Ambassador Griscom.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 31, 1908.

American Red Cross desire following delivered to Italian Red Cross:

Please advise if clothing, food desired from America. Cable our expense, brief statement, character, magnitude Italian Red Cross relief operations. Red Cross, Washington, or through American embassy.

BACON.

File No. 17192/2.

The Acting Secretary of State to Ambassador Griscom.¹

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 31, 1908.

Draw on Secretary of State for \$70,000 and pay to Italian Red Cross for relief of sufferers, taking duplicate receipts. Fifty thousand contributed by American Red Cross and \$20,000 by Louis Klopsch, of Christian Herald.

BACON.

¹The American Red Cross, between Dec. 31, 1908, and Nov. 23, 1909, transmitted through the State Department, and other channels of communication, the sum of \$90,755.69 for the relief of the earthquake sufferers. The Christian Herald transmitted through the Department of State \$35,000.

JAPAN.

AGREEMENT BETWEEN JAPAN AND CHINA RELATING TO THE YALU FOREST.

File No. 9146/14-16.

Ambassador O'Brien to the Secretary of State.

[Extract.]

No. 341.]

AMERICAN EMBASSY,
Tokyo, June 2, 1908.

SIR: I have the honor to inclose herewith copy in duplicate of a translation published in the Japan Times of the recent agreement entered into between China and Japan, entitled "Yalu Forestry Agreement." The department will have received full information in regard to the nature and object of this agreement through our vice consul at Antung.

I have, etc.

T. J. O'BRIEN.

[Inclosure.]

[The Japan Times, Tokyo, Friday, May 29, 1908.]

The Yalu Forestry Agreement.

The following is our translation of the Yalu forestry agreement:

Baron Gonsuke Hayashi, Japanese Envoy Extraordinary and Minister Plenipotentiary, and Na Tung, Minister of the Foreign Office of China, each acting under instructions from their respective Governments, conclude the following Regulations of the Chino-Japanese Timber Company, in accordance with Article X, of the protocol annexed to the Chino-Japanese Agreement relating to Manchuria concluded on the 22nd December, the 38th Year of Meiji, that is on the 26th November, the 31st Year of Kuangsu.

ARTICLE I. The timber within the limits of 60 Chinese miles from the surface of the Yalu on the right bank of the river between Macerhshun and Jishihsz'-taokeu shall be felled by joint capital of China and Japan. The limits will be designated by posts to be erected by Chinese commissioners to be dispatched from Mukden, in consultation with Japanese commissioners. But in the beginning of the organization of the company the business shall be conducted by a bureau composed by officials dispatched from both countries, and on the lapse of one year and after all business has been placed in good order, both countries shall call for general shareholders and cause them to succeed to it.

ART. II. The timber company under joint proprietorship of Japan and China is called the Oryokko Saiboku (Yalu Timber Company).

ART. III. The company shall have a capital of 3 million yen, China and Japan producing a half of the sum.

ART. IV. The company shall establish its head office at Antung. In case the company deems it necessary, it may establish branches at different places by informing the fact to President.

ART. V. The company agrees to maintain the existing Chinese woodcutters. The district within the limits declared in Article I belong to the timber felling by the company, but the forests outside the limits and on the Hun-ho belong still to the felling of the present Chinese woodcutters. But these woodcutters shall borrow the capital they need from this Company. The woodcutters may directly sell their timber as sleepers to the Kiangche Railway Company and to

the inhabitants on the banks of the Hun-ho for their own use. Outside of this, the whole of the timber felled by the woodcutters shall be purchased by the Company. The latter shall sell the timber in accordance with the market price and not charge arbitrary prices.

ART. VI. In Case the Chinese Government or officers demand timber felled by the Company or purchased by it from the woodcutters, they shall make purchases from the company by giving it a certificate (letter of guarantee). In such case the company shall supply timber at cost price and ought not to raise the price.

ART. VII. The business term of the company shall be 25 years. But on expiration of the term and in case the Chinese Government deems the Company's business to be sound the Company may apply to the Chinese Government for permission to prolong its term of business.

ART. VIII. The Company shall have a President, whose position shall be held by the Taotai of the Eastern Borders, by order of the Mukden Viceroy or Governor, and who shall superintend the business of the Company. The Company again shall have two chief directors, China and Japan appointing one respectively. They shall manage the entire business of the Company. Other directors and engineers shall be appointed by the conference of directors. In case a foreigner is required for felling timber within the said districts, the chief directors shall apply to the President for permission to engage the same.

ART. IX. The Company shall submit, at the end of each year, to the authorities concerned of both countries, the business report and accounts for that year.

ART. X. The Company shall pay five per cent. of net profits (gross income minus gross expenditure) to the Chinese Government as royalty, and distribute the rest of the profit equally among Chinese and Japanese shareholders. No arbitrary payment of the Company's expenses is allowed. The estimates of Salary of the Company's employees and all other expenditure shall be submitted to the President for sanction on proper occasions.

ART. XI. All regulations relating to the organization of the Company shall be decided upon by two commissioners, each to be appointed by the Mukden Viceroy or Governor and Japanese Consul-General at Mukden within one month after conclusion of this general agreement. The Company shall be opened to business in three months after receiving its regulations. Any regulations that the Company may provide afterwards shall be submitted to the President for sanction.

ART. XII. The timber tax to be paid by the Company shall have some reduction, at the consent of local authorities, by the conference of the commissioners of the two countries meeting at Mukden to provide detailed regulations for the Company. But all machinery and tools that may be imported by the Company and that are required for timber felling shall be exempt from all taxes, likin, and other duties.

ART. XIII. The Japanese Government consents to abolish its Yalu Timber Works on the opening of the Company for business.

(Sgd.) Baron GONSUKE HAYASHI,
Envoy Extraordinary and Minister Plenipotentiary of Japan.
(Sgd.) NA TUNG,
Minister of Foreign Affairs of China.

Peking, May 14, 41st Year of Meiji of Japan; April 15, 34th Year of Kuangsu of China.

ARBITRATION CONVENTION BETWEEN THE UNITED STATES AND JAPAN.

Signed at Washington, May 5, 1908. Ratification advised by the Senate, May 13, 1908. Ratified by the President, August 19, 1908. Ratified by Japan, July 20, 1908. Ratifications exchanged at Washington, August 24, 1908. Proclaimed, September 1, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the Empire of Japan, providing for the submission to arbitration of

all questions of a legal nature or relating to the interpretation of treaties, which may arise between the two countries and which it may not have been possible to settle by diplomacy, was concluded and signed by their respective Plenipotentiaries at Washington on the fifth day of May one thousand nine hundred and eight, the original of which Convention, being in the English and Japanese languages, is word for word as follows:

The President of the United States of America and His Majesty the Emperor of Japan, taking into consideration the fact that the High Contracting Parties to the Convention for the pacific settlement of international disputes, concluded at The Hague on the 29th July, 1899, have reserved to themselves, by Article XIX of that Convention, the right of concluding Agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment, have resolved to conclude an Arbitration Convention between the two countries, and for the purpose have named as their Plenipotentiaries, that is to say:

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

His Majesty the Emperor of Japan, Baron Kogoro Takahira, Shosammi Grand Cordon of the Imperial Order of the Rising Sun, His Ambassador Extraordinary and Plenipotentiary to the United States of America;

Who, after having communicated to each other their Full Powers, found to be in good and due form, have agreed upon and concluded the following Articles:—

ARTICLE I.

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two Contracting Parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of the 29th July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two Contracting States, and do not concern the interests of third parties.

ARTICLE II.

In each individual case the High Contracting Parties, before appealing to the Permanent Court of Arbitration shall conclude a special Agreement defining clearly the matter in dispute, the scope of the powers of the Arbitrators, and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure. It is understood that such special agreements will be made on the part of the United States by the President of the United States by and with the advice and consent of the Senate thereof.

Such agreements shall be binding only when confirmed by the two Governments by an Exchange of Notes.

ARTICLE III.

The present Convention shall remain in force for the period of five years from the date of the exchange of the ratifications.

ARTICLE IV.

The present Convention shall be ratified by the High Contracting Parties, and the ratifications thereof shall be exchanged at Washington as soon as possible.

In witness whereof, the respective Plenipotentiaries have signed the present Convention, and have thereunto affixed their seals.

Done at the City of Washington, in duplicate, this fifth day of May, one thousand nine hundred and eight, corresponding to the fifth day of the fifth month of the forty-first year of Meiji.

[SEAL]
[SEAL]

ELIHU ROOT
K. TAKAHIRA

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the twenty-fourth day of August, one thousand nine hundred and eight;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this first day of September in the year of our Lord one thousand nine hundred and eight,
[SEAL] and of the Independence of the United States of America the one hundred and thirty-third.

THEODORE ROOSEVELT

By the President:

ALVEY A. ADEE
Acting Secretary of State.

EXPLOSION ON THE JAPANESE WAR VESSEL MATSUSHIMA.

File No. 13329/1-3.

The Secretary of State to Ambassador O'Brien.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 1, 1908.

Mr. Root instructs Mr. O'Brien to convey appropriate expressions of the President's and Government's sympathy with the Japanese Government in the terrible disaster resulting from the explosion on the *Matsushima*.

File No. 13329/1-3.

President Roosevelt to the Emperor of Japan.

[Telegram.]

WASHINGTON, *May 1, 1908.*

The American people are deeply grieved and shocked at the terrible naval disaster which has just caused the loss of the lives of so many

gallant officers and men of the Japanese Navy. On their behalf and personally on my own account I desire to express my profound sympathy and concern, and I wish it were in my power to show this sympathy in more practical fashion than by mere words.

THEODORE ROOSEVELT.

File No. 13329/1-3.

The Emperor of Japan to President Roosevelt.

[Telegram.]

TOKYO, May 2, 1908.

The great sympathy which you have so earnestly expressed on account of the terrible disaster to our warship *Matsushima* has touched me very deeply, and I hope you will accept for yourself and the American people my sincere thanks.

MUTSUHITO.

File No. 13329/4-5.

Ambassador O'Brien to the Secretary of State.

No. 309.]

DEPARTMENT OF STATE,
Washington, May 2, 1908.

SIR: I have the honor to acknowledge the receipt of the department's telegram of the 1st instant,¹ and to inclose herewith copy of note which I to-day personally handed to the minister for foreign affairs concerning the matter. Count Hayashi, in the course of the interview which I had with him, begged me to transmit to the department the Japanese Government's deep appreciation and thanks for the message of sympathy.

I have, etc.,

T. J. O'BRIEN.

[Inclosure.]

Ambassador O'Brien to the Minister for Foreign Affairs.

No. 105.]

AMERICAN EMBASSY,
Tokyo, May 2, 1908.

MONSIEUR LE MINISTRE: I am this moment in receipt of a cablegram from the Secretary of State asking me to convey the sympathy of the President and Government of the United States with the Japanese Government in the terrible disaster resulting from the explosion on the *Matsushima*. In performing this office, I desire to give expression to my own sincere regret for the sad occurrence and my genuine sympathy with those to whom it has brought loss and sorrow.

I avail, etc.,

T. J. O'BRIEN.

File No. 13329/6-7.

Ambassador O'Brien to the Secretary of State.

No. 314.]

AMERICAN EMBASSY,
Tokyo, May 5, 1908.

SIR: Referring further to my dispatch No. 309 of the 2d instant, I have the honor to inclose herewith a copy of a note this moment

¹ *Supra.*

received from the minister for foreign affairs. This communication has reference to the sympathy of the President and Government of the United States, which you directed me to express in your cable message of the 1st instant.

I have, etc.,

T. J. O'BRIEN.

[Inclosure.]

The Minister for Foreign Affairs to Ambassador O'Brien.

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, May 4, 1903.

MONSIEUR L'AMBASSADEUR: In acknowledging receipt of your excellency's note No. 105, dated the second instant, informing me to the effect that you have received a cablegram from the Secretary of State asking you to convey the sympathy of the President and Government of the United States with the Japanese Government in the disaster of H. I. J. M. S. *Matsushima*, I have the honor to tender my sincere thanks on behalf of the Imperial Government for the above courtesy, with the request that the same be transmitted to the proper authorities, and also to express my profound thanks for your own kind sympathy in the matter.

I avail, etc.,

COUNT HAYASHI.

File No. 13329/4-5.

The Secretary of State to Ambassador O'Brien.

DEPARTMENT OF STATE,
Washington, June 5, 1908.

SIR: The department approves your note of May 2, 1908, to the Japanese minister for foreign affairs upon the occasion of the explosion on board the Japanese ship of war *Matsushima*, copy of which you inclose with your dispatch No. 309, of the same date.

I am, etc.

E. ROOT.

**TREATY OF AMITY, COMMERCE, AND NAVIGATION BETWEEN THE
EMPIRE OF JAPAN AND THE COLOMBIAN REPUBLIC.**

File No. 7804/31-33.

Ambassador O'Brien to the Secretary of State.

No. 31.]

AMERICAN EMBASSY,
Tokyo, December 15, 1908.

SIR: I have the honor to transmit herewith two copies of the official text of the new treaty between Japan and the Colombian Republic, which was promulgated in the Official Gazette on the 12th instant.

The new agreement has been received with general satisfaction by the Japanese public, as is shown by the accompanying translations¹ from the vernacular press, on the ground that it opens up a promising field for emigration and commercial enterprise. The belief is also expressed that while Japan's present commercial relations may not call for any treaty with Colombia, the importance of such relations is bound to increase with the completion of the Panama Canal.

I have, etc.,

T. J. O'BRIEN.

[Inclosure.]

Treaty of Amity, Commerce, and Navigation Between the Empire of Japan and the Colombian Republic.

His Majesty the Emperor of Japan and His Excellency the President of the Colombian Republic, being equally animated by a desire to establish upon a firm and lasting foundation relations of friendship and commerce between their respective States and subjects and citizens, have resolved to conclude a Treaty of Amity, Commerce and Navigation, and have for that purpose named their respective Plenipotentiaries, that is to say:

His Majesty the Emperor of Japan, Baron Takahira Kogoro, Shosammi, 1st Class Order of the Rising Sun, His Ambassador Extraordinary and Plenipotentiary near the Government of the United States of America; and

His Excellency the President of the Colombian Republic, Señor Don Enrique Cortes, Envoy Extraordinary and Minister Plenipotentiary of the Colombian Republic near the Government of the United States of America; who having communicated to each other their respective Full Powers, and found them in good and due form, have agreed upon the following Articles:

ARTICLE I.

There shall be firm and perpetual peace and amity between the Empire of Japan and the Colombian Republic, and their respective subjects and citizens.

ARTICLE II.

His Majesty the Emperor of Japan may, if he think proper, accredit a Diplomatic Agent to the Government of the Colombian Republic; and, in like manner, His Excellency the President of the Colombian Republic may, if he see fit, accredit a Diplomatic Agent to the Court of Tokio; and each of the High Contracting Parties shall have the right to appoint Consuls-General, Consuls, Vice-Consuls and Consular Agents, for the convenience of trade, to reside in all the ports and places within the territories of the other Contracting Party, where similar Consular officers of other nations are permitted to reside; but before any Consul General, Consul, Vice Consul, or Consular Agent shall act as such he shall, in the usual form, be approved and admitted by the Government to which he is sent.

The Diplomatic and Consular officers of each of the two High Contracting Parties shall, subject to the rule of reciprocity, enjoy in the territories of the other whatever rights, privileges, exemptions and immunities, are or shall be granted there to officers of corresponding rank of any European country or of the United States of America.

ARTICLE III.

There shall be between the Territories and Possessions of the two High Contracting Parties reciprocal freedom of commerce and navigation. The subjects and citizens, respectively, of each of the High Contracting Parties shall have the right to come freely and securely with their ships and cargoes to all places, ports, rivers and straits in the Territories and Possessions of the other, where subjects or citizens of other nations are permitted so to come; they may remain and reside at all the places or ports where subjects or citizens of other nations are permitted to remain and reside, and they may there hire and occupy houses and warehouses, and may there trade by wholesale or retail in all kinds of products, manufactures and merchandise of lawful commerce.

ARTICLE IV.

The two High Contracting Parties hereby agree that any favor, privilege or immunity whatever in matters relating to commerce, navigation, trade, occupation, travel through or residence in their Territories or Possessions which either Contracting Party has actually granted, or may hereafter grant to the subjects or citizens of any European country or of the United States of America exclusive of colonial subjects or citizens, shall be extended to the subjects or citizens of the other Contracting Party, gratuitously, if the concession in favor of that European Country or the United States of America shall have been gratuitous, and on the same, or equivalent condition, if the concession shall have been conditional.

ARTICLE V.

No other or higher duties shall be imposed on the importation into Japan of any article, the growth, produce or manufacture of the Colombian Republic, and no other or higher duties shall be imposed on the importation into the Colombian Republic of any article, the growth, produce or manufacture of Japan, whether such importation be for the purpose of consumption, warehousing, re-exportation or transit, than are or shall be payable on the importation for the same purpose of the like article being the growth, produce or manufacture of any European country or of the United States of America.

Nor shall any other or higher duties or charges be imposed in the Territories or Possessions of either of the two High Contracting Parties on the exportation of any article to the Territories or Possessions of the other than such as are or may be payable on the exportation of the like article to any European country or the United States of America. No prohibition shall be imposed on the importation or transit of any article, the growth, produce or manufacture of the Territories of either of the High Contracting Parties into or through Territories or Possessions of the other, which shall not equally extend to the like article being the growth, produce or manufacture of any European country or of the United States of America. Nor shall any prohibition be imposed on the exportation of any article from the Territories or Possessions of either of the High Contracting Parties to the Territories or Possessions of the other, which shall not equally extend to the exportation of the like article to the territories of all European countries and the United States of America.

ARTICLE VI.

In all that relates to transit, warehousing, bounties, facilities, drawbacks, re-exports, and transit duties, the subjects, citizens, merchandise and shipping of each of the High Contracting Parties, shall, in the Territories and Possessions of the other, be placed in all respects upon the same footing as the subjects, citizens, merchandise and shipping of European countries and the United States of America.

ARTICLE VII.

No other or higher duties or charges on account of tonnage, light or harbor dues, pilotage, quarantine, salvage in case of damage, or any other similar or corresponding duties or charges of whatever nature or under whatever denominations levied in the name or for the profit of Government, public functionaries, private individuals, corporations or establishments, shall be imposed in any of the ports, rivers or straits of Japan on vessels of the Colombian Republic, or in any of the ports, rivers or straits of the Colombian Republic on vessels of Japan, that are or may hereafter be payable in like cases in the same ports, rivers and straits on vessels of European countries or the United States of America.

ARTICLE VIII.

The coasting trade of both the High Contracting Parties is excepted from the provisions of the present Treaty, and shall be regulated according to the laws of Japan and the Colombian Republic respectively.

ARTICLE IX.

All vessels which, according to Japanese laws and ordinances, are to be deemed Japanese vessels, and all vessels which, according to Colombian laws and regulations, are to be deemed Colombian vessels, shall, for the purposes of this Treaty, be deemed Japanese and Colombian vessels, respectively.

ARTICLE X.

The subjects and citizens of each of the High Contracting Parties shall, in the Territories and Possessions of the other, reciprocally receive and enjoy the same full and perfect protection for their persons and property that is granted to native subjects or citizens, and they shall have free and open access to the Courts of Justice in said countries, respectively, for the prosecution and de-

fense of their just rights; and they shall, equally with native subjects or citizens, be at liberty to employ advocates attorneys or agents to represent them before such Courts of Justice.

They shall also enjoy entire liberty of conscience, and subject to the laws for the time being in force, shall enjoy the right of private or public exercise of their worship, and also the right of burying their respective countrymen according to their religious customs in such suitable and convenient places as may be established and maintained for the purpose subject to the regulations in force.

ARTICLE XI.

In regard to billeting; forced or compulsory military service, whether by land or sea; contributions of war; military exactions or forced loans, the subjects and citizens of each of the two High Contracting Parties, shall, in the Territories and Possessions of the other, enjoy the same privileges, immunities, and exemptions as may now or may hereafter be granted to subjects or citizens of European countries or of the United States of America.

ARTICLE XII.

The present Treaty shall go into operation immediately after the exchange of ratifications, and shall continue in force until the expiration of six (6) months after either of the High Contracting Parties shall have given notice to the other of its intention to terminate the same, and no longer.

ARTICLE XIII.

The present Treaty shall be signed in duplicate in the Japanese, Spanish and English languages and in case there should be found any discrepancy between the Japanese and Spanish texts, it will be decided in conformity with the English text, which is binding upon both Governments.

ARTICLE XIV.

The present Treaty shall be ratified by the two High Contracting Parties and the ratifications shall be exchanged at Washington as soon as possible.

In witness whereof, the respective Plenipotentiaries have signed this Treaty and hereunto affixed their respective seals.

Done in sextuplicate at Washington, this twenty-fifth day of the fifth month of the forty-first year of Meiji, corresponding to the twenty-fifth day of May of the year one thousand nine hundred and eight.

K. TAKAHIRA [L. S.]
ENRIQUE CORTES. [L. S.]

FAR EASTERN POLICY OF THE UNITED STATES AND JAPAN.

[Notes exchanged between the United States and Japan November 30, 1908, declaring their policy in the Far East.]

The Japanese Ambassador to the Secretary of State.

IMPERIAL JAPANESE EMBASSY,
Washington, November 30, 1908.

SIR: The exchange of views between us, which has taken place at the several interviews which I have recently had the honor of holding with you, has shown that Japan and the United States holding important outlying insular possessions in the region of the Pacific Ocean, the Governments of the two countries are animated by a common aim, policy, and intention in that region.

Believing that a frank avowal of that aim, policy, and intention would not only tend to strengthen the relations of friendship and good neighborhood, which have immemorially existed between

Japan and the United States, but would materially contribute to the preservation of the general peace, the Imperial Government have authorized me to present to you an outline of their understanding of that common aim, policy, and intention:

1. It is the wish of the two Governments to encourage the free and peaceful development of their commerce on the Pacific Ocean.

2. The policy of both Governments, uninfluenced by any aggressive tendencies, is directed to the maintenance of the existing status quo in the region above mentioned and to the defense of the principle of equal opportunity for commerce and industry in China.

3. They are accordingly firmly resolved reciprocally to respect the territorial possessions belonging to each other in said region.

4. They are also determined to preserve the common interest of all powers in China by supporting by all pacific means at their disposal the independence and integrity of China and the principle of equal opportunity for commerce and industry of all nations in that Empire.

5. Should any event occur threatening the status quo as above described or the principle of equal opportunity as above defined, it remains for the two Governments to communicate with each other in order to arrive at an understanding as to what measures they may consider it useful to take.

If the foregoing outline accords with the view of the Government of the United States, I shall be gratified to receive your confirmation.

I take this opportunity to renew to your excellency the assurance of my highest consideration.

K. TAKAHIRA.

The Secretary of State to the Japanese Ambassador.

DEPARTMENT OF STATE,
Washington, November 30, 1908.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of to-day setting forth the result of the exchange of views between us in our recent interviews defining the understanding of the two Governments in regard to their policy in the region of the Pacific Ocean.

It is a pleasure to inform you that this expression of mutual understanding is welcome to the Government of the United States as appropriate to the happy relations of the two countries and as the occasion for a concise mutual affirmation of that accordant policy respecting the Far East which the two Governments have so frequently declared in the past.

I am happy to be able to confirm to your excellency, on behalf of the United States, the declaration of the two Governments embodied in the following words:

1. It is the wish of the two Governments to encourage the free and peaceful development of their commerce on the Pacific Ocean.

2. The policy of both Governments, uninfluenced by any aggressive tendencies, is directed to the maintenance of the existing status quo in the region above mentioned, and to the defense of the principle of equal opportunity for commerce and industry in China.

3. They are accordingly firmly resolved reciprocally to respect the territorial possessions belonging to each other in said region.

4. They are also determined to preserve the common interests of all powers in China by supporting by all pacific means at their disposal the independence and integrity of China and the principle of equal opportunity for commerce and industry of all nations in that Empire.

5. Should any event occur threatening the status quo as above described or the principle of equal opportunity as above defined, it remains for the two Governments to communicate with each other in order to arrive at an understanding as to what measures they may consider it useful to take.

Accept, Excellency, the renewed assurance of my highest consideration.

ELIHU ROOT.

EXTRADITION OF YOSHITARO ABE, A JAPANESE SUBJECT, FROM JAPAN TO HAWAII.

File No. 15984.

The Secretary of State to Ambassador O'Brien.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 9, 1908.

(Mr. Root instructs Mr. O'Brien to request the provisional arrest and detention of Yoshitaro Abe, who is charged with forgery in Hawaii, where warrant has been issued, and who is understood to be under arrest at Yokohama.)

File No. 15984.

The Acting Secretary of State to Ambassador O'Brien.

No. 212.]

DEPARTMENT OF STATE,
Washington, October 13, 1908.

SIR: Referring to the department's telegram of the 9th instant, directing you to request the provisional arrest and detention of Yoshitaro Abe, who is charged with forgery in Hawaii, and who is understood to be under arrest at Yokohama, I have now to inform you that the President has issued his warrant authorizing Chester A. Doyle to take the fugitive into custody and bring him to Hawaii, for surrender to the proper authorities of that Territory.

The warrant has been forwarded to the governor of Hawaii, and he has been told that Mr. Doyle should report to you, and that you would render the latter all proper assistance in the matter.

In inclose herewith the application of the governor of Hawaii for the extradition of Abe, together with the papers on which the application is based.¹

¹ Not printed.

You will present these papers to the Japanese Government, accompanied by a formal requisition for the extradition of the fugitive.
I am, etc.,

ROBERT BACON.

File No. 15984/2.

Ambassador O'Brien to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
Tokyo, October 15, 1908.

Mr. O'Brien, referring to the department's telegrams of October 9 and 10,¹ concerning the arrest of Yoshitaro Abe, informs Mr. Root that, as the man is Japanese, the foreign office requests assurance that the United States will reciprocate under similar circumstances in the future. Mr. O'Brien refers to Mr. Griscom's No. 23, dated November, 1903.¹

File No. 15984/2.

The Secretary of State to Ambassador O'Brien.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 19, 1908.

Mr. Root refers to Mr. O'Brien's telegram of October 15, and informs him that the United States Government will surrender American citizens under similar circumstances in accordance with provisions of the treaty.

File No. 15984/9-11.

Ambassador O'Brien to the Secretary of State.

No. 476.]

AMERICAN EMBASSY,
Tokyo, November 4, 1908.

SIR: Referring to my dispatch to the department, No. 465, of the 14th ultimo,¹ concerning the provisional arrest of Yoshitaro Abe, and to the exchange of telegrams of October 15 and 19, respectively, between this embassy and the department on the same subject, I have the honor to report that the assurance conveyed in the last-named telegram—that the United States would reciprocate under similar circumstances in future—was at once communicated in a note to the minister for foreign affairs. A copy of this note is herewith inclosed.

On October 27 I received a telegram from the attorney general of the Territory of Hawaii asking whether Abe was under arrest, and stating that extradition papers were in the attorney general's hands. Inquiry was at once made at the foreign office, which replied that before the order for arrest was made out it had been ascertained that Abe had fled to Dalny, but that orders for his apprehension had been

¹ Not printed.

sent to the authorities at that place. I telegraphed the attorney general in this sense.

On the following day I received a note from the foreign office, a copy of which is transmitted herewith, stating that the fugitive had been arrested on October 27 at Dalny and was there under detention. I immediately telegraphed this news to the attorney general, from whom I am to-day in receipt of a telegram stating that a deputy sheriff left Hawaii on the steamship *Siberia*, due to arrive in Yokohama on November 13.

This information has been communicated to the minister for foreign affairs, to whom I have expressed my appreciation of the prompt action in this matter of the Imperial Government.

I have, etc.,

T. J. O'BRIEN.

[Inclosure 1.]

Ambassador O'Brien to the Minister for Foreign Affairs.

AMERICAN EMBASSY,
Tokyo, October 20, 1908.

MONSIEUR LE MINISTRE: Referring to your excellency's note No. 24 of the 15th instant regarding the provisional arrest and detention of one Yoshitaro Abe, charged with forgery in Hawaii, I have the honor to inform your excellency that I am to-day in receipt of telegraphic instructions from my Government asking me to inform you that the Government of the United States will surrender American citizens under similar circumstances in accordance with the provisions of the treaty.

I avail, etc.,

T. J. O'BRIEN.

[Inclosure 2.]

The Minister for Foreign Affairs to Ambassador O'Brien.

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, October 28, 1908.

MONSIEUR L'AMBASSADEUR: Referring to your excellency's request for the provisional arrest and detention of Yoshitaro Abe, a fugitive, charged with forgery in Hawaii, where a warrant for his arrest has already been issued, I have the honor to inform your excellency that upon receipt of the assurance contained in your note of the 20th instant that the Government of the United States will surrender American citizens in similar cases according to the provisions of the treaty, I at once communicated with the competent authorities for the provisional arrest and detention of said fugitive. As I was informed that he had, on the 15th instant, left Tokyo for Dairen, I then requested the governor general of Kwangtung to take the desired proceedings, and I am now in receipt of a telegraphic information in reply from the governor general that the aforesaid Abe was provisionally arrested on the 27th instant at Dairen, and is there under detention.

I avail, etc.,

COUNT KOMURA.

File No. 15984/13.

Ambassador O'Brien to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Tokyo, December 17, 1908.

Abe case. Favorable action by court Dalny. Prisoner being conveyed Yokohama for delivery to Hawaiian officer on board steamship *China* sailing 23d.

O'BRIEN.

File No. 15984/15.

Ambassador O'Brien to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Tokyo, December 23, 1908.

My telegram of 17th. Officer Doyle to-day sailed on the *China* en route Honolulu with Abe.

O'BRIEN.

THE TOKYO EXPOSITION.

File No. 6292/4.

The Japanese Ambassador to the Secretary of State.

No. 66.]

JAPANESE EMBASSY,
Washington, November 7, 1907.

SIR: I have the honor to inform you that the Imperial Government will hold a national exposition in Tokyo from April 1 to October 31, 1912. It will be on a larger scale than any hitherto held in Japan, and it is earnestly hoped that the governments and peoples of the different countries will participate in it. The object of the proposed exposition is, primarily, to widen the knowledge of the Japanese people as regards the industrial development of the different countries, but it is also hoped that by attracting visitors from all parts of the world the exposition may incidentally serve as a medium of conveying to the peoples of the different countries a fuller knowledge respecting the industrial condition of Japan.

Special buildings will be erected and set apart by the Imperial Government for such exhibits as are intended to represent the latest developments of arts and sciences in the different countries, including exhibits relating to education, machineries of all kinds, and exhibits relating to electric appliances.

The regulations relating to exhibits and other particulars connected with the exposition have not yet been received by me, but as soon as I am informed of such details, I shall lose no time in communicating the same to you. In the meantime, I take pleasure in bringing the above to your notice and have the honor to request that you will be good enough to take appropriate steps with a view to secure the participation in the said exposition of the Government and people of the United States.

Accept, etc.,

VISCOUNT S. AOKI.

File No. 6292/59 A.

The Secretary of State to Ambassador O'Brien.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 21, 1908.

(Mr. Root directs Mr. O'Brien to informally apprise the minister for foreign affairs that both Houses of Congress have unanimously

passed the bill authorizing the acceptance of the invitation to the Tokyo Exposition and the expenditure of \$1,500,000 for appropriate participation by the United States.

Mr. Root also directs Mr. O'Brien to announce that the Senate has confirmed the treaties regarding trade-marks, copyright, and patents in Japan and Korea.)

File No. 6292/69 A.

The Acting Secretary of State to Ambassador O'Brien.

DEPARTMENT OF STATE,
Washington, June 20, 1908.

SIR: Referring to the department's telegram of May 21, 1908, informing the embassy of the appropriation of \$1,500,000 for the participation of this Government in the Tokyo Exposition, I have now to inform you of the appointment as commissioners general to the exposition of Messrs. Francis B. Loomis, Frederick J. V. Skiff, and Francis D. Millet. A copy of the act providing for this Government's participation in the exposition is inclosed herewith.

I am, etc.,

ALVEY A. ADEE.

[Inclosure.]

[Public—No. 129.]

AN ACT To provide for participation by the United States in an international exposition to be held at Tokyo, Japan, in 1912.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he is hereby, authorized to accept the invitation extended by the Imperial Japanese Government to the Government of the United States to participate in the Great National Exposition to be held in Tokyo, Japan, from April first to October thirty-first, nineteen hundred and twelve. In accepting said invitation it is hereby declared to be the purpose of the Government of the United States to participate in said Japanese National Exposition by erecting suitable buildings and making an appropriate exhibit of arts, industries, manufactures, and products of the soil and mines and as far as practicable of the functions of the General Government of the United States and an exhibit of such other articles as the President of the United States may direct: *Provided,* That such participation, buildings, exhibits, and all expenses connected therewith, including salaries, clerical, and other services and transportation of persons and exhibits shall not exceed one million five hundred thousand dollars.

SEC. 2. That the President be, and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint three commissioners general who shall, under the direction of the Secretary of State, take such steps as are necessary to ascertain the general plan and scope of the said National Exposition, the character, size, and cost of the buildings to be erected by the United States, and the extent and character of the exhibit authorized hereunder that would best serve the interests of the United States and its citizens, and would be best adapted to illustrate the growth and development of the country and the character of our people. That thereafter, and as soon as practicable, said commissioners shall report fully to the President and to Congress the result of such investigation together with their recommendations and the estimated cost of said participation in said exposition within the foregoing authorization; and it shall also be the duty of the commissioners general to report to the President for transmission to Congress at the beginning of each regular session a detailed statement of all expenditures incurred hereunder. That one of said commissioners general shall receive as compensation for his services the sum

of eight thousand dollars per annum; that the other two commissioners general shall receive as compensation for their services from and after January first, nineteen hundred and nine, two thousand dollars per annum for the first year and five thousand dollars per annum thereafter; together with the actual traveling expenses of all of said commissioners general, including sleeping-car service and a per diem in lieu of subsistence of five dollars when actually traveling in the discharge of their duties as said commissioners general. That the President shall also appoint a secretary at a compensation of five thousand dollars per annum, together with his actual traveling expenses, including sleeping-car service and a per diem in lieu of subsistence of five dollars when actually traveling in the discharge of his duties as such secretary, who shall act as disbursing agent and who shall perform such duties as may be assigned to him from time to time by the commissioners general, and who shall render his accounts at least quarterly to the proper accounting officers of the Treasury of the United States, and shall give bond in such sum as the Secretary of the Treasury may require. And the said commissioners general, subject to the approval of the Secretary of State, shall appoint from time to time such clerical and other assistants as may be necessary and as may hereafter be appropriated for in connection with the preparation of the plan and other necessary services as may be required in connection with the participation herein authorized.

SEC. 3. That upon the request of the Secretary of State the Secretary of War is hereby authorized to furnish free transportation on Government transports from San Francisco to Japan and return of all Government exhibits and for such officials or employees connected with the commission or in charge of any or all Government exhibits.

SEC. 4. That the sum of fifty thousand dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the salaries and all other expenses herein authorized and incurred in ascertaining the general plan of said National Exposition and the preparation and report to Congress of the plan and extent of our proposed participation therein and the estimate of the amount necessary to meet the expense thereof during the fiscal year nineteen hundred and ten, to be immediately available.

Approved, May 22, 1908.

File No. 6292/130.

The Japanese Ambassador to the Secretary of State.

[Telegram.]

JAPANESE EMBASSY,
Buena Vista Spring, Pa., September 1, 1908.

I am informed that imperial decree to postpone exposition will be dated September 1, but published in Official Gazette of 2d to-morrow. This is on line agreed upon Sunday. I also telegraphed to the President.

TAKAHIRA.

File No. 6292/121.

Chargé Jay to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
Tokyo, September 2, 1908.

Mr. Jay reports that the postponement of the exposition was officially gazetted this date, and inquires whether Commissioner Loomis is coming.

File No. 6292/131.

The Acting Secretary of State to Ambassador O'Brien.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, September 11, 1908.

Mr. Adee acknowledges telegram of September 2, and informs Mr. O'Brien that Commissioner Loomis sailed September 8, and may stop a week in Honolulu, from whence he will sail on the *Mongolia*. Mr. Adee says Mr. Loomis has personal rank corresponding to that of minister plenipotentiary, which office he formerly held.

File No. 6292/141.

Chargé Jay to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Tokyo, October 6, 1908.

Commissioner Loomis requests the transmission of the following:

At a sumptuous luncheon, given in honor of the American commission at the Hama Palace, the minister of commerce, who is vice of the exposition, officially announced that the exposition, projected on much larger lines, would take place in 1917, and heartily thanked Roosevelt in the Emperor's name for his interest in the enterprise and for sending such a highly competent commission to discuss the plans, scope, and details of the proposed international affair.

JAY.

TREATY BETWEEN THE UNITED STATES AND JAPAN PROVIDING FOR THE PROTECTION OF TRADE-MARKS, ETC., IN KOREA.

Signed at Washington, May 19, 1908. Ratification advised by the Senate, May 20, 1908. Ratified by the President, June 2, 1908. Ratified by Japan, August 3, 1908. Ratifications exchanged at Tokyo, August 6, 1908. Proclaimed, August 11, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the Empire of Japan providing for reciprocal protection in Korea for the inventions, designs, trade marks and copyrights of their respective citizens and subjects, was concluded and signed by their respective Plenipotentiaries at Washington on the nineteenth day of May, one thousand nine hundred and eight, the original of which Convention is word for word as follows:

The President of the United States of America and His Majesty the Emperor of Japan being desirous to secure in Korea due protection for the inventions, designs, trade marks and copyrights of

their respective citizens and subjects have resolved to conclude a convention for that purpose and have named as their Plenipotentiaries, that is to say:

The President of the United States of America, Robert Bacon, Acting Secretary of State of the United States; and

His Majesty the Emperor of Japan, Baron Kogoro Takahira, Shosammi, Grand Cordon of the Imperial Order of the Rising Sun, His Ambassador Extraordinary and Plenipotentiary to the United States of America;

Who, after having communicated to each other their Full Powers, found to be in good and due form, have agreed upon and concluded the following articles:—

ARTICLE I.

The Japanese Government shall cause to be enforced in Korea simultaneously with the operation of this convention, laws and regulations relative to inventions, designs, trade marks and copyrights similar to those which now exist in Japan.

These laws and regulations are to be applicable to American citizens in Korea equally as to Japanese and Korean subjects. In case the existing laws and regulations of Japan referred to in the preceding paragraph shall hereafter be modified, those laws and regulations enforced in Korea shall also be modified according to the principle of such new legislation.

ARTICLE II.

The Government of the United States of America engages that in case of the infringement by American citizens of inventions, designs, trade marks or copyrights entitled to protection in Korea, such citizens shall in these respects be under the exclusive jurisdiction of the Japanese courts in Korea, the extraterritorial jurisdiction of the United States being waived in these particulars.

ARTICLE III.

Citizens of possessions belonging to the United States shall have in respect to the application of the present convention the same treatment as citizens of the United States.

ARTICLE IV.

Korean subjects shall enjoy in the United States the same protection as native citizens in regard to inventions, designs, trade marks and copyrights upon the fulfillment of the formalities prescribed by the laws and regulations of the United States.

ARTICLE V.

Inventions, designs, trade marks and copyrights duly patented or registered in Japan by citizens of the United States prior to the enforcement of the laws and regulations mentioned in Article I hereof shall without further procedure be entitled under the present convention to the same protection in Korea as is or may hereafter

be there accorded to the same industrial and literary properties similarly patented or registered by Japanese or Korean subjects.

Inventions, designs, trade marks and copyrights duly patented or registered in the United States by citizens or subjects of either High Contracting Party or by Korean subjects prior to the operation of the present convention shall similarly be entitled to patent or registration in Korea without the payment of any fees, provided that said inventions, designs, trade marks and copyrights are of such a character as to permit of their patent or registration under the laws and regulations above-mentioned and provided further that such patent or registration is effected within a period of one year after this convention comes into force.

ARTICLE VI.

The Japanese Government engages to extend to American citizens the same treatment in Korea in the matter of protection of their commercial names as they enjoy in the dominions and possessions of Japan under the convention for the protection of industrial property signed at Paris March 20, 1883.

“Hong” marks shall be considered to be commercial names for the purpose of this convention.

ARTICLE VII.

The present convention shall be ratified and the ratifications thereof shall be exchanged at Tokyo as soon as possible. It shall come into force ten days after such exchange of ratifications.

In witness whereof, the respective Plenipotentiaries have signed the present convention in duplicate, and have thereunto affixed their seals.

Done at the City of Washington the 19th day of May in the nineteen hundred and eighth year of the Christian era corresponding to the 19th day of the 5th month of the 41st year of Meiji.

ROBERT BACON [SEAL.]
K. TAKAHIRA [SEAL.]

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Tokyo, on the sixth day of August, one thousand nine hundred and eight;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done in the City of Washington this eleventh day of August in the year of our Lord one thousand nine hundred and eight, and of the Independence of the United States of America, the one hundred and thirty-third.

[SEAL.]

THEODORE ROOSEVELT

By the President:

ALVEY A. ADEE

Acting Secretary of State.

TREATY BETWEEN THE UNITED STATES AND JAPAN PROVIDING FOR THE PROTECTION OF TRADE-MARKS, ETC., IN CHINA.

Signed at Washington May 19, 1908. Ratification advised by the Senate May 20, 1908. Ratified by the President June 2, 1908. Ratified by Japan August 3, 1908. Ratifications exchanged at Tokyo August 6, 1908. Proclaimed August 11, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the Empire of Japan providing for reciprocal protection in China for the inventions, designs, trade marks and copyrights of their respective citizens and subjects, was concluded and signed by their respective Plenipotentiaries at Washington on the nineteenth day of May, one thousand nine hundred and eight, the original of which Convention is word for word as follows:

The President of the United States of America and His Majesty the Emperor of Japan being desirous to secure in China reciprocal protection for the inventions, designs, trade marks and copyrights of their respective citizens and subjects have resolved to conclude a convention for that purpose and have named as their Plenipotentiaries, that is to say:

The President of the United States of America, Robert Bacon, Acting Secretary of State of the United States; and

His Majesty the Emperor of Japan, Baron Kogoro Takahira, Shosammi, Grand Cordon of the Imperial Order of the Rising Sun, His Ambassador Extraordinary and Plenipotentiary to the United States of America;

Who, after having communicated to each other their Full Powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I.

Inventions, designs and trade marks duly patented or registered by citizens or subjects of one High Contracting Party in the appropriate office of the other Contracting Party shall have in all parts of China the same protection against infringement by citizens or subjects of such other Contracting Party as in the dominions and possessions of such other Contracting Party.

ARTICLE II.

The citizens or subjects of each of the two High Contracting Parties shall enjoy in China the protection of copyright for their works of literature and art as well as photographs to the same extent as they are protected in the dominions and possessions of the other party.

ARTICLE III.

In case of infringement in China by a citizen or subject of one of the two High Contracting Parties of any invention, design, trade

mark or copyright entitled to protection in virtue of this convention the aggrieved party shall have in the competent territorial or consular courts of such Contracting Party the same rights and remedies as citizens or subjects of such Contracting Party.

ARTICLE IV.

Each High Contracting Party engages to extend to the citizens or subjects of the other Contracting Party the same treatment in China in the matter of protection of their commercial names as they enjoy in the dominions and possessions of such Contracting Party under the convention for the protection of industrial property signed at Paris March 20, 1883. "Hong" marks shall be considered to be commercial names for the purpose of this convention.

ARTICLE V.

Citizens of possessions belonging to the United States and subjects of Korea shall have in China the same treatment under the present convention as citizens of the United States and subjects of Japan respectively.

ARTICLE VI.

It is mutually agreed between the High Contracting Parties that the present convention shall be enforced so far as applicable in any other country in which either Contracting Party may exercise extraterritorial jurisdiction.

All rights growing out of the present convention shall be recognized in the insular and other possessions and leased territories of the High Contracting Parties and all legal remedies provided for the protection of such rights shall be duly enforced by the competent courts.

ARTICLE VII.

Any person amenable to the provisions of this convention who possesses at the time the present convention comes into force merchandise bearing an imitation of a trade mark owned by another person and entitled to protection under said convention shall remove or cancel such false trade mark or withdraw such merchandise from market in China within six months from the date of the enforcement of this convention.

ARTICLE VIII.

Unauthorized reproductions by the citizens or subjects of one High Contracting Party prior to the operation of this convention of the works of literature and art as well as photographs of the citizens or subjects of the other Contracting Party published after the 10th day of May, 1906, and entitled to protection in virtue of this convention shall be withdrawn from sale or circulation in China within one year from the date of the enforcement of this convention.

ARTICLE IX.

The present convention shall be ratified and the ratifications thereof shall be exchanged at Tokyo as soon as possible. It shall come into

force together with the convention relative to the protection of inventions, designs, trade marks and copyrights in Korea, ten days after such exchange of ratifications.

In witness whereof, the respective Plenipotentiaries have signed the present convention in duplicate and have thereunto affixed their seals.

Done at the City of Washington the 19th day of May in the nineteen hundred and eighth year of the Christian era corresponding to the 19th day of the 5th month of the 41st year of Meiji.

ROBERT BACON [SEAL.]
K. TAKAHIRA [SEAL.]

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Tokyo, on the sixth day of August, one thousand nine hundred and eight;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have herunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this eleventh day of August in the year of our Lord one thousand nine hundred and eight, and of the Independence of the United States of America, the one hundred and thirty-third.

[SEAL.]

THEODORE ROOSEVELT

By the President:

ALVEY A. ADEE

Acting Secretary of State.

PROTECTION OF FOREIGN TRADE-MARKS AND COPYRIGHTS IN
CHINA AND KOREA.

File No. 406/180-181.

The Secretary of State to Minister Rockhill.

No. 468.]

DEPARTMENT OF STATE,

Washington, May 27, 1908.

SIR: With reference to the agreement between the United States and Great Britain for the protection of trade-marks in China effected by an exchange of notes on June 28, 1905, I inclose herewith, for the information of the legation and of the various consuls in China, a copy of a note dated May 19, 1908, from the British ambassador.

You will note that under the British law existing until 1907 in China the consent of His Majesty's minister at Peking was necessary before a foreigner could institute proceedings against a British subject in the British courts in China for pirating a trade-mark which was the property of the plaintiff. By Articles III and IV of the

order in council of 1907, the consent of His Majesty's minister in Peking in this respect is no longer requisite.

I am, etc.,

E. Root.

[Inclosure.]

The British Ambassador to the Secretary of State.

No. 113.]

BRITISH EMBASSY,
Washington, May 19, 1908.

SIR: Early in 1905 an arrangement was concluded between the United States and the United Kingdom with regard to the mutual protection of trade-marks in China and Korea, by admitting complainants to proceedings in the consular courts of the respective parties.

Under the British law existing until 1907 in China, the consent of His Majesty's minister at Peking was necessary before a foreigner could institute proceedings against a British subject in the British courts in China for pirating a trade-mark which was the property of the plaintiff.

By Articles III and IV of the order in council of 1907, the text of which will be found annexed, this consent is no longer requisite. The only condition precedent to proceedings being taken is either (a) that an arrangement should be in force between His Majesty's Government and the government of the State or power to which the prosecutor or plaintiff belongs, or (b) that the court should be satisfied that effectual provision exists for the protection in consular or other courts in China or Korea of the rights and interests of British subjects in copyrights, trade-marks, patents, or designs, infringed by the national of such a State or power.

I am now directed to bring this alteration in procedure to the notice of your Government.

I have, etc.,

JAMES BRYCE.

[Subinclosure.]

Extract from the Order in Council Relating to the China and Korea (Amendment) Order in Council, 1907.

BUCKINGHAM PALACE,
February 11, 1907.

3. The following article shall be substituted for article 69 of the principal order:¹

Any act which, if done in the United Kingdom, or in a British possession, would be an offense against any of the following statutes of the Imperial Parliament or orders in council, that is to say:

(a) "The merchandize marks act, 1887;"

(b) "The patents, designs, and trade-marks acts, 1883-1902;"

(c) "The trade-marks act, 1905;"

(d) Any statute amending or substituted for any of the above-mentioned statutes;

(e) Any act, statute, or order in council for the time being relating to copyright, or to inventions, designs, or trade-marks, of which a copy is kept exhibited in the public offices of the consulates at Shanghai and Seoul, and is there open for inspection by any person at all reasonable times;

shall, if done by a British subject in China or Korea, be punishable as a grave offense against the principal order, whether such act is done in relation to any property or right of a British subject, or of a foreigner or native, or otherwise howsoever.

Provided—

(1) That no person shall be punished under this order for an act which would be an offense against any act, statute, or order in council, the exhibition of which is required by paragraph (e) above, unless such exhibition had commenced not less than one month before the act took place, or unless the person

¹That is, the China and Korea order in council, 1904.

offending is proved to have had express notice of such act, statute, or order in council.

(2) That a prosecution by or on behalf of a prosecutor who is not a British subject shall not be entertained, unless either (a) an arrangement is in force between His Majesty's Government and the government of the State or power to which the prosecutor belongs, or (b) the court is satisfied that effectual provision exists for the punishment in consular or other courts in China or Korea of similar acts committed by the subjects of such State or power in relation to or affecting the interests of British subjects. Where such an arrangement is in force the minister may issue notification to that effect, and the court shall take notice thereof.

4. No action shall be brought for the protection of any copyright, trade-mark, patent, or design by any person who is not a British subject, unless either (a) an arrangement is in force between His Majesty's Government and the Government of the State or power to which the plaintiff belongs, or (b) the court is satisfied that effectual provision exists for the protection in consular or other courts in China or Korea of the rights and interests of British subjects in copyrights, trade-marks, patents, and designs, infringed by the subjects of such State or power.

Where such an arrangement is in force the minister may issue a notification to that effect, and the court shall take judicial notice thereof.

File No. 406/213-215.

Chargé Jay to the Secretary of State.

No. 371.]

AMERICAN EMBASSY,
Tokyo, July 1, 1908.

SIR: I have the honor to transmit herewith copies of notes exchanged between Mr. O'Brien and Count Hayashi on the subject of the registration and protection of trade-marks, with special reference to the recent negotiations.

The meaning of Count Hayashi's note, stripped of technicalities, appears to be that any registered trade-mark, which is similar to the known trade-mark of another, may be canceled within three years, on the ground of such similarity; or it may be canceled at any time thereafter if the registered mark is calculated to work fraud upon the public, as all such imitations naturally are.

This reply of Count Hayashi, taken with other official and semi-official statements of a like nature, seems to warrant the belief that the Japanese Government intends, by a broad construction of the existing law, to cancel or reject all wrongful registrations, no matter how long they may have been registered.

I have, etc.,

PETER A. JAY.

[Inclosure 1.]

Ambassador O'Brien to the Minister for Foreign Affairs.

AMERICAN EMBASSY,
Tokyo, June 27, 1908.

MONSIEUR LE MINISTRE: I have the honor to inform your excellency that I have read with much satisfaction your note No. 17 of March 27 last on the subject of the registration and protection of trade-marks.

That the policy pursued by the patent bureau in regard to the examination of trade-marks has uniformly been guided by justice, and impartiality has never, I need scarcely say, been questioned by my Government. There are, however, certain points regarding the operation of the existing trade-mark legislation upon which I should be glad to have further enlightenment, and, accordingly, I

beg that your excellency will be good enough to furnish me, in complement to the particulars contained in the note under acknowledgment, with additional information respecting the validity of illegitimate trade-marks, in the event of such trade-marks being registered.

I avail, etc.,

T. J. O'BRIEN.

[Inclosure 2.]

The Minister for Foreign Affairs to Ambassador O'Brien.

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, June 30, 1908.

MONSIEUR LE MINISTRE: I have the honor to acknowledge receipt of your excellency's note No. 134, dated 27th instant, desiring additional information respecting the validity of illegitimate trade-marks in the event of such trade-mark being registered in the imperial patent bureau.

Items 3-5 of Article II of the trade-mark law now in force in Japan enumerate the following classes of characters, devices, and signs which can not be registered as trade-marks:

(3) Those which are or may be injurious to public order or morality or calculated to deceive the public.

(4) Those identical with or similar to marks already registered by another, or marks so registered in respect of which one full year has not yet elapsed since their invalidation, which are to be applied to the same description of goods.

(5) Those which are identical with or similar to marks which have been used by another person from a time prior to the operation of this law.

Article X of the same law explicitly provides that in the event of a trade-mark falling under any of these three classes being registered by mistake such registration shall be invalid. It should be added that the proviso of the same article stipulates that in the case of those trade-marks coming under the provisions of the above-mentioned items 4 and 5, the registration thereof shall not be invalidated if at least three years have passed since such registration; but as this stipulation is not made with respect to trade-marks mentioned in items 1-3 of Article II it is to be concluded that application may be made for the cancellation of their registration at any time whatever subsequent to such registration.

The legislative reason for making the discrimination above referred to between the two categories of illegitimate trade-marks appears to be as follows:

The main object of the provisions of items 4 and 5 is the protection of the individual interests of the owners or users of trade-marks, and therefore it need cause no wonder that if such interested persons should for a period of not less than three years fail to take measures for the defense of their own rights they should no longer be able to insist upon the invalidation of illegitimate trade-marks affecting their interests. On the other hand, in the case of trade-marks coming under items 1-3 of Article II since such trade-marks are defective in themselves or are calculated to lead the general public into gross errors, there is no reason why the ground for their invalidation should be removed by any lapse of time.

If, moreover, both the above-mentioned grounds exist simultaneously in respect of a trade-mark, application for the cancellation of its registration may be made on either ground not later than three years from the date of such registration; and after the lapse of the said period of three years, its invalidation may be applied for on any of the grounds set forth in items 1-3 of Article II above referred to, such as, for instance, the ground of its misleading the public.

I avail, etc.,

COUNT HAYASHI.

File No. 406/229-241.

Chargé Jay to the Secretary of State.

No. 408.]

AMERICAN EMBASSY,
Tokyo, August 23, 1908.

SIR: I have the honor to transmit herewith translations in duplicate of imperial ordinances No. 196 to 203, relating to the operation

of the new conventions for the protection of industrial and literary property in China and Korea, which were promulgated, together with the texts of the conventions, in the Official Gazette of August 13.

It will be noted that the new ordinances refer chiefly to Korea and take the form of making the existing Japanese law, with necessary verbal alterations, applicable alike to Japanese and Korean subjects and to the subjects or citizens of such countries as do not exercise in Korea extraterritorial jurisdiction in respect to the rights in question.

The conventions are made operative in Kwantung, China, and other extraterritorial countries by means of ordinance No. 201. In the opinion of the embassy, these ordinances appear to fairly and fully meet the obligations imposed upon Japan by the new conventions.

As will appear from the press comments also inclosed, the new conventions are heartily welcomed as guaranteeing more effective protection to honest trade in China and Korea, while the partial surrender of jurisdiction in the latter country is appreciated as an expression of America's good will toward Japan and of sympathy with the latter in the difficult task of administering her protectorate. Recent developments in Korea in connection with the trial of the editor of the Korean Daily News have no doubt added point to this consideration.

It is also interesting to note that the present occasion has been taken by the minister of agriculture and commerce to issue a notification to the local officials calling attention to the importance of a strict enforcement of the new conventions and accompanying legislation.

I am informed that the British Embassy has again reopened the negotiations on this subject which have been delayed by the protests of the British merchants in Shanghai. An effort will still be made to secure protection in China and Korea by means of one convention, without surrendering jurisdiction in the latter country.

I have, etc.,

P. A. JAY.

File No. 406/242-244.

Chargé Jay to the Secretary of State.

No. 419.]

AMERICAN EMBASSY,
Tokyo, August 29, 1908.

SIR: With reference to the department's instruction No. 174 of July 16 last,¹ on the subject of protection of trade-mark registrations in Japan, I have the honor to inclose herewith copies of correspondence between the Japanese officials and the British Embassy of Tokyo, which have kindly been placed at my disposal by the latter.

It appears from the letter of Mr. Nakamatsu, the director of the patent bureau, to Mr. Crowe that Article XII of the Japanese trade-mark law is interpreted to apply only to cases where business had actually been begun in Japan and thereafter discontinued and does not apply to cases where no business at all has been done in Japan.

Mr. Nakamatsu further asserts that there is no provision in Japanese law in virtue of which a registered trade-mark can be canceled on the ground that business has not been begun in Japan.

¹ Not printed.

'The British Embassy has addressed an inquiry to the Japanese foreign office for further information on this subject and I have been promised a copy of their reply when it is received.

I have, etc.,

P. A. JAY.

[Inclosure 1.]

The Director of the Japanese Patent Office to Mr. E. F. Crowe.

TOKYO, June 20, 1908.

STR: In reply to your letter of the 11th instant I beg to say that Article XII of the Japanese trade-mark law is applicable only to the case where business has been discontinued in which a registered trade-mark was in use, but not to the case of nonuse of a registered trade-mark. Nor is there any provision in the law by which a registered trade-mark can be canceled on the ground that it has not been used, or on the ground that the person who had had the trade-mark registered has not begun business at all.

I have, etc.,

MORIO NAKAMATSU.

[Inclosure 2.]

The British Ambassador to the Japanese Minister for Foreign Affairs.

TOKYO, June 26, 1908.

M. LE MINISTRE: With reference to the convention for the mutual protection of trade-marks in China and Korea which it has been proposed to conclude between our two Nations, I have the honor to inform your excellency that I have been instructed by His Majesty's Prince, secretary of state for foreign affairs, to obtain definite information from your excellency on the following point:

There are probably a great many British trade-marks which are used in China and Korea, but not in Japan, which the owners thereof would desire to have protected in China and Korea from imitation by Japanese.

If the convention is signed, will the Imperial Japanese Government be prepared in any case to vest their courts in China and Korea with power to deal with cases of piracy by Japanese subjects in those countries of British marks registered in Japan with the object of obtaining such protection and not necessarily with a view to use in Japan, conditionally upon His Majesty's Government according complete reciprocity?

In other words, would the Imperial Japanese Government consider that owners of British marks registered in Japan but used only in China and Korea will be entitled to the benefits of the convention when signed?

For example, I would like an expression of opinion from your excellency on the following point:

Article XII of the Japanese trade-mark law says: "The right of exclusive use of a trade-mark expires with the cessation of the business for which it is used by the proprietor."

Supposing that a British subject registered a trade-mark in the Japanese patent bureau for goods which he was dealing in in Japan and China, and that he subsequently found the mark unsuited to the Japanese market and gave up using it here, but continued the use of the mark in China, would it be possible for an interested party to demand the cancellation of the mark on the ground of the cessation of the business in Japan for which the mark was used by the proprietor?

If under the present law a mark could be canceled under such circumstances as detailed above, I venture to think that your excellency will see that some assurance from the Japanese Government which would cover cases of this sort will be required before any convention can be concluded.

I take, etc.,

CLAUDE MACDONALD.

File No. 406/245-259.

Chargé Jay to the Secretary of State.

No. 430.]

AMERICAN EMBASSY,
Tokyo, September 7, 1908.

SIR: Referring to my No. 408 of August 23, I have the honor to transmit herewith carefully revised translations of the ordinances recently promulgated relating to the protection of industrial and literary property in Korea and China, together with translations of the regulations for carrying out the above ordinances.

I have, etc.,

PETER AUGUSTUS JAY.

[Inclosure.]

The Imperial Ordinances Relating to the Protection of Industrial Property Rights and Copyrights in China and Korea, the Regulations Relating to the Organization of the Patent Office of the Residency General, and the Imperial Ordinance Relating to the Official Ranks and Salaries of the Staff of the Said Office.

We hereby sanction and cause to be promulgated the Korean patent ordinance.

[Sign manual.]
[Privy seal.]

August 12, 1908.

(Countersigned.)

Marquis TARO KATSURA,
Minister President.
Viscount MASAKATA TERAUTSI,
Minister for Foreign Affairs.

IMPERIAL ORDINANCE NO. 196.—KOREAN PATENT ORDINANCE.

ARTICLE I.

With reference to patents in Korea the Patent Law shall be followed; but the term "Empire" in the said Law shall be understood to mean "Korea," the "Patent Office" to mean "Patent Office of the Residency-General," the "Court of Law" to mean "Residencies and the Residency-General Court," the "District Court" to mean "Residencies," and the "Supreme Court" to mean "Residency-General Court."

With reference to the application of this Ordinance, the term "Empire" mentioned in Article 6 of the Patent Law shall be understood to mean "Japan" and "Korea."

ARTICLE II.

This Ordinance shall also be applicable to subjects or citizens of countries which accord to Japanese and Korean subjects reciprocal protection with reference to inventions, and which do not exercise extraterritorial jurisdiction in Korea with reference to the protection of inventions.

SUPPLEMENTARY ARTICLES.

ARTICLE III.

This Ordinance shall take effect on and after August 16, 1908.

ARTICLE IV.

Patents obtained in Japan by Japanese subjects, Korean subjects or American citizens prior to the operation of this Ordinance shall be regarded as hav-

ing been obtained in Korea in accordance with this Ordinance; but the term of the said patents shall correspond to the term of the same in Japan.

Any owner of the patents mentioned in the preceding paragraph shall not set up his patent against a person actually using in Korea at the time of the operation of this Ordinance the product or the process of the invention in question, or against his successor.

ARTICLE V.

Inventions for which patents have been obtained in the United States by Japanese subjects, Korean subjects or American citizens prior to the operation of this Ordinance may be patented free of charge if application be made therefor to the Patent Office of the Residency-General within one year from the date of operation of this Ordinance; but the term of the said patent shall correspond to the term of the same in the United States.

We hereby sanction and cause to be promulgated the Korean design ordinance.

[Sign manual.]

[Privy seal.]

August 12, 1908.

(Countersigned.)

Marquis TARO KATSURA,

Minister President.

Viscount MASAKATA TERAUTSI,

Minister for Foreign Affairs.

IMPERIAL ORDINANCE No. 197.—KOREAN DESIGN ORDINANCE.

ARTICLE I.

With reference to designs in Korea the Design Law shall be followed; but the term "Minister of Agriculture and Commerce" in the said Law shall be understood to mean "Resident-General", the "Patent Office" to mean "Patent Office of the Residency-General", the "Court of Law" to mean "Residencies and Residency-General Court", the "District Court" to mean "Residencies", and the "Supreme Court" to mean "Residency-General Court".

With reference to the application of this Ordinance the term "Empire" mentioned in Article 6 of the Patent Law shall be understood to mean "Japan" or "Korea".

ARTICLE II.

Designs identical with or similar to the Imperial Crest of Japan or of Korea in form or patent shall not be registered.

If a registered design is in contravention of the provisions of the preceding paragraph, the said registration shall be invalid.

Any person who has discovered that a registered design falls under the provisions of the preceding paragraph may apply for a trial to the Patent Office of the Residency-General for the purpose of cancelling the said registration.

ARTICLE III.

This Ordinance shall also be applicable to subjects or citizens of countries which accord to Japanese and Korean subjects reciprocal protection with reference to designs and which do not exercise extraterritorial jurisdiction in Korea with reference to the protection of designs.

SUPPLEMENTARY ARTICLES.

ARTICLE IV.

This Ordinance shall take effect on and after August 16, 1908.

ARTICLE V.

Designs registered in Japan prior to the operation of this Ordinance by Japanese subjects, Korean subjects or American citizens shall be regarded as

having been registered in Korea in accordance with this Ordinance; but the term for the exclusive use of the said designs shall correspond to the term for the exclusive use of the same in Japan.

Any owner of the registered designs mentioned in the preceding paragraph shall not set up such registration against a person actually using in Korea at the time of the operation of this Ordinance the design in question, or against his successor.

ARTICLE VI.

Japanese subjects, Korean subjects or American citizens whose designs have been registered in the United States prior to the operation of this Ordinance may have the same registered free of charge, in case they apply for registration to the Patent Office of the Residency-General within one year from the date of operation of this Ordinance; but the term for exclusive use of the said designs shall correspond to the term for exclusive use of the same in the United States.

We hereby sanction and cause to be promulgated the Korean Trade-Mark Ordinance.

[Sign Manual.]
[Privy Seal.]

August 12, 1908.

(Countersigned)

Marquis TARO KATSURA,
Minister President.
Viscount MASKATA TERAUTSI,
Minister for Foreign Affairs.

IMPERIAL ORDINANCE No. 198.—KOREAN TRADE-MARK ORDINANCE.

ARTICLE I.

With reference to trade-marks in Korea the Trade-Mark Law shall be followed; but the term "Empire" in the said law shall be understood to mean "Korea," the "Minister of Agriculture and Commerce" to mean "Resident-General," the "Patent Office" to mean "Patent Office of the Residency-General," the "Court of Law" to mean "Residencies and the Residency-General Court," the "District Court" to mean "Residencies," and the "Supreme Court" to mean "Residency-General Court."

With reference to the application of this Ordinance the term "Empire" mentioned in Article 6 of the Patent Law shall be understood to mean "Japan" or "Korea."

ARTICLE II.

Trade-marks bearing devices identical with or similar to the Imperial Crest, national flag, military standards or orders of merit of Japan or Korea or the national flags of other countries shall not be registered.

If a registered trade-mark is in contravention of the provisions of the preceding paragraph, the said registration shall be invalid.

Any person who has discovered that a registered trade-mark falls under the provisions of the preceding paragraph may apply for a trial to the Patent Office of the Residency-General for the purpose of cancelling the said registration.

ARTICLE III.

This ordinance shall also be applicable to subjects or citizens of countries which accord to Japanese and Korean subjects reciprocal protection with reference to trade-marks, and which do not exercise extraterritorial jurisdiction in Korea with reference to the protection of trademarks.

SUPPLEMENTARY ARTICLES.

ARTICLE IV.

This ordinance shall take effect on and after August 16, 1908.

ARTICLE V.

Trade-marks registered in Japan by Japanese subjects, Korean subjects or American citizens prior to the operation of this Ordinance shall be regarded as having been registered in Korea in accordance with this Ordinance; but the term for the exclusive use of the said trade-marks shall correspond to the term for exclusive use of the same in Japan.

ARTICLE VI.

With reference to merchandise bearing, prior to the operation of this ordinance, a trade-mark entitled to protection in accordance with the provisions of the preceding Article or a trade-mark similar to the same, the provisions of Article 16 of the Trade-Mark Law shall be applicable only to such persons as, after six months from the date of operation of this Ordinance give, sell or store for sale the said merchandise.

ARTICLE VII.

With reference to trade-marks registered in the United States prior to the operation of this Ordinance by Japanese subjects, Korean Subjects or American citizens, no registration fee shall be collected if any owner of the said trade-marks apply for registration to the Patent Office of the Residency-General within one year from the date of operation of this Ordinance.

We hereby sanction and cause to be promulgated the Korean trade name ordinance.

[Sign manual.]
[Privy seal.]

August 12, 1908.

(Countersigned.)

Marquis TARO KATSURA,
Minister President.
Viscount MASAKATA TERAUTSI,
Minister for Foreign Affairs.

IMPERIAL ORDINANCE No. 199.—KOREAN TRADE NAME ORDINANCE.

ARTICLE I.

With reference to the trade names in Korea the Commercial Code and the Code of Procedure relating to Non-Contentious Matters shall be followed; but the term "cities, towns and villages" (Shi-Cho-Soa) in the said Codes shall be understood to mean "Fu and Gun", the "prefectures" (Fu-Ken) to mean "Do", the "Court of Law" to mean "Residencies and the Residency-General Court", the word "Japan" to mean "Korea", the "Minister of Justice" to mean "Resident-General".

ARTICLE II.

This Ordinance shall also be applicable to subjects or citizens of countries which accord to Japanese and Korean subjects reciprocal protection with reference to trade-marks, and which do not exercise extraterritorial jurisdiction in Korea with reference to the protection of trade-marks.

SUPPLEMENTARY ARTICLES.

ARTICLE III.

This Ordinance shall take effect on and after August 16, 1908.

ARTICLE IV.

The provisions of Article 16 of the Commercial Code shall not be applicable to those trade names which have been used in Korea since the time prior to the operation of this Ordinance.

We hereby sanction and cause to be promulgated the Korean Copyright Ordinance.

[Sign manual.]
[Privy seal.]

August 12, 1908.

(Countersigned.)

Marquis TARO KATSURA,
Minister President.
Viscount MASAKATA TERAUTSI,
Minister for Foreign Affairs.

IMPERIAL ORDINANCE No. 200.—KOREAN COPYRIGHT ORDINANCE.

ARTICLE I.

With reference to copyrights in Korea the Copyright Law shall be followed; but the term "Empire" in the said Law shall be understood to mean "Korea", the "Court of Law" to mean "Residencies and the Residency-General Court".

ARTICLE II.

This Ordinance shall also be applicable to subjects or citizens of countries which accord to Japanese and Korean subjects reciprocal protection with reference to copyrights, and which do not exercise extraterritorial jurisdiction in Korea with reference to the protection of copyrights.

SUPPLEMENTARY ARTICLES.

ARTICLE III.

This Ordinance shall take effect on and after August 16, 1908.

ARTICLE IV.

Copyrights possessed in Japan by Japanese subjects, Korean subjects or American citizens prior to the operation of this Ordinance shall be protected by this Ordinance.

ARTICLE V.

Japanese subjects, Korean subjects or American citizens whose copyrights have been registered in the United States prior to the operation of this Ordinance may apply for registration free of charge of the said copyrights to the Patent Office of the Residency-General within one year from the date of operation of this Ordinance.

ARTICLE VI.

Any person who without the consent of the holder of a copyright, has reproduced, translated or performed, or has commenced to reproduce, translate or perform in Korea prior to the operation of this Ordinance the works of Japanese subjects, Korean subjects or American citizens which are protected in Japan or the United States may complete the same and sell, or distribute or perform the same during one year following the date of operation of this Ordinance.

ARTICLE VII.

In the cases mentioned in the preceding Article the reproduction shall only be sold, distributed or performed subject to the procedure determined by an Ordinance of the Residency-General.

We hereby sanction and cause to be promulgated the ordinance relating to the protection of rights of patents, designs, trade-marks, and of copyrights in the Province of Kwantung and in other countries where Japan may exercise extraterritorial jurisdiction.

[Sign manual.]
[Privy seal.]

August 12, 1908.

(Countersigned.)

Marquis TARO KATSURA,
Minister President.
Viscount KASAKATA TERAUTSI,
Minister for Foreign Affairs.

IMPERIAL ORDINANCE No. 201.

ARTICLE I.

The validity of rights of patent, design, trade-marks, and of copyright enjoyed in Japan by Japanese or Korean subjects shall extend to Japanese and Korean subjects in the Province of Kwantung and other countries where Japan may exercise extraterritorial jurisdiction.

ARTICLE II.

The provisions relating to penalties in the Patent Law, Design Law, Trade-Mark Law, and Copyright Law shall be applicable to Japanese and Korean subjects in the province of Kwantung and countries where Japan may exercise extraterritorial jurisdiction.

ARTICLE III.

With reference to industrial property rights and copyrights enjoyed in Japan by subjects or citizens of countries other than Japan and Korea, the provisions of the two preceding Articles shall be applicable only when such other countries afford protection of industrial property rights and copyrights to Japanese and Korean subjects in foreign countries where the said countries may exercise extraterritorial jurisdiction, and when the said countries do not exercise extraterritorial jurisdiction in Korea with reference to the protection of industrial property rights and copyrights.

SUPPLEMENTARY ARTICLES.

ARTICLE IV.

This Ordinance shall take effect on and after August 16, 1908.

ARTICLE V.

Any person who has on hand for sale at the time this Ordinance takes effect, merchandise fraudulently bearing trade-marks owned by another person and entitled to protection by virtue of this Ordinance, or bearing imitations of such marks, shall remove or cancel the said trade-marks or withdraw the said merchandise from market in China within six months after the operation of this Ordinance.

ARTICLE VI.

Any person who, without the consent of the holder of a copyright, has reproduced, translated or performed, or has commenced to reproduce, translate or perform in China prior to the operation of this Ordinance, the works copyrighted in Japan or the United States by Japanese subjects, Korean subjects or American citizens may complete the same, and sell, distribute or perform the same during one year following the date of operation of this Ordinance.

File No. 406/260-261.

Chargé-Jay to the Secretary of State.

No. 432.]

AMERICAN EMBASSY,
Tokyo, September 8, 1908.

SIR: I have the honor to acknowledge the receipt of the department's instruction No. 186 of August 7,¹ on the subject of trade-marks and other forms of industrial property. I note with pleasure the statement that the department is disposed to agree with the embassy that the formal declaration by the foreign office, as contained in Count Hayashi's note of June 30, 1908, taken with the other official statements that have been made, may be accepted in the sense

¹ Not printed.

of a full assurance of the intention of the Japanese Government, through a broad interpretation of the existing law, to rectify all wrongful registrations.

With reference to the latter part of the instruction under reply, it need scarcely be said that the embassy will at all times do everything in its power to impress upon Americans the importance of promptly availing themselves of the protection afforded by the new conventions and to answer fully and promptly any inquiries that may be addressed to it on the subject of the provisions of Japanese laws and regulations relating to matters of registration.

I may, however, be permitted to point out in this connection that, under the laws of Japan, an applicant for the registration of a patent, design, or trade-mark must, if he has no domicile in Japan, appoint a duly qualified agent resident in Japan, who must have been admitted to practice as a patent agent and entered on the register of the Japanese patent bureau in that capacity. (See Hall's Manual of the Japanese Patent, Trade-Mark, and Design Law, pages 1-2, also Article VI of the Patent Law and Article XX of the Trade-Mark Law.) This agent must be furnished with full power of attorney authorizing him to represent his client in all proceedings before the patent bureau, both as regards the original application and as regards any matters that may arise after the registration has been effected. It might save several weeks of valuable time if this initial fact were pointed out to the intending applicants in America; and for that purpose a list of patent lawyers, taken from the Japan directory, is herewith inclosed, on which a few of the more prominent names have been underlined. The embassy will always be prepared to cooperate with such representatives to the extent of its power for the furtherance of American trade interests.

I trust that when the new conventions are printed the embassy may be furnished with a supply for distribution in answer to inquiries on the subject. The patent and trade-mark laws have already been published by the Japanese Government, and an official translation of the new legislation on the subject is in course of preparation. It is believed that the embassy can obtain as many as may be needed to send to Americans interested. A new manual also is in course of preparation by Mr. de Havilland, successor to Mr. W. Silver Hall, which will treat all matters in detail.

I have, etc.,

PETER A. JAY.

File No. 406/262-263.

Chargé Jay to the Secretary of State.

No. 443.]

AMERICAN EMBASSY,
Tokyo, September 19, 1908.

SIR: Referring to my dispatch No. 419, of August 29, 1908, on the subject of the protection of trade-mark registrations in Japan, I have the honor to inclose herewith copy of an official note from Count Komura, minister for foreign affairs, to the British ambassador, in which it is stated that according to the interpretation of the administrative authorities concerned "under the trade-mark law at present in force in Japan it is not necessary, in obtaining registrations of a trade-mark, to have a business in Japan at the time, nor does the right of exclusive use of a trade-mark expire if the trade-

mark is not used, so long as the business is not ceased. As regards foreign registered trade-marks which have been registered also in Japan and are under the protection of the Japanese trade-mark law, the right of exclusive use of such marks does not expire even if the business and the use of the trade-mark be ceased in Japan and in places to which the protection of the Japanese trade-mark law extends, unless business be also ceased in the foreign country."

I have, etc.,

PETER A. JAY.

[Inclosure.]

The Minister for Foreign Affairs to the British Ambassador.

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, September 5, 1903.

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 26th June, inquiring whether, in the event of a convention being concluded between Great Britain and Japan for the mutual protection of trade-marks in China and Korea, and if His Majesty's Government agreed to accord complete reciprocity, the Japanese Government would give the protection of the convention to the proprietors of British trade-marks registered in Japan but used only in China and Korea. Your excellency asked, as an example, for an expression of opinion on the point whether, supposing that a British subject registered a trade-mark in the Japanese patent bureau for goods which he was dealing in in Japan and China, and that he subsequently found the mark unsuited to the Japanese market and gave up using it in Japan, but continued the use of the mark in China, it would or would not be possible for an interested party to demand the cancellation of the registration of the mark under Article XII of the Japanese trade-mark law on the ground of the cessation of the business for which the mark was used by the proprietor. Your excellency added that, supposing it were possible under the law now in force to obtain the cancellation of a registered trade-mark under the circumstances mentioned above, there would be no reason for concluding a convention, unless an assurance were obtained from the Japanese Government which would cover such cases.

In reply I have the honor to state that all revisions of Japanese laws require the assent of the legislative assembly, and the administrative departments are quite unable to interfere therein. The interpretation of the laws is decided according to the independent opinion of the authorities concerned, who investigate any particular case. I regret, therefore, that I can not venture to give the assurance of the Japanese Government desired by your excellency in regard to the circumstances mentioned. But in order to ascertain the opinion on the point of the administrative authorities concerned, I at once referred the substance of your excellency's communication to the minister of agriculture and commerce, and I am now in receipt of his reply, which is to the effect that under the trade-mark law at present in force in Japan it is not necessary, in obtaining registration of a trade-mark, to have a business in Japan at the time, nor does the right of exclusive use of a trade-mark expire if the trade-mark is not used, so long as the business is not ceased. As regards foreign registered trade-marks which have been registered also in Japan and are under the protection of the Japanese trade-mark law, the right of exclusive use of such marks does not expire even if the business and the use of the trade-mark be ceased in Japan and in places to which the protection of the Japanese trade-mark law extends, unless business be also ceased in the foreign country. But if a trade-mark is not a foreign registered trade-mark, but is merely a trade-mark registered by a foreigner in the same way as a Japanese in Japan only, the right of exclusive use of the mark expires with the cessation of business in Japan and places to which the protection of the Japanese trade-mark law extends. He considers, moreover, that the cancellation of registration due to the expiration of the right of exclusive use of a trade-mark is carried out by official authority of the patent bureau in accordance with heading No. 13 of article 14 and article 17 of the detailed regulations for carrying out the law of trade-marks and article 71 of the detailed regulations for carrying out the patent law, and not by means of a legal suit or (patent bureau) trial.

I take, etc.,

KOMURA JŪTARŌ, *Count.*

KONGO.

INVESTIGATION OF AFFAIRS IN THE KONGO.¹

[Continued from Foreign Relations, 1907, p. 791.]

The Secretary of State to Minister Wilson.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 9, 1908.

What has recently occurred regarding Kongo cession? Upon recent reports of continued oppression of natives of the Kongo, this Government is much indisposed to delay urgent representations in the sense of my letter to Ambassador Reid dated November 4,² transmitted to you November 6. Cable report promptly.

Root.

Minister Wilson to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Brussels, January 10, 1908.

Your telegram January 9 just received. The death of Prime Minister de Trooz has very much altered the situation relative to the annexation of the Kongo. I am informed that Minister Schollaert, on taking office, insisted on such changes in the treaty of annexation as would lead to the absolute suppression of the so-called Domain of the Crown, which is the source of the greatest complaint, and the free and unrestricted exercise of Belgian sovereignty in every part of the Kongo. The new minister has just taken office this day, and all questions of policy are supposed to be in a state of transition.

Immediately on receipt of the department's telegram I submitted to the British minister, Sir Arthur Hardinge, a copy. He emphatically expressed the opinion that any action at the present time of transition would be unfair and ill considered. He stated also that he had as yet no definite instructions to act; that his instructions did not contemplate an urgent representation, but simply a private and informal hint.

As the spirit of the department's prior instructions, as well as the fact that we are not signatory to the Berlin act, would indicate that

¹ In connection with this subject reference is made to Senate Document No. 147, Sixty-first Congress, first session, entitled "Affairs in the Kongo," and to the British Government's publications on "Africa" mentioned therein.

² See Foreign Relations, 1907, p. 812.

in concerted action with the British minister my rôle should be one of support and in some sense secondary, I am obliged to ask whether the department now desires me to make an immediate and independent representation based on its instructions to American Ambassador Reid and its telegram of December 16.

WILSON.

Minister Wilson to the Secretary of State.

No. 279.]

AMERICAN LEGATION,
Brussels, January 15, 1908.

SIR: I have the honor to report that at the session of the Belgian Chamber of Representatives yesterday the new premier, Mr. Schollaert, made the following declaration of the policy of the Government in regard to Kongo matters:

The sad occurrence which has rendered necessary a modification in the composition of the Cabinet has in no respect modified the programme of the Government.

We refer to the communication made to the Chambers by the late regretted Mr. de Trooz at the moment when he assumed the direction of affairs. Since then an important fact has arisen on which a declaration appears to us to be necessary.

The Government had announced the production of a scheme "for the taking over by Belgium of the African colony." At the same time it intrusted plenipotentiaries with the "duty of preparing, in conjunction with the plenipotentiaries of the Free State, the agreement which should effect the transfer of the Kongo to Belgium and of deciding the means of execution." The instructions given to these plenipotentiaries were to arrange this agreement "on the lines of that of 1895, the text and annexes of which are to be brought into relation with the actual situation."

The plenipotentiaries labored with equal conscientiousness and activity and were soon in a position to present to the Government a complete report on the actual situation of our future colony. A treaty of annexation was then concluded, under date of November 28, 1907, between Belgium, represented by all the members of the Government, and the Kongo Free State, represented by its secretaries-general. And at the sitting of December 3 you were put in possession of the bill approving the treaty of annexation.

In conformity with a previous decision, you ordered the examination of this proposal to be referred to the commission of seventeen, which was already engaged in examining the colonial bill.

Without in any way wishing to anticipate the results of the labors of the commission, we are in a position to state that the attentive study of the documents and annexes attached to the proposal has confirmed, and perhaps gone beyond, the opinions previously formed on the state of material prosperity of our future colony and its future.

It is possible that further light may be thrown on certain points, but it would be unfair to contest the merit of a work which has hardly existed a quarter of a century and which finds itself in the first rank among similar enterprises.

It is our duty also to state, and we do so with patriotic pride, that the immense majority of the Belgian nation desires to take over the Kongo State. It feels that the moment for taking a definite resolution has arrived. The time has come for Belgium to decide. Now, the opening of the Kongo to civilization is the work of her King. It is for her sake and with the help of the Belgians that he has occupied the country. The idea that the Kongo must be ours is so clear that for most people the great African colony has no other name than that of the Belgian Kongo.

Finally, it is our duty to state, and we do so with perfect openness, that the tenor of the treaty has provoked certain apprehensions in many minds, even among citizens devoted to a colonial policy and admirers of the work of the Sovereign of the Free State. The attentive study of the question will show

to what extent the objections which have been raised are well founded, and whether they can not be satisfied by some change in the plan. You do not expect us to improvise a solution at this moment. For it must not be forgotten that the object of the discussion is an agreement which requires the consent of two contracting parties. Our most ardent desire is that in the examination of this great and patriotic question our only thought should be the welfare and prosperity of the mother country, of the native populations, and of the colony. At this solemn moment let us forget our differences of opinion; let us work together without distinction of party. We appeal for the assistance of all for this great work which we are about to undertake for the expansion and future of our country—the work of the entire nation.

At the conclusion of the reading of the declaration, Mr. Hymans, leader of the Liberals, stated that the attitude of the Left toward the treaty had not changed in any wise, but that it would enter into a free and fair discussion for the purpose of assisting the Government in finding a solution in accord with the interests of Belgium.

Mr. Vandervelde, leader of the Socialist Party, spoke in a similar tenor, with the reservation, however, that the Socialist Party were opposed to annexation of the Kongo to Belgium in any form.

It will be noted that Mr. Schollaert has not committed himself to any definite program. His declaration may be said to be moderate in tone, conciliatory, but not indicative of any radical departure from the policy of his predecessor.

Undoubtedly interpellations for the purpose of ascertaining the definite program of the Government will be made in the Chamber very soon. The replies thereto, and the discussions which must inevitably follow, will most likely reveal the exact purposes of the Government and define its attitude in Kongo matters.

I have, etc.,

HENRY LANE WILSON.

Chargé Carter to the Secretary of State.

[Telegram.]

No. 224.]

AMERICAN EMBASSY,
London, January 21, 1908.

I am now informed that Sir Edward Grey has instructed Sir Arthur H. Hardinge to make to the Belgian Government the communication already arranged with the United States minister at Brussels, as stated in Mr. Reid's No. 216,¹ as soon as the latter is ready to do so. This will enable Sir Arthur H. Hardinge to act at once as soon as you see fit to instruct the United States minister at Brussels. Sir Edward Grey assures me that he is very glad to be in accord with you in this matter. In fact, he has always been so, though he left the time and opportunity to the discretion of the British minister at Brussels, whose delay no doubt may be explained by local conditions, such as the change of government, death of the prime minister, and the attitude of the present government, which, apparently, is more favorable to our mutual views.

CARTER.

¹ Not printed.

Minister Wilson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Brussels, January 23, 1908.

Visited Belgian minister for foreign affairs in company with Sir Arthur H. Hardinge and made representation in accordance with our several instructions.

I introduced the subject of our visit by saying that public opinion in the United States was deeply concerned over conditions in the Kongo region, alleged to be in violation of the act of Brussels, 1890, and that my Government was very solicitous at this moment of the possible taking over of the Kongo by Belgium; that important reforms should be instituted, especially in the carrying into effect of article 2 of the Brussels act. I said, moreover, that we are not concerned with the commercial or territorial aspects of the Kongo question, but that we reserved our right of approval of annexation until assured that the same would provide for the carrying into effect of the humanitarian provisions of the Berlin act, as reenforced and emphasized in the Brussels act of 1890. In conclusion, I expressed the hope that the treaty of annexation might [provide?] such safeguards for the execution of the Brussels act as would be satisfactory to international opinion and public opinion in the United States.

Sir Arthur H. Hardinge defined his Government's position at much greater length, but the substance of what he said was that the British Government, while not desirous of influencing the attitude of the Belgian Parliament, found it incumbent nevertheless to make known the fact that it reserved its right as a signatory to the Berlin act, in view of the possibility of the annexation of the Kongo not being carried out in conformity with its spirit.

Belgian minister for foreign affairs made no comment whatsoever upon the observations we offered, confining himself to simple questions, having for their object an exact knowledge of the two Governments' attitude.

WILSON.

Minister Wilson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Brussels, January 30, 1908.

Belgian minister for foreign affairs has handed me a memorandum for copy and return in regard to our interview of January 23. It intimates that the annexation of Kongo is not an international question. Recites that the treaty now pending declares that Belgium in accepting cession assumes treaty obligations of Kongo State and that Belgian Government will execute same in same spirit and letter as observed in its own existing treaties with other powers. Touching acts of Berlin and Brussels on the conventional basin of the Kongo, states that the fact of Belgium being a contracting party therein is a

sure guaranty of intentions of Belgian Government. Concludes, expressing the friendly and amicable, as well as private, character of the memorandum.

WILSON.

Minister Wilson to the Secretary of State.

[Extract.]

No. 290.]

AMERICAN LEGATION,
Brussels, January 31, 1908.

SIR: I have the honor to confirm my cablegram of January 30. As therein stated, Mr. Davignon, the Belgian minister for foreign affairs, called at the legation on the 29th and left with me for copy and return a memorandum, copy and translation of which are inclosed, relative to the interview which the British minister, Sir Arthur Hardinge, and I had with him on January 23.

The department will note that the memorandum is addressed more particularly to the representations made by the British minister than to those which, under instructions from the department, I briefly submitted. This is accounted for by two circumstances: First, as a natural resultant of my indication to Mr. Davignon, as reported in my No. 285,¹ that on account of our purely humanitarian interests in the Kongo question and the greater and more complicated interests of Great Britain, I preferred to have my British colleague present our case in extenso, and confined my own remarks to a brief but literal representation of the department's views; second, to the fact that Sir Arthur Hardinge, subsequently to our interview, permitted the secretary of Mr. Davignon to take a copy of his written statement, thus making the same the basis of the discussion. I was not asked for a memorandum of my brief observations and I suppose that Mr. Davignon—perhaps properly—assumed that in voluntarily surrendering the principal rôle to my colleague I had also assigned to him the right to receive a direct reply.

The essential point, however, of my representation is noted in Mr. Davignon's memorandum, and there is no doubt whatsoever that our position was clearly expressed and clearly understood.

In the meantime I shall carefully watch the course of events here and report the same to the department.

I have the honor, etc.,

HENRY LANE WILSON.

[Inclosure.—Translation.]

[See Belgian Gray Book, 1908.]

Nota Pro Memoria, January 29, 1908.

Sir A. Hardinge, in accord with his colleague of the United States, has brought to our knowledge that the annexation of the Kongo to Belgium was considered by their Governments as the best solution under the circumstances.

¹ Not printed.

The Belgian Government notes with satisfaction the opinion of the cabinets at London and at Washington regarding the joining of the Kongo to Belgium. Since these two countries have the same sovereign and the same obligations, it is therefore merely a question, from an international standpoint, of a simple transfer by which the advantages of the parliamentary régime enjoyed by the mother country will be conferred upon the colony.

The Belgian Government, when transmitting to the Chambers the papers in the transfer, could not fail to recall to them that in 1895 the project of annexation did not elicit observations from abroad. This is a well-known fact, to which it has not on this occasion added any commentaries.

The treaty of cession not having as yet been approved, and the colonial law not having been voted, the form of interior administration which will be effected by annexation is at this moment under examination and discussion in Parliament in the full exercise of the supreme authority of legislative right, and Sir A. Hardinge has thought it proper to indicate that the British Government was anxious to avoid all intrusion therein.

Sir A. Hardinge has insisted, however, that no doubt should remain in the mind of the Belgian cabinet regarding the capital importance which the two Governments attach to the application by Belgium, if she should take the place of the Independent State of the Kongo, of the provisions of the international agreements regarding the absolute freedom of commerce, of the rights of Christian missionaries, and of the humane and equitable treatment of the native population. The minister of the United States has particularly insisted upon the importance which his Government attaches to the enforcement of the provisions of article 2 of the general act of Brussels concerning the treatment of the native races.

The treaty of cession, now before the Chambers, declares in its first article that Belgium, in accepting the cession, assumes as its own the obligations established by treaties which the Kongo State has concluded with foreign powers. The Government of the King will observe in the execution of its engagements the same care and the same loyalty it applies, in spirit and in letter, to the convention, of whatever nature, which to-day bind Belgium with the Government of His Britannic Majesty and of all other powers.

Regarding that which particularly concerns the provisions of the general act of Berlin of February 26, 1885, and of that of Brussels of July 2, 1890, concerning the conventional basin of the Kongo, it might be well to recall that Belgium is a directly contracting party to these international acts, and that her plenipotentiaries took a part therein, which is a sure guaranty of the intentions which to-day inspire the Belgian Government.

In making this reply to Sir A. Hardinge and to Mr. Wilson, Mr. Davignon is animated by the same sentiments which have called forth the unofficial communication of their excellencies, and he attaches to it the same friendly and private character.

Minister Wilson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Brussels, February 5, 1908.

The Government yesterday withdrew Kongo annexation treaty from consideration of Parliament, with statement that it proposed to submit a new project in lieu of it. This, it is understood, will provide for suppression of the Domain of the Crown, with equivalents to the King in the form of special civil list for realizing the philanthropic, scientific, and other enterprises of the King in Belgium and in the Kongo. The new treaty, if submitted as indicated, will be adopted and will, in my judgment, afford a solution of the Kongo question satisfactory to Belgian and international opinion.

WILSON.

Minister Wilson to the Secretary of State.

[Extract.]

No. 295.]

AMERICAN LEGATION,
Brussels, February 6, 1908.

SIR: I have the honor to confirm my telegram of February 5.

In explanation of the information contained therein I have to report the following events: It appears that the cabinet of Mr. Schollaert made known to His Majesty the King its inability to secure a parliamentary majority for the pending treaty of annexation, and advised him that the pressure of Belgian public opinion (and possibly international opinion) called imperatively for the suppression of the Domain of the Crown—the character and scope of which has been explained in former dispatches—and the unrestricted sovereignty of Belgium throughout every part of the Kongo. It was further submitted to His Majesty that, while public opinion was fixed and irrevocable to that extent, it might be possible to carry through a treaty of annexation which, while safeguarding these views, might at the same time, in recognition of the services and sacrifices of the King, afford financial compensations in the form of a special fund designed to carry on the philanthropic, scientific, and other projects which the King has, or claims to have, in hand for the benefit of Belgium and the Kongo.

The day after Mr. Schollaert handed in to the commission of 17 the following ministerial declaration:

MR. PRESIDENT: The Government has decided to ask the Independent State of the Kongo to open new negotiations on the subject of the transfer of the Kongo to Belgium. It has, therefore, the honor to ask you to suspend your deliberations upon the subject of the treaty which has been submitted to you for some days, in order that it may transmit the additional convention which it expects to conclude.

It will be glad if you will consent to resume, for a while, the examination, in the second reading, of the bill for the government of the colonial possessions of Belgium.

Be good enough, Mr. President, to receive the assurance of my high consideration.

L. SCHOLLAERT.

The treaty of annexation, therefore, which has been pending before Parliament may be considered as having passed out of the realm of debate, and we may expect to enter upon the discussion of an entirely new phase of the Kongo question.

I have, etc.,

HENRY LANE WILSON.

Chargé Carter to the Secretary of State.

No. 545.]

AMERICAN EMBASSY,
London, February 28, 1908.

SIR: Sir Edward Grey sent for me this morning to come to the foreign office, as he wished to add a few explanations to you after the debate of this week in the House of Lords and the House of Commons on the subject of the Kongo, and to define his position more clearly.

He said that it was his purpose now to wait and to do nothing more until the proposals of the Belgian Government were laid before the Belgian Parliament, and it entirely depended upon the nature of these proposals what his future action would be. If they were unsatisfactory in their nature and not in accordance with the views of His Majesty's Government, which were practically the same as ours, he would consider it necessary to make further representations to the Belgian Government on the basis of the reports of our consuls in the Kongo, and this he hoped would be a joint representation of both our Governments, and to that end he would duly inform you of the line he proposed to take, so that the representations in question might be identical.

He said he welcomed the fact of our working together in this matter, and that the amount of good we were able to do in the Kongo was vastly increased and far greater than their isolated action would be—our action being disinterested was open to no suspicion in any quarter—and that he was prepared to go with us as far as we would wish.

I have, etc.,

JOHN RIDGELY CARTER.

Minister Wilson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Brussels, March 6, 1908.

By treaty of annexation just laid before Parliament, the domain of the Crown is suppressed and all of its holdings in Europe and Africa are transferred to Belgium. Control of Kongo budget placed in the hands of Belgian Parliament. A special fund of \$9,000,000 is to be applied to completing projects of the King already inaugurated, and in token of national gratitude a special fund of \$10,000,000, payable in fifteen annual installments, is placed at the disposal of the King to carry out future projects.

Treaty of annexation will probably be adopted after consideration by committee.

WILSON.

Minister Wilson to the Secretary of State.

No. 306.]

AMERICAN LEGATION,
Brussels, March 9, 1908.

SIR: I have the honor to transmit herewith three copies of Document No. 129 of the House of Representatives, which contains the bill approving the additional act for the annexation of the Independent State of the Kongo to Belgium.

The "exposé des motifs" (statement of ministry), the project of law, the additional act of annexation, and the royal decree suppressing the Foundation of the Crown have been translated, and the translations are inclosed herewith.

The five annexes, supplemental to the treaty, and which are in the nature of exhibits, it has not been deemed necessary to translate, as

the information contained in them is obvious in the French text, and portions of them can be of little value to the department.

I have, etc.,

HENRY LANE WILSON.

[Inclosure 1.—Translation.]

Bill approving the additional act to the treaty of annexation of the Independent State of the Kongo to Belgium.

“EXPOSÉ DES MOTIFS.”

[Statement of ministry.]

GENTLEMEN: On the 14th of January, 1908, when we presented ourselves for the first time to you, we had the honor, in the declaration which we then made, of noting that the tenor of the treaty of annexation of the Kongo by Belgium had given rise to some apprehensions, and we announced our desire to meet objections which we judged well founded by the introduction of certain modifications.

Negotiations were thereupon opened with the Independent State of the Kongo. These had for their object the elimination of the civil personality of the foundation of the Crown, the granting of the property of said foundation by its founder to the private domain of the State, and finally the conclusion of an additional convention between Belgium and the Kongo State determining the obligations which, in the future, should rest upon the mother country and the colony.

We had the assurance of meeting your views in asking that the obligations created by the foundation of the Crown, in which Belgium is equally interested, should be placed to her charge. We desired also to know the works, the execution of which was in contemplation, with an approximate estimate of their cost.

On the 4th of February the negotiations had taken so favorable a turn that we were able to request the Commission of Seventeen to adjourn its work until such time as we would be able to transmit to it the additional convention, the conclusion of which was assured.

The pourparlers were continued, and on the 24th of February we addressed to the Sovereign King the following letter:

“SIR: At the moment when the Chambers are about to vote upon the treaty of annexation of the Kongo to Belgium we have the honor to make known very respectfully to Your Majesty, after having rendered homage to the high and patriotic views which have governed you in establishing the foundation of the Crown, that these views are not generally understood.

“We advise Your Majesty to consent to eliminate from said foundation the civil personality and, by a new act of munificence, to order that the property which has hitherto belonged to the foundation should be transferred to the private domain of our future colony, which will thereby hold the foundation absolved and free of all obligation.

“If it is agreeable to the King to accede to our request, it follows naturally that the obligations and the engagements of the foundation will be respected.

“The country would hold it an honor, we are sure, to assume the payment of all sums owed by the foundation and to meet the engagements contracted by it in which Belgium is especially interested.

“An additional act to the treaty of November 28, 1907, should show in a precise manner the obligations which from this transaction will fall upon the mother country. The same act should indicate clearly the obligations which will fall upon the Kongo.

“According to our views the sums at present due, for which Belgium should be recognized as responsible, should be immediately liquidated. Likewise, in carrying out the works in process of construction and those under contract, Belgium should take the place of the foundation. A special fund should be created, of which the sum total should be irrevocably appropriated to the payment of these works; these payments should be placed under the control of the court of accounts.

"On the other hand, the budget of the colony should be looked to to support the past and future expenses made on its account, and also the cost of that part of the liquidation of the foundation of the Crown in which it is interested.

"Finally, a capital of 50,000,000 francs, payable in 15 installments, of which the first should be 3,800,000 francs, and each of the other 14 3,300,000 francs, should be established, in token of gratitude to Your Majesty, by the Kongo.

"The disposition of this capital shall be directed by the King during his lifetime, or by his successors afterwards, to Kongo objects and to different works in favor of the Kongo, whether for the profit and well-being of the natives or to the advantage of the whites who have rendered good service in Africa."

The Sovereign King acceded to our request and issued, under date of March 5, a decree abolishing the civil personality of the foundation of the Crown and transferring to the private domain of the State all of the possessions in Africa, reserving only the two blocks of land of 20,000 hectares in the Mayumbe where experiments in the culture of rubber are being made, and the possessions in Europe enumerated in Annex I of the additional convention; but for a part of these mentioned in the annex the revenue is retained.

These possessions are already destined to the State to meet the debt of 12,000,000 francs which the foundation of the Crown yet owes it.

The charges incumbent on the foundation and which ought to be assumed by the State are in this manner considerably reduced; the annexes set forth all those which still exist.

Finally a fund of 50,000,000 francs is created. Said fund is assigned to the Sovereign in testimony of gratitude for all the great sacrifices which he has made in favor of the Kongo.

It will be paid to him in 15 annual installments, the first of 3,800,000 francs and the others of 3,300,000 francs each. This fund will be entirely consecrated by the Sovereign in carrying out his plans relative to the Kongo and in works in favor of the colony, such as the construction of hospitals, schools for the instruction and the education of negroes, the expenses of scientific missions, the establishing of institutions for the prevention and cure of sleeping sickness, the aid of missions, and of works in favor of the whites who have rendered good service in Africa.

Following this decree we concluded with the Kongo State an additional convention, the purpose of which was to determine in a precise manner the rights and the obligations of the mother country and of the colony whenever the treaty of annexation shall have been adopted.

The possessions of the foundation situated in Europe and set forth in the annexes are transferred to Belgium, but she must assume responsibility for the sums due in Europe from the foundation. These sums amount to 1,118,000 francs.

Belgium assumes the rights and obligations of the foundation in contracts for works in process or projected; the same are enumerated in the annexes.

The initiation of no new works is required. The only works to be continued are those of Laeken, the roads of Meysse, of the Heysel and Ostend, and the rearrangement of the Hotel Belle-Vue.

These will be carried out as usual under the direction of the State and the payments will be made under control of the court of accounts.

The total cost of these works is estimated at 45,000,000 francs.

Belgium will have, on the other hand, to face in the future the annuities yet due for the Rue Coudenberg purchases, which amount yet to 595,454 francs.

The Chamber will appreciate the importance of the concessions obtained. A just homage of respectful gratitude is due to the founder of the Kongo State. He has renounced his personal views to assist Belgium in reaping the benefit of the work to which he has devoted so many years.

The bill of annexation, which is at present submitted to you, takes account of the objections which have been raised.

We are carrying on here a national work. From the beginning we have appealed to the good will of all to momentarily forget the differences and the divisions of parties.

We have the firm confidence that you will understand the appeal, and that a patriotic accord will be established among us to solve the important question which is submitted to you.

[Inclosure 2.—Translation.]

Project of law.

LEOPOLD, KING OF THE BELGIANS.

To whom it may concern, greeting:

Upon the advice of our council of ministers, we have decreed and decree:
Our ministers of (enumeration of ministers).

ARTICLE UNIQUE. The additional act hereto annexed to the treaty of annexation of November 28, 1907, between Belgium and the Independent State of the Kongo, is approved and signed the 5th of March, 1908.

Given at Brussels, March 5, 1908.

LEOPOLD.

(Enumeration of ministerial attestations.)

[Inclosure 3.—Translation of inclosure No. 1.]

Additional act to the treaty of annexation of the Independent State of the Kongo to Belgium.

Between Belgium, represented by ————, acting under reserve of approval by the legislature, and the Independent State of the Kongo, represented by ————, the following is agreed upon:

ARTICLE 1.

The first article of the treaty of annexation of the 28th of November, 1907, does not apply to the foundation of the Crown as defined in No. IV of Annex A of the treaty; the provisions embodied in the document joined to the Annex A under numbers 23, 24, 25, 27, 29, and 31 are abrogated.

ARTICLE 2.

No. IV of Annex A to the treaty relative to the reservation of properties in favor of the foundation of the Crown is abrogated.

The properties which have hitherto been held under the name of foundation of the Crown will, in case of the adoption of the treaty, be ceded to the private domain of the State, conformably to a decree of March 5, 1908, hereto annexed, without putting into force the clause stipulated for their purchase in article 7 of the convention of December 22, 1906.

This cession is encumbered with the charges indicated in the annexes of the aforesaid decree of March 5, 1908.

ARTICLE 3.

Moreover, that which follows has been agreed upon:

The Belgian State assumes the payment of all sums due by the foundation of the Crown, when such obligations have been undertaken in the interest of Belgium, as set forth in Annex III of the present convention.

The obligations enumerated in Annex II will fall upon the colony.

The sums at present due, either by Belgium or the colony, will be immediately liquidated.

ARTICLE 4.

The Belgian State will take the place of the Foundation of the Crown as to the rights and all the obligations assumed by it for the conclusion of works now pending in Belgium and for those enterprises which may have been contracted for. These different works are enumerated in Annex V.

A special fund of 45,000,000 francs is created and shall be directed to the payment of these works under the supervision of the court of accounts.

There is established, moreover, a special fund of 50,000,000 francs to be met by the colony. This fund will be placed at the disposition of the King, in token of gratitude for his great sacrifices in favor of the Kongo, created by him.

This will be paid to him in 15 annual installments, the first of 3,800,000 francs and each of the 14 others of 3,300,000 francs.

This fund will be employed by the King for Kongo affairs and different works in favor of the Kongo, or the improvement of the welfare of the natives and for the advantage of the whites who have rendered good service in Africa, and whatsoever part shall not have been expended at his decease will be at the disposition of his successors.

ARTICLE 5.

The revenues and the expenses pertaining to the Foundation of the Crown will, in case of annexation, pass to the account of the State on March 15, 1908. In witness of which the respective plenipotentiaries have signed the present act and affixed their seals.

Made in duplicate in Brussels the 5th day of March, 1908.

[Inclosure 4.—Translation.]

Decree suppressing the foundation of the Crown.

LEOPOLD II, KING OF THE BELGIANS.

Sovereign of the Independent State of the Kongo.

To whom it may concern, greeting:

Referring to our decrees relative to the foundation of the Crown and particularly to those of March 9, 1896, December 23, 1901, December 21, 1906, and June 21, 1907, and especially to article 7 of decree of December 23, 1901, which is as follows:

“If the present foundation should cease to exist, or if the clauses and conditions arranging for the utilization of the property with which it has been endowed shall not be respected, this property will revert in full right and be returned to the founder or will be applied to the liquidation of the obligations owed by it to institutions, juridical persons, or to public Kongolese and other establishments which the founder may designate.”

Upon the advice of our secretary of state, we have decreed and decree:

ARTICLE 1.

From this date, the juridical person of the foundation of the Crown having ceased to exist, in conformity with article 4 of the treaty of November 28, 1907, Belgium will assume the right of sovereignty over the territories of the Kongo. The property with which we have endowed it will revert to us.

ARTICLE 2.

On the date fixed in the preceding article the property hereinafter enumerated will be, through the present decree and in consideration of the additional act of March 5, 1908, ceded by us to the State:

1. All the vacant lands in the basin of Lake Leopold II and of the River Lukenie.

2. All the vacant lands in the basin of the River Busira-Momboyo.

3. All the vacant lands comprised in the following limits: From the west, the line of convergence of the Lubefu with the Sankuru, then from this point to the upper line of the basin of the Lukenie; to the southwest and to the south, the right bank of the Lubefu and the fifth parallel south; to the east, the upper western line of the waters of the Lomani, between the latter parallel and the third parallel south.

4. The mining district of the Aruwimi Basin, of that drained by the tributaries on the left of the Uele-Kibali, excepting lands previously conceded.

The blocks of land of 20,000 hectares each in the lower Kongo (Mayumbe), of which mention is made in the decree of May 5, 1906, are not included in the present cession.

ARTICLE 3.

The immovable properties enumerated in Annex I, paragraph 1, are on the same date ceded by us to the State, the usufruct being reserved to us.

The improvements and immovable properties enumerated in the same annex, paragraph 2, are ceded without conditions.

The improvements and immovable properties enumerated in paragraph 3 are not included in the present cession.

ARTICLE 4.

The assets of the Foundation, including the following stock, is also ceded:

One thousand shares of capital stock fully paid up, 1,000 shares of dividends, and 580 shares of capital stock paid up to 40 per cent of the International Forestry and Mining Society of Kongo.

One hundred and eighty shares, each of 1,000 francs, paid up to 10 per cent, of the Society for the Development of the Territories in the Basin of Lake Leopold II.

ARTICLE 5.

All the buildings and installations existing in the territories above mentioned, as well as the material, the products, and the furniture, are also ceded to the State.

ARTICLE 6.

The cession of property above mentioned is encumbered with the charges indicated in Annex II.

ARTICLE 7.

The expenses already made or to be made by the Foundation for the profit of the State and the contracts indicated in Annex III will be met by the State.

The State will guarantee the respect of the concessions made by the Foundation, as set forth in Annex IV, to third parties.

ARTICLE 8.

The property referred to in articles 2, 3, 4, and 5, ceded to the State in conformity with article 1, will be definitely acquired, notwithstanding any legal provisions to the contrary, and by virtue of this cession the Foundation is discharged from all obligations to the State.

ARTICLE 9.

Our secretary of state is charged with the execution of the present decree.
Given at Brussels, March 5, 1908.

(Signed) LEOPOLD.

Minister Wilson to the Secretary of State.

No. 308.]

AMERICAN LEGATION,
Brussels, March 10, 1908.

SIR: Referring to my No. 306, with which are transmitted copies and translations of the amended treaty of annexation of the Kongo, the "exposé des motifs" of the ministry, and the royal decree suppressing the Foundation of the Crown, I have the honor to advise the department that the results secured through the conclusion of this convention would appear to be such as should satisfy international opinion and allay the opposition which existed in Belgium to the project of annexation as conceived by the original treaty.

The celebration of this treaty and its subsequent ratification by the Belgian Parliament will assure two definite and important results, which stand out clearly in the foreground.

First, the Domain or Foundation of the Crown—which is only another name for the régime implanted by the King in the Kongo, which, it is alleged, is responsible for the conditions which have pro-

voked international protest and action—is suppressed, and the Sovereign's autocratic rule of these regions, through a system of secret bureaucracy, is ended.

Second, the Government of the Kongo, through a responsible ministry with parliamentary control of the budget, in accordance with a colonial law framed under the pressure of an active and vigilant Belgian, as well as international opinion, should make it certain that these regions, with the native population and vast natural resources, will be ruled and administered in harmony with the beneficent prescriptions of the Berlin and Brussels acts.

Assuming that the treaty of annexation will be approved by Parliament, the first of these objects has been attained, and from the constitution of the committee of seventeen, and the evident temper of the dominant majority in Parliament—which has doubtless been quickened in its conscience by the influence of public opinion in America and England—the second will not be long delayed.

It does not appear to me that the terms upon which Belgium acquires the Kongo are of great importance from an international standpoint.

These are considerations which it would appear have to do only with Belgian interests. Our interest in the Kongo question being purely humanitarian in character, we have been concerned only in the abolition of the régime which is held to be responsible for conditions repugnant to civilization and to the humanitarian spirit of this age, and in the substitution therefor of constitutional government to be interpreted and executed in a spirit of benevolence and humanity.

There was some dissatisfaction with the treaty when it was first laid before Parliament, owing to the apparent intention to give the King absolute control of the expenditure of the \$10,000,000 voted to him in recognition of his work in the Kongo.

This objection, however, was met by a declaration of the prime minister that each annual installment of this sum was to be approved upon by Parliament, in accordance with the Belgian constitution.

I am of the opinion that the treaty, as now submitted, will receive a substantial majority in Parliament, and that future consideration of the Kongo question will relate to the character of the colonial law.

I have, etc.,

HENRY LANE WILSON.

The Secretary of State to Minister Wilson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 19, 1908.

Ambassador Reid telegraphs 18th British foreign office will soon give memorandum to minister in Belgium urging upon Belgian Government caution against taking over property from King under any guaranty of concessions which might be contrary to rights of the treaty powers and to make no calculations on revenues that can only be derived from forced labor. Will have their minister communicate on these points with you and hopes for concerted action. Brit-

ish Government will publish facts concerning forced labor in parliamentary document.

You will telegraph fully whatever overtures or proposals your British colleague may make to you. The instructions you have already received amply define our position, which, as you have already been told, is not in all respects identical with that of Great Britain because resting on other treaties than hers.

Root.

Consul General Smith to the Acting Secretary of State.

No. 21.]

AMERICAN CONSULATE GENERAL,
Boma, March 21, 1908.

SIR: I have the honor to inclose herewith a report on the political conditions of the upper Ituri district.

In reference to this report, and for your further information, I beg to say the upper Ituri district is comprised within the region situated to the northeast of Stanleyville and west of Lake Albert in the basin of the Ituri and Aruwimi Rivers.

In this region, which is exploited directly by the State, the Fondation de la Couronne has reserved to itself the rich mining district in the basin of the Aruwimi, where are located the gold mines of Kilo. Other mines are located at Panga in the same district, the gold being mostly alluvial. Exportations of gold from here in 1906 amounted to about \$165,000, all of which would be for the account of the Fondation de la Couronne; or, in other words, for the King.

I have the honor to call your particular attention to the conditions brought about by the excessive rubber tax imposed on the unfortunate natives in this district. The similarity between these conditions and those existing in the region visited by myself are worthy of note. It is no uncommon thing for the rubber gatherers to be eaten by leopards, which abound in many regions of the State, and I well recall the case of a native who had been thus eaten and whose remains—what was left of them—were brought to the State post at Yambata while I was there. The so-called police expeditions mentioned in the report are nothing more than armed raids for nonpayment of rubber taxes and for the purpose of securing laborers to work on the railroad from Kindu south to Portes d'Enfer.

I would further call your attention to that part of the report regarding the working of the Kilo mines by forced labor. This system is plainly contrary to the law, which provides (decree 3d June, 1906) for the recruitment of workmen for works decreed as being of public utility. I fail to see how the development of a gold mine for the personal benefit of the King can properly be called a work of public utility. The protest of the State's attorney, however, as is noted in the report, did not meet with the approval of the higher authorities at Boma, and the practical enslavement of the native continues.

In forwarding this report I have the honor to say that the information given therein was communicated confidentially to the _____ consul general here, and by him in the same manner to me. Our informant, _____, expects to return to the Kongo at the expiration of his leave, and the information he gives is not, therefore, for publication, but solely for your information. _____ is

described as a serious, intelligent, and well-balanced man, and his information, consequently, worthy of full faith and confidence.

I have, etc.,

JAS. A. SMITH, *Consul General.*

[Inclosure.]

Information on Political Conditions in the Upper Ituri District.

The territory to the north of the line Medje, Nepoko, Kilo, as far as Uele River, has never been subdued. It is inhabited by the belligerent tribes of the Medje, Mokudu, and Bafuasoma, who have never paid, nor do now, taxes to the State. This territory, however, has never been placed under the "régime militaire" (martial law), but, in accordance with the terms of the decree of June 3, 1906, so-called police expeditions are constantly being made into the district by the authorities. These expeditions, in some of which _____ was present, are conducted with the greatest energy; entire villages are burned and the few prisoners taken are chained together by the neck and sent to forced labor on the railroad now building south from Kindu to Portes d'Enfer.

The rest of the region comprised in the upper Ituri district, and which formerly paid taxes in rubber to the State, has revolted, the natives refusing to gather any more rubber. The tax on rubber has been a collective one, the villages furnishing a given quantity monthly, based upon the number of inhabitants.

The remuneration granted by the State to the natives for the rubber delivered is 25 centimes (5 cents) per kilogram and paid in Turkish fez. During all the time of his stay in this district _____ saw no other merchandise distributed among the natives and the State posts had no other class of goods.

To furnish the monthly rubber tax imposed by the State the natives in this district are obliged to work the entire month. They are frequently obliged to go a distance of 15 days' march from their villages to find it. No time remains for the native to attend to the cultivation of his garden.

The revolt is a pacific one, being limited to a refusal on the part of the natives to gather rubber. Some of the natives interrogated by _____ as to their reason for refusing to pay their taxes replied as follows:

"To pay the monthly impost we must go into the forest and work almost the entire month. Leaving for the forest with 50 men, we return with only 25 or 30; the others die of hunger or are eaten by leopards. Our women must bring us our food; no one remains to work our gardens. Upon our return we are at once obliged to leave again for the forest. Therefore, to die of hunger working or die from a shot from an Albin is the same. Let the soldiers come and kill us, but we will no longer gather rubber."

Profiting by the terms of the decree of June 3, 1906, this region has been declared to be under the "régime militaire," which is renewed every three months by proclamation. This condition, of which no information has up to the present been allowed to escape, has lasted for nearly a year. Justice is in the hands of the military authorities and the region thus left without any control. The Mambutu (pygmies), a most warlike people, patrol the region seeking to create an armed uprising of the other natives, but with little or no success. Besides being most impressive, said _____, this peaceful revolt is truly pitiful. It is a people living continually in a state of slavery, not daring to rise in arms, but, tired of suffering, preferring death rather than life without hope.

In the upper Ituri the work of paddling is not forced and the canoe crews are volunteers. Portage to Arakubi is done freely by the population; in the other localities it is forced on the people by requisitioning the necessary men from the villages. During the march, arriving at the end of the day's journey, the porters are imprisoned within a stockade with a sentinel at the gate to prevent flight. These porters are paid at the rate of 20 centimes a day, with 5 centimes added for rations; total 25 centimes (5 cents); so that at the end of a day's work twelve porters, to whom would be due 3 francs (60 cents), are given a "doti" (2 fathoms) of white cotton cloth.

The gold mines of Kilo are worked by forced labor. The State, profiting by small revolts, secures the laborers in the Manyema district to the south, and transports them chained together by the neck to Kilo. They are paid, it is true, one "doti" (2 fathoms) of cloth per month, besides food, but every liberty is denied them and they can not abandon their work.

The substitut procureur (assistant state's attorney), de Lichterwalde, arriving at Kilo at the end of 1906, received the protest of all the laborers because they had no contract as the law provides and were kept at forced labor. Mr. de Lichterwalde complained to the district commissioner that this system was contrary to law, and informed him that if, within three months, the condition of the laborers was not bettered, he would proceed against him in the courts. From Boma, however, arrived an order to the procureur to suspend all action regarding the work at Kilo. Mr. de Lichterwalde left shortly afterwards for Europe on leave and has not returned. To-day the condition of the laborers at Kilo is the same as in 1906.

JAS. A. SMITH, *Consul General.*

BOMA, *March 19, 1908.*

The British Ambassador to the Secretary of State.

No. 65.]

BRITISH EMBASSY,
Washington, March 23, 1908.

SIR: I duly forwarded to His Majesty's Government the copy of the report on conditions in the Kongo State by the American consul general at Boma kindly supplied by the United States Government in response to the request of this embassy.

I am now directed by His Majesty's Government to inform you that they are very sensible of the advantages attaching to the co-operation of the United States Government in their efforts to bring about a more satisfactory state of affairs in the Kongo, and I am to add an expression of their cordial thanks for the communication of Mr. Smith's report and the consent given to the publication of extracts from it in the papers to be submitted to Parliament.

I have, etc.,

JAMES BRYCE.

Minister Wilson to the Secretary of State.

No. 312.]

AMERICAN LEGATION,
Brussels, March 25, 1908.

SIR: I have the honor to report that the Belgian premier, Mr. Schollaert, in response to an interrogatory submitted in the committee of seventeen by Mr. Hymans, leader of the Left, has made public the following statements:

The French Government has declared to us that it is prepared to confirm the agreement entered into between France and Belgium on February 5, 1895, on the subject of the right of preemption (préférence) over the Kongo possessions. Signatures of this new agreement will be exchanged simultaneously with the settling of the Shiloango question and that of the tariffs between France and the Kongo Free State.

The Government also added, in the way of explanation, that the questions of the delimitation on the frontier on the Shiloango and that of the fixed tariff of the Kongo Railway have been under negotiation between the French Government and the Kongo Government, and that these negotiations would be continued by the Belgian Government.

I have, etc.,

HENRY LANE WILSON.

Minister Wilson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Brussels, March 26, 1908.

The colonial law, carrying with it Kongo annexation bill, adopted by practically unanimous vote of committee of seventeen. The bill is now before the house.

Parliamentary control is assured and provisions safeguarding welfare of native races in harmony with Berlin and Brussels acts are included.

The bill will be adopted.

WILSON.

Minister Wilson to the Secretary of State.

No. 316.]

AMERICAN LEGATION,
Brussels, March 26, 1908.

SIR: Referring to the department's cablegram of March 19, I have the honor to report that until this time the British legation at Brussels has received no instructions of the kind referred to therein.

Should the British minister submit any propositions for a concerted action to me, I will immediately cable them fully.

I have, etc.,

HENRY LANE WILSON

Minister Wilson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Brussels, March 30, 1908.

The instructions to the British minister referred to in the department's cablegram March 19 have been received here and copy has been furnished me. The instructions do not seem to contemplate concerted action, but express a hope that we will give support.

The instructions bear upon three important points: First, relief of natives from excessive taxation; second, the grant to natives of sufficient lands to insure sustenance and sufficient produce to enable them to buy and sell as in other European colonies; third, the right of traders of all nationalities to acquire plots of land for factories and trading posts. The accompanying argument expresses apprehensions relative to the possibility of fully executing the provisions of Berlin and Brussels acts in the concessions, the integrity of which is stipulated in the treaty of annexation. To prevent future abuses it is suggested that a staple currency be established; that natives should not be compelled by direct or indirect means to render labor without remuneration; that large increases be made in land allotments to natives. Incidentally, assurance is requested that British missionaries, settlers, and merchants will be able in future to acquire plots of land in reasonable quantities in any part of the Kongo Free State.

I am forwarding copy of the instructions by open mail.

WILSON.

Chargé Carter to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, March 31, 1908.

I am sending by fast steamer to-day a copy of Sir Edward Grey's instruction to British minister at Brussels, dated 27th instant,¹ in which he explains British Government's view of the treaty obligations of the Kongo Free State; also what, in their opinion, is required to bring the administration of that State into harmony with these obligations.

British minister at Brussels is directed to communicate this instruction to Belgian minister for foreign affairs, after consultation with Wilson.

CARTER.

Chargé Carter to the Secretary of State.

No. 567.]

AMERICAN EMBASSY,
London, March 31, 1908.

SIR: I have the honor to inclose herewith a copy of a note which I have received from the foreign office, of this date, together with a copy of the dispatch from Sir Edward Grey to the British minister at Brussels, to which it refers.¹

It will be observed that Sir Edward Grey states in his note that the memorandum referred to in his instruction to His Majesty's minister at Brussels is not yet complete, but that a copy will be communicated to me as soon as it is ready. In the meanwhile, Sir Arthur Hardinge has been directed to take action on the dispatch without waiting for the memorandum.

I have, etc.,

JOHN RIDGELY CARTER.

Minister Wilson to the Secretary of State.

No. 318.]

AMERICAN LEGATION,
Brussels, March 31, 1908.

SIR: I have the honor to transmit herewith the copy of the instructions of the British Government to its minister here¹ referred to in my telegram of March 30.

This copy was handed to me in duplicate on the evening of the 29th, and at the same time Sir Arthur Hardinge informed me that he intended to leave a copy with the Belgian minister for foreign affairs not later than Tuesday, the 31st.

A concerted action under these circumstances was of course impossible, but if the department considers that there is legitimate cause for further expression of our views an independent representation can be placed in the hands of the Belgian foreign office before the closure of the discussion.

¹ See British print "Africa," No. 3, 1905, cd. 4135.

The department will observe that, while the underlying note of the instructions bears upon the execution of the humanitarian prescriptions of the Berlin and Brussels acts, British commercial interests are not overlooked.

Perhaps I should call the attention of the department to a fact which is not alluded to in the instructions to Sir Arthur Hardinge, viz, that in some of the most important concessions (see annex to treaty) a majority of the stock will be held by the Belgian Government.

I regret that I am unable at this time to furnish the department with a copy of the colonial law as reported by the committee of seventeen. Official copies are yet not available, though it may be possible to obtain them this week.

I have, etc.,

HENRY LANE WILSON.

The Secretary of State to Minister Wilson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 1, 1908.

Your telegram of 30th. Your recital of instructions received by your British colleague suggests that they are in the line of the desire and expectation of the United States that the conditions of the Kongo annexation shall be such as to benefit the natives, relieve them from onerous burdens, increase the commercial and residential privileges of foreigners, and generally carry out the stipulations of existing treaties to which the United States is a party. You may independently and coincidentally express our views in the same sense as Great Britain does.

ELIHU ROOT.

Minister Wilson to the Secretary of State.

No. 319.]

AMERICAN LEGATION,
Brussels, April 1, 1908.

SIR: I have the honor to transmit herewith the following correspondence exchanged between this legation and the Kongo foreign office relative to the right of American Christian missionaries to purchase or lease lands in the Kongo State territories for missionary or school sites:

1. Copy of my note of March 16, sent after the receipt of the department's cablegram of March 12.
2. Copy of reply thereto, dated March 18.
3. Translation of No. 2.
4. Copy of my reply to No. 2.

I also transmit (inclosure 5) a copy of the simultaneous note addressed to the Kongo foreign office by the British minister upon the same date with my inclosure No. 1, and a copy of the reply thereto (inclosure No. 6).

The British minister has not yet made his reply to Mr. de Cuvelier's note of March 28, but if I am furnished a copy later it will be transmitted to the department.

The department will note that the language of the correspondence exchanged between this legation and the Kongo foreign office is decidedly vigorous and emphatic, but I believed it necessary to let it be known that we felt a just indignation over the disposition of the Kongo government to evade or postpone the performance of its treaty obligations upon pleas of a frivolous character, and to say in a direct and forcible manner that we can not tolerate the suspension or evasion of the execution of treaty stipulations upon pretexts invented by bureaucratic jurists.

I have, etc.,

HENRY LANE WILSON.

[Inclosure 1.]

Minister Wilson to the Chevalier de Cuvelier, Secretary General of the Kongo, March 16, 1908.

MR. SECRETARY GENERAL: I duly transmitted to Washington your esteemed note of February 7, and am just in receipt of an expression of my Government's views thereon.

My Government was not aware, until its attention was called by the correspondence between your department and this legation, that the right of any class of American Christian missionaries to purchase lands for missionary sites and schools in the Belgian Kongo had ever been questioned, denied, or limited, and it regrets that such clear and definite rights, secured by solemn treaties, must be made the subject of diplomatic correspondence.

The rights of American Christian missionaries are fully set forth and described in the language of articles 2 and 4 of our treaty of amity, commerce, and navigation of 1891, and the guaranties therein contained can not be abrogated, suspended, or delayed.

While I am sensible that our rights, under the existing treaties, will be fully recognized by Belgium, and while I appreciate in some measure the difficulties of affording a satisfactory solution at this period of transition, when the Kongo government is possibly on the eve of being transferred to another power, I must nevertheless beg you to be good enough to give me the formal assurance that in the event the annexation bill now pending before Parliament shall fail of adoption during the present session the consideration and settlement of this question will not be further postponed.

I will be greatly pleased, Mr. Secretary General, to have a reply to this note at as early a date as convenient.

I avail myself, etc.,

HENRY LANE WILSON.

[Inclosure 2.—Translation.]

Chevalier de Cuvelier to Minister Wilson.

MR. MINISTER: By your letter of March 16, replying to my letter of February 7, your excellency has kindly requested to be clearly informed relative to the intentions of the Government of the Kongo in the matter of the sale of lands belonging to the State, in the event that the treaty of annexation at present pending before the Belgian Parliament should not be adopted during the present session.

I have the honor to advise your excellency that if events should occur as you anticipate the Government of the Independent State of the Kongo would consider that the circumstances to which I referred in my letter of February 7 would be modified, and it would naturally have to examine the measures to be taken that the decrees of June 3, 1906, providing for the sale or lease of lands belonging to the State should be executed without delay.

Your excellency will permit me to add that the diplomatic correspondence which I had the honor to exchange with the legation of the United States has

never put in question, nor contested or limited, the rights of American citizens in the Independent State of the Kongo, as stipulated by the treaty of January 24, 1891, and particularly by articles 2 and 4, and that the Government of the Kongo State does not intend to evade any of its international obligations, either in their tenor or bearing.

I avail, etc.,

CHR. DE CUVELIER.

[Inclosure 3.]

Minister Wilson to the Secretary General of the Independent State of the Kongo, March 31, 1908.

MR. SECRETARY GENERAL: I have the honor to acknowledge the receipt of your esteemed letter of March 28, No. 784-2068, and note with pleasure the declaration contained therein that in the event of the failure of the Kongo annexation bill now pending before Parliament to receive legislative approval, the Government of the Independent State of the Kongo will immediately address itself to the execution of the decrees providing for the sale or lease of lands belonging to the State.

I must add, however, Mr. Secretary General, that the interpretation placed by you upon the correspondence of this legation with the Independent State of the Kongo seems to me at variance with the facts. In no correspondence which I have had the honor to exchange with you has it been either stated or intimated that the Kongo foreign office had placed in question treaty rights of American citizens guaranteed by the convention of 1891.

I may, however, be permitted to call your attention to the fact that the convention of 1891 has now been in force for more than 16 years, and yet there is undisputed evidence that the agents of the Kongo Government have refused—and still continue to refuse—to sell or lease lands to American missionaries for mission or school sites.

As the State is practically the exclusive proprietor of Kongo lands, the refusal of its agents to sell or lease the same to a class of persons specifically mentioned in articles 2 and 4 of the convention constitutes in itself a virtual abrogation of the stipulations therein contained.

My Government is not seeking special privileges at the hands of the Kongo Government. It is simply asking for the performance of treaty obligations without reservations or delays.

I avail myself, etc.,

HENRY LANE WILSON.

[Inclosure 4.]

The British Minister to the Independent State of the Kongo.

BRUSSELS, March 16, 1908.

MONSIEUR LE CHEVALIER: I duly transmitted to His Majesty's secretary of state for foreign affairs the note which you did me the honor to address to me on the 21st ultimo respecting sites for British Christian missions in the Independent Kongo State, and I reported to him the verbal exchange of views which had taken place between us on this question.

Sir Edward Grey has approved of the stress laid by me on the rights to the acquisition of landed property in the Kongo State guaranteed by it to British subjects under article 2 of the convention of 1884 between Great Britain and the International Association of the Kongo; but in view of the considerations set forth by you he has merely instructed me to require from the Kongo Government a formal assurance that if the annexation bill now before the Belgian Parliament is not passed before the close of its session in May next that Government will without further delay sell to the British missionary societies concerned sites in or near the localities which they have indicated.

I should be grateful, Monsieur le Chevalier, for a reply at your earliest convenience to this note, to which I have the honor to annex a translation, and I avail myself of this opportunity to renew to you the assurance of my high consideration,

A. H. HARDINGE.

[Inclosure 5.—Translation.]

Independent State of the Kongo to the British Minister.

BRUSSELS, March 28, 1908.

MR. MINISTER: I have the honor to acknowledge the receipt of the letter which your excellency has been good enough to address me relative to the intentions of the Government of the Independent State of the Kongo in the matter of the sale or lease of domain lands in the event that the annexation bill, at present pending before the Belgian Parliament, should not be adopted before the close of its session in the month of May next.

During our former interviews, when your excellency referred to the postponement of annexation, I answered spontaneously that, in case the event should occur in that way, the Kongo Government, finding the present situation altered, would naturally have to examine the measures to be taken that the decrees of June 3, 1906, providing for the sale or lease of domain lands, should be executed without new delay.

I ought, Mr. Minister, to make reserves upon the interpretation given in your letter to the treaty of 1884 between Great Britain and the Kongo International Association, that article 2, in stipulating for British subjects "the right of residence and establishment" in the territories of the association, as also the right to buy and lease lands, edifices, mines, and forests, does not impose upon the State the obligation of selling to private persons whatsoever lands they may find it convenient to select.

I have, etc.,

CHEV. DE CUVELIER.

[For further British-Belgian correspondence on this subject, see "Africa," No. 2, 1908, ed. 4079.]

Minister Wilson to the Secretary of State.

No. 321.]

AMERICAN LEGATION,
Brussels, April 3, 1908.

SIR: I have the honor to transmit herewith three copies in the French text of the colonial law as reported by the committee of seventeen to Parliament.

These copies reached me at the moment of closing this pouch, and I thought it better to forward them without the delay which would result from a translation being made here.

It must be borne in mind that this is a simple committee report and it may be largely modified in the discussion in Parliament, which begins on the 7th of this month.

A translation of the colonial law when adopted by Parliament will be forwarded to the department.¹

I have, etc.,

HENRY LANE WILSON.

Minister Wilson to the Secretary of State.

No. 322.]

AMERICAN LEGATION,
Brussels, April 7, 1908.

SIR: I have the honor to report that, in compliance with the instructions contained in the department's cablegram of April 1, I to-day called at the foreign office and left with M. Davignon a memorandum (copy inclosed) somewhat upon the lines of the British instructions, but differing in some important particulars.

¹ Not printed.

I have called attention to the objects to which, in the opinion of our Government, reforms should be directed, but have carefully avoided the suggestion of the *modus operandi* for carrying these reforms into execution.

In delivering the memorandum to M. Davignon I said to him that it was not to be understood as a new expression of our views, but rather as an ampler and clearer statement of those which I had the honor to verbally make known to him upon the occasion of the interview which he had accorded me in company with the British minister.

I have, etc.,

HENRY LANE WILSON.

[Inclosure.]

Memorandum.

The nota pro memoria, re the attitude of Belgium in the event of the annexation of the Kongo, handed this legation on January 29 by His Excellency M. Davignon, was duly transmitted to Washington, and the assurances therein contained of the earnest purpose of the Belgian Government, in the event that the government and administration of the Kongo should be transferred to it, to fully carry out the stipulations and beneficent prescriptions of the acts of Berlin and Brussels, were noted with lively satisfaction.

In the entirely amicable and unofficial representation preceding, and which gave occasion to the note pro memoria, it was not the intention of the Government of the United States to in any way call into question the high and disinterested purposes which, it is satisfied, govern Belgium in the consideration of the question of the annexation of the Kongo territories. On the contrary, the Government of the United States, finding that much is left to be desired in the present administration of the Kongo from the standpoint of the acts of Brussels and Berlin, gladly welcomes annexation, and is firmly convinced that the assumption of the government of these regions by Belgium will be followed by improvement in the condition of the native races, by the development and civilization of the country, and by the liberation of trade and commerce from harmful restrictions.

The Government of the United States, however, feels that as a signatory to the Brussels act it has assumed certain well-defined obligations, which may not be lightly evaded and which at this moment of transition, when the government of the Kongo territories is about to be transferred from one power to another, make imperative a clear, though brief, expression of its views.

The dissatisfaction with the present administration of the Kongo has grown very largely out of its policy toward the native races—a policy which was doubtless not intentionally cruel nor purposely at variance with the acts of Brussels and Berlin, but which, in the opinion of competent investigators, is enslaving, degrading, and decimating the native population. It may be admitted that there has been much exaggeration of the true condition of affairs and that many charges have been refuted, but the fact nevertheless remains that conditions prevail which were neither contemplated nor anticipated when the Independent Kongo State was called into existence by the powers.

The Government of the United States believes that whatsoever power assumes dominion over the Kongo should address itself with reasonable dispatch to carrying into practical execution, in letter and in spirit, the prescriptions of the Brussels and Berlin acts.

In the opinion of the Government of the United States the reforms to be accomplished in the Kongo should have for their object:

1. The exemption of the native population from excessive taxation.
2. The inhibition of forced labor.
3. The possibility of the natives becoming holders, in permanent tenancy, of tracts of land sufficiently large to afford sustenance.
4. To make it possible for traders and settlers of all nationalities to secure unoccupied tracts of land, needed for the prosecution and development of peaceful commerce, at reasonable prices, in any part of the Kongo.

5. The procurement and guaranty of equal and exact justice to all inhabitants of the Kongo through the establishment and maintenance of an independent judiciary.

In calling attention to what, in its opinion, should be the objects of reform in the Kongo, the Government of the United States may be permitted to add, on its own account, that, relying on the stipulations of articles 2 and 4 of the treaty of 1891, it would be especially pleased to see the right accorded to American Christian missionaries to secure reasonable sized tracts of land, when not occupied by the State, in permanent holding, to be used for missionary sites and schools.

The Government of the United States confines itself in this memorandum to pointing out the direction in which, in its judgment, radical reforms and changes are needed. It does not believe that it is incumbent upon it to indicate or suggest to the Belgian Government the modus operandi for carrying these reforms into execution, well knowing the difficulties that must be surmounted and being fully cognizant of the unselfish purposes of the annexing power. Its representations are conceived and made in an entirely friendly spirit and it is hoped that they will receive that measure of consideration from the Belgian Government to which they are entitled by their disinterestedness and by the long and traditional friendship which has existed between the two countries.

The British Ambassador to the Secretary of State.

No. 75.]

BRITISH EMBASSY,
Washington, April 7, 1908.

SIR: I have received a telegram from Sir E. Grey, instructing me to inform you of the line of policy which he proposes to adopt toward the Belgian Government with reference to the Kongo question.

He states that it is his intention to request the Belgian Government to issue a declaration to the effect that, if the Kongo Free State is taken over by Belgium, their first object will be to put an end to the forced-labor system which has been so fully described in reports sent home by British and United States representatives in the Kongo State.

The Belgium Government have, continues Sir E. Grey, informed His Majesty's Government that they recognize the obligations imposed by the Berlin act. But they have not yet stated whether or not they consider the commercial monopolies established under actual concessions and the general commercial policy adopted by the existing government of the Kongo as inconsistent with the provisions of that act respecting freedom of trade.

Sir Edward Grey proposes, therefore, to ask that if any differences of opinion should arise in respect of commercial as distinct from humanitarian questions the Belgian Government should agree to refer such differences to arbitration.

In explaining the above to you, I am desired to express the hope that if the views of the United States Government prove to be similar to those above outlined they may see their way to supporting the line proposed to be adopted by Sir E. Grey, and that in that event instructions may be telegraphed to the United States minister at Brussels accordingly.

I have, etc.,

JAMES BRYCE.

Minister Wilson to the Secretary of State.

No. 323.]

AMERICAN LEGATION,
Brussels, April 8, 1908.

SIR: I have the honor to transmit herewith three copies of the proposed Kongo annexation bill¹ which has just been reported to the Belgian Parliament by the committee of seventeen. I also transmit three copies of the proposed bill for the government of the Belgian colonial possessions reported by the same committee.

I have the honor, etc.,

HENRY LANE WILSON.

The Secretary of State to the British Ambassador.

No. 287.]

DEPARTMENT OF STATE,
Washington, April 8, 1908.

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 75 of the 7th instant and to thank you for the information therein contained regarding the line of policy which Sir Edward Grey proposes to adopt toward the Belgian Government with reference to the Kongo question.

You inform the department that it is Sir Edward Grey's intention to request the Belgian Government to issue a declaration to the effect that, if the Independent State of the Kongo is taken over by Belgium, their first object will be to put an end to the forced-labor system which has been so fully described in reports sent by United States and British representatives in the Kongo State.

It appears from the information you have received from Sir Edward Grey that the Belgian Government have informed His Majesty's Government that they recognize the obligations imposed by the Berlin act, but that they have not yet stated whether or not they consider the commercial monopolies established under actual concessions and the general commercial policy adopted by the existing government of the Kongo as inconsistent with the provisions of that act respecting freedom of trade.

You add that Sir Edward Grey proposes therefore to ask that if any difference of opinion should arise in respect of commercial as distinct from humanitarian questions the Belgian Government should agree to refer such differences to arbitration.

In response to these views, which you are so good as to make known to the department, I have the honor to state that the department has this day instructed by telegraph the American minister at Brussels to join in representations in the same sense as those proposed to be made by Sir Edward Grey.

I have the honor, etc.,

ELIHU ROOT.

Minister Wilson to the Secretary of State.

[Telegram.]

BRUSSELS, April 8, 1908.

Memorandum in the sense of department's telegram of April 1 with minister for foreign affairs of Belgium yesterday.

WILSON.

The Secretary of State to Minister Wilson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 8, 1908.

Referring to and confirming my telegram of the 1st instant, the British ambassador has furnished me with a full statement of the views of the British Government regarding the reform measures necessary to insure good administration in the Kongo and its doubts whether the commercial monopolies established under actual concessions and the general commercial policy of the existing Kongo Government are consistent with the provisions of the Berlin act. Great Britain proposes to ask that if differences of opinion should arise in respect of commercial as distinct from humanitarian questions the Belgian Government should agree to refer such differences to arbitration. These views are doubtless in the possession of your British colleague. Inasmuch as the treaties to which the United States is party stipulate for commercial and residential privileges, we can expect no less favorable treatment than any other power, and should endeavor and assist to bring about equal and just privilege for all. You will in conference with the British minister and in your representations to the Belgian Government support the line proposed to be adopted by the British minister for foreign affairs.

Roor.

*Consul General Smith to the Assistant Secretary of State.*AMERICAN CONSULATE GENERAL,
Boma, April 9, 1908.

SIR: I have the honor to send you herewith a report in duplicate on the land legislation in the Kongo in its relation to the commercial policy of the State.

In the report which I had the honor to send you on November 20 last I referred to the Government of the Kongo Free State as being essentially a commercial organization and not, in the true sense of the term, an administrative one. The conditions existing in that part of the country which I visited all went to prove the truth of the conclusion reached. The extent to which the State has succeeded in its efforts to create for itself a vast monopoly of all the natural resources of the territory placed under its control by the signatory powers to the Berlin act, and without regard for the material well-being of the natives or the rights of other powers to carry on a free and unrestricted commerce with the inhabitants of such territory, can perhaps best be appreciated by an explanation of the manner in which the entire country is at present divided among a few large concessionary or proprietary companies, in which the State holds in most cases a direct interest or is exploited en régie by the State itself, and a brief review of the principal decrees which have brought about the conditions as they exist at present, conditions which I do not hesitate to say are essentially opposed to every intelligent conception of what a humane and civilizing administration of a colony peopled by a subject race should aim at creating. As has been well said by my colleague, Mr. Armstrong, the British vice consul at Leopoldville, in a report to his

Government on the result of his observations in the Lake Leopold II district:

I saw nothing which led me to view the occupation of this country in the light of an administration. The undertakings of the Government are solely commercial, with a sufficient administrative power to insure the safety of its personnel and the success of its enterprise. The natives have no time or opportunity to raise or to discuss questions which in normal conditions require the presence and careful consideration of administrators, and therefore the State appears to treat them as negligible quantities.

I have, etc.,

JAS. A. SMITH,
Consul General.

[Inclosure.]

Land Legislation in the Kongo and Its Relation to the Commercial Policy of the Administration.

The history of the legislation in reference to the lands comprised within the territory of the State dates back to 1885. On the 1st of July of that year an ordinance issued by the administrator general declared that no one had the right without title to occupy the vacant lands, nor to dispossess the natives of the land occupied by them; the vacant lands were considered as belonging to the State. This ordinance was followed by the royal decrees of September 14, 1886, which declared that the territory occupied by the natives, under the authority of their chiefs, would continue to be governed in accordance with local usages and customs, and by that of June 8, 1888, establishing the rights of the natives to continue to exploit for their own benefit the mines situated upon land occupied by them. Although the text of the above ordinance and decrees did not define what was to be considered as vacant land, nor that occupied by the natives, a liberal interpretation appears to have been given the provisions contained therein, with the result that the natives suffered practically no curtailment of their rights over their lands and the products thereof. Capital was attracted to the country and Europeans were allowed to take possession of unoccupied lands without previous authorization, becoming full proprietors of the same to the extent of 10 hectares (25 acres) by the small payment of approximately \$20. The policy of the State at that period seemed to aim at the encouragement of free and unrestricted trade with the natives; it limited the extent of land sold or leased to individuals or companies in such manner that competition would result and the native derive a material benefit therefrom.

In 1891, however, the State decided to exploit its own territory—that is, the vacant lands which it had declared in 1885 were the property of the State. A royal decree of the 21st of September of that year, which was not made public, charged the commissioners of certain districts to take urgent and necessary measures to “conserver à la disposition de l’État” the products of its domain, notably rubber and ivory. This decree would doubtless have been valueless to the State from a pecuniary standpoint without its inevitable consequence—the forced labor of the native to gather the products of the territory. The almost immediate result was the issuance of three circulars by the commissioners of certain districts, as follows: That of the commissioner of the district of Ubangi-Uele (Bangala, 15th December, 1891), which forbade the natives to hunt the elephant unless the ivory was brought to the State; that of the commissioner of the Equator district (Basankusu, 8th May, 1892), prohibiting the natives from gathering rubber unless they delivered the same to the State; and finally that of the commander of an expedition to the upper Ubangi River (Yakusu, 14th February, 1892), forbidding the natives to sell or divert to their own profit any part of the ivory or rubber, products of the domain. This circular further provided that any trader who bought of the natives these products, of which the State only authorized the gathering on condition that they were delivered to itself, would render himself liable as a receiver of stolen goods and be denounced as such before the judicial authorities. No sooner did these circulars appear than the trading companies already established in the Kongo protested against this flagrant violation of the Berlin act, the State responding by invoking the principle of its proprietorship over the vacant lands and its

absolute right to dispose of the products of its own domain as it saw fit. In substance, this contention is the main line of defense put forward by the State to-day as a justification of its commercial policy. The result, however, of the protest of the trading companies was the withdrawal of the circulars and the issuance of the decree of October 30, 1892, which practically divided the State into three grand zones. In the first the State reserved to itself the exclusive right to exploit the rubber. By the decree of December 5, 1892, it was declared that this portion was to constitute the *Domaine Privé* of the State and be exploited *en régie*. In reality it formed only a part of the *Domaine Privé*. The ordinance of July 1, 1885, already alluded to, having declared that all the vacant lands were to be considered as belonging to the State, the portion thus set aside for exclusive exploitation can properly be described as the "*Domaine Privé stricto sensu*." This is the definition given by Prof. Cattier, professor of the University at Brussels, in his work "*Droit et Administration de l'État Indépendant du Congo*." To avoid confusion, and understand the manner in which the territory of the State is at present partitioned, it is necessary to have this definition in mind.

Another portion, the immense territory formed by the basins of the Kongo-Lualaba and upper Lomami Rivers, was provisionally reserved, but a part was later absorbed into the "*domaine privé stricto sensu*" and remains closed to private traders and the balance conceded to the *comité de Katanga*. In the third zone, comprising the balance of the vacant lands, the gathering of rubber by private parties was authorized. Apparently this provision opened up a large section of the territory in which private parties could everywhere trade freely with the natives in the products of the soil. By the terms of the decree, however, the authorization to exploit rubber was subjected to the rights already acquired by third parties, or which might be acquired by them in future through purchase or lease of the domainal lands, provision being made that those who thus acquired lands should be granted the right to exploit rubber within a maximum radius of 30 kilometers around their establishments. On the face of it this provision was designed to encourage the founding of numerous trading houses with limited areas of land at their disposal for exploitation. In reality, and as events have proved, it was but a mere artifice which did more credit to the business foresight of the Sovereign than to honesty of purpose. No mention was made in the decree of concessions, and, in an official circular issued under date of December 5, 1898, the governor general was careful to impress upon those interested the distinction necessary to make between the rights of exploitation on purchased or leased lands and those on lands granted in concession. Thus, on the former these rights extended over a maximum of 30 kilometers only, but on the latter they were limited only by the boundaries of such concession, the area of which might be fixed as best suited the purposes of the State. In the section thus set aside for exploitation by private parties was included, notably, the immense Kasai district and the territory to the east of it known as the Kwango district, together with a large part of what is now the *domaine de la Couronne*. This *domaine*, which was established later on (1896), reduced the free-trade zone very materially, in that the exploitation of rubber and ivory in the whole of its immense territory is reserved exclusively for the benefit of the Crown. In the Kasai district a number of trading houses (14 in all) acquired small parcels of land and commenced trading with the natives, under, however, a veiled system of coercion which it is unnecessary to detail here. In any case the result was a competition which, although beneficial to the native, did not correspond evidently to the royal intention to monopolize to the fullest extent the trade in every product of commercial value. For this reason the State provoked the consolidation of the various trading houses and organized the well-known Kasai Co., in which it retains a half interest, with exclusive rights of exploitation of the rubber, ivory, etc., in the immense territory comprised within the Kasai and in portions of the Lake Leopold II district. Other immense monopolistic concessions, always with the State receiving a large interest in the enterprise, were granted.

At the present time the entire territory of the State may be, for the sake of a clear understanding of the existing situation, divided into six sections: (1) *Domaine public*, (2) *domaine privé*, (3) *domaine national*, (4) *domaine de la Couronne*, (5) land acquired by nonnatives (individuals, trading companies, and missions), (6) lands occupied by natives.

1. The *domaine public* comprises the navigable waterways and their banks to a depth of 10 meters (33 feet) from high-water mark, highways, railways,

property affected to the public service, fortresses, etc. No part of this domaine is subject to private ownership.

2. The domaine privé included at the beginning all of the territory within the boundaries of the State. The State at various times has alienated or conceded large areas of its territories to proprietary or concessionary companies for their exclusive exploitation of the products of the soil, and, notably, to the Fondation de la Couronne. In June, 1906, a royal decree provided that all the mines not already conceded and all the lands administered en régie (domaine privé stricto sensu) should constitute the domaine national. The domaine privé at present includes, therefore, only the vacant lands not exploited en régie or which have not been alienated or conceded.

3. The domaine national, in accordance with the June, 1906, decree, comprises all the mines and all the lands exploited en régie and all the mines not already given in concession.

4. The domain de la Couronne is an immense section of territory alienated from the former domaine privé. It is the property of the Fondation de la Couronne.

5. Lands acquired by nonnatives are those which have been at one time or another detached from the domaine privé and sold, rented, or conceded by the State to individuals, companies, or missionary societies.

6. Lands occupied by the natives comprise only those actually occupied by their villages, or are under cultivation or exploited by them. A decree of June 3, 1906, provided that these lands should be delimited and an area three times the extent of same be granted to the natives for the extension of their cultures. They can not, however, be disposed of to third parties without the express authorization of the governor general. As a matter of fact, the boundaries have, in rare cases only, been fixed, the delimitation, according to the best authorities, having been made of only about 150 villages in all. To the native, therefore, simply remains the right to occupy the land in his village and to cultivate his surrounding gardens. All the rest of the land, and the products of any commercial value thereof, belong to the State, the Fondation de la Couronne, and the proprietary or concessionary companies.

On the map annexed to this report the various divisions of the territory are very clearly shown. It is, I am assured, as accurate as any similar map which, in the absence of precise delimitations of river basins, etc., can at present be prepared. I have outlined in blue pencil the district in which the Fondation de la Couronne has reserved the exclusive mining privileges.

As has been stated, the domaine privé comprises at present only the lands not exploited by the State, or which have not in one way or another been alienated. These, according to the best authorities, comprise only an infinitesimal portion of the territory of the State. In a recent conversation which Mr. Armstrong, the British vice consul at Leopoldville, had with Dr. Briart, the director of the Société Anonyme Belge (S. A. B.), the latter illustrated by means of a map how much of the Kongo was given over to concessionary companies or formed part of the domaine national exploited by the State, and from this illustration the only part of the country accessible to private individuals was a small strip of country along the north bank of the Kongo River, between, roughly speaking, Nouvelle Anvers and Stanley Falls. Dr. Briart, who has been in the Kongo some 12 or 15 years, then described how he had been driven out of various parts of the Kongo by the Government, where he had been, in most cases, the first to attempt to trade. He was the first trader to visit the Lake Leopold II country, where he carried on operations for some time—Ubangi, Stanley Falls, Kasai, etc.; and having been ordered to leave each of these districts manu militari, he was eventually allotted the Busira and Juapa Rivers, where he is still working. I may mention here that the S. A. B. Co., of which Dr. Briart is director, is part proprietor of the section of territory marked No. 1 on the map. This land was granted outright, and I believe very properly, to the builders of the railroad from Matadi to Leopoldville in return for their enterprise in the construction of the road. Here, at least, the State could not invoke its right to the products of the soil and order off the people who desired to purchase them from the natives.

I have attempted in the foregoing to explain as clearly as possible the system of land legislation in its relation to the State's commercial policy from the foundation of the State up to the present time. The subject is a somewhat difficult and complicated one, but the decrees cited are, I believe, the most important and those upon which the land régime of the State is based to-day. The principal points to which I would call your special attention are as follows: The

intimate connection between the land legislation and the commercial policy of the State. In a successful attempt to effectually monopolize every product of commercial value, the interpretation given to the decree of July 1, 1885, regarding vacant and occupied lands has resulted in depriving the native of every right to the products of the soil outside of his own village, and under the thin guise of taxation he is forced to deliver these products to the State. Incidentally, it may be said here that even the product of his manioc garden (his daily bread) does not really belong to him. He must furnish it as a tax whenever and wherever the State demands it. (See my report of November 20 regarding kwanga tax at various places.) It seems an absurd proposition to deprive an individual of everything of any value which he possesses and then heavily tax him on what has been taken from him, and yet this is what actually occurs in the Kongo. It is called a tax in labor; in effect it amounts to the enslavement of the greater part of the entire population, male and female. With practically the entire territory of the State given over to concessionary or proprietary companies for exclusive exploitation, the *domaine de la Couronne* and the *domaine national* exploited by the State itself, it is clear that under present conditions no opportunity remains for any independent business house to carry on a trade with the natives in the only products of commercial value which the country produces, viz, rubber and ivory. The rights granted to concessionary companies to exploit huge sections of the country mean simply the right to exploit the native. Until such time as the latter is granted the privilege, and without being forced, to freely dispose of the products of the soil to whom and under such conditions as he pleases, no such thing as free trade can exist in the Kongo. This is, I firmly believe, the crucial point in the whole commercial situation. I may add that this privilege must necessarily be accompanied by the right of prospective commercial houses to acquire sufficient land for the establishment of trading centers, stores, warehouses, etc. The privilege of acquiring lands for such purposes has been persistently and systematically refused by the State for many years, evidently because—it being impossible to trace the exact place of origin of the rubber or ivory—the State fears its exclusive monopoly, and that of the concessionary companies in which it is interested, might suffer.

I recently addressed to the governor general here a letter in which I asked a series of questions with the object of ascertaining if it would be possible for an American company to establish itself in various districts of the State for the purpose of carrying on a trade direct with the natives in rubber and ivory, and, if so, if the State would sell sufficient land to permit of the erection of warehouses, stores, etc., in order to enable it to do so. The governor's reply was a vague one, in which he carefully avoided a direct answer to my questions, citing a lot of decrees, etc., with which I was already familiar. In effect, he told me nothing I did not know before. As regards the purchase of land he simply refers me to the decree of June 3, 1906, "*Terres domaniales—Vente et location*," in which it is provided that all sales or leases of land outside the *domaine national* must take place by public auction, a list of such lands placed on sale or for lease to be published annually by the secretary of state at Brussels. No such list has up to the present time been published, and past experience is sufficient to prove that in every case where it has been desired to secure land for commercial purposes the application has been systematically refused.

JAS. A. SMITH, *Consul General*.

BOMA, April 9, 1908.

Ambassador Reid to the Secretary of State.

No. 582.]

AMERICAN EMBASSY,
London, April 16, 1908.

SIR: With reference to Mr. Carter's No. 567 of the 31st ultimo, relating to the annexation of the Kongo by Belgium, which inclosed a copy of a dispatch on that subject from Sir Edward Grey to the British minister at Brussels, in which reference was made to a memorandum which should have accompanied the dispatch, I now have

the honor to inclose¹ herewith a copy of the memorandum in question, which I have received to-day from the foreign office.

I have, etc.,

WHITELOW REID.

Minister Wilson to the Secretary of State.

No. 329.]

AMERICAN LEGATION,
Brussels, April 17, 1908.

SIR: Referring to the department's telegram of April 8, the true reading of which was confirmed in my No. 325, I have the honor to report that on Friday, April 3, the British minister, Sir Arthur Hardinge, informed me that he had been verbally advised of the purpose of his Government to hand in memoranda on the subject of forced labor and the reference to arbitration of purely commercial and economic questions to the Belgian Government, and that he would be glad to know whether we would be inclined to give our support to the proposals therein contained.

I replied that I had just, in compliance with telegraphic instructions received from the department on April 2, handed a memorandum to M. Davignon, which to some extent covered the points contained in the proposed memoranda of the British Government, and that a request for additional instructions, immediately following my telegram reporting the delivery of our memorandum, might possibly lead to confusion.

In order, therefore, that the views of the department might be clearly ascertained, I suggested to Sir Arthur the desirability of having Ambassador Bryce instructed to advise Secretary Root of the purpose to submit the memoranda to the Belgian Government, and at the same time to furnish him with a full statement of the views of the British Government relative to these questions.

Acting upon my suggestion, Sir Arthur immediately sent the telegram to London, which doubtless brought about the visit of Ambassador Bryce to Secretary Root and my subsequent telegraphic instructions of April 8.

Upon receipt of these instructions, I immediately sought an interview with Sir Arthur Hardinge, and informed him that I had been instructed to "support the line proposed to be adopted by the British minister for foreign affairs," and that I would be glad to have his views as to the course which should be adopted.

After some discussion it was agreed that on the Monday following Sir Arthur should have an interview with M. Davignon, and hand in his memoranda, and that the presentation of the memorandum from this legation should follow after an interval of three or four days. It was also agreed that in the course of his interview he would advise M. Davignon of the exchange of views which had taken place between the British Embassy in Washington and the Secretary of State, and would intimate that in all probability a communication in support of the British propositions would be received from this legation.

¹ See Africa No. 3, printed in S. Doc. No. 147, 61st Cong., 1st sess., entitled "Affairs in the Kongo."

In performance of this program Sir Arthur saw M. Davignon on Monday afternoon, and immediately afterwards sent me a note reporting the substance of the interview.

Yesterday (Thursday, 16th) I visited the foreign office and in the absence of M. Davignon, who was in attendance on the discussion of the Kongo annexation bill in Parliament, I delivered the memorandum (which I had prepared and previously submitted to my British colleague) to the Chevalier van der Elst, secretary general of the foreign office, after having first verbally informed him of its contents. A copy of the memorandum is herewith inclosed.

* * * * *

Immediately after this interview I saw Sir Arthur Hardinge, and he advised me of his intention to ask London for immediate instructions relative to the memorandum on the arbitration of commercial and economic questions.

I have, etc.,

HENRY LANE WILSON.

[Inclosure.]

Minister Wilson to the Belgian Minister for Foreign Affairs.

[Memorandum.]

AMERICAN LEGATION,
Brussels, April 16, 1908.

The Government of His Britannic Majesty has recently, through the medium of its ambassador at Washington, advised the American Government of its intention to submit, for the consideration of the Belgian Government, two propositions: First, immediate and effective abolition of forced labor as soon as the Belgian Government shall have annexed and taken administrative control of the Kongo; second, reference to arbitration, where the governments concerned may be unable to agree, of all purely commercial and economic questions arising out of conflicting interpretation of existing treaties.

The Government of His Britannic Majesty, in making known to the Government of Washington its purpose to submit these two propositions to the Government of Belgium, has at the same time begged to be advised of the views of the American Government thereon, and has expressed the hope that if they should meet with its approval and concurrence, a conformable expression might be made to the Government of the King.

After a careful study of the propositions, which are understood to be interdependent and taken conjunctively, the American Government hastens to say that it most cordially and unreservedly approves of proposition No. 1, relative to forced labor.

The views of the American Government with reference to the question of forced labor in the Kongo have been so frequently and clearly expressed to the Belgian Government that recurrence to them at this time may be considered superfluous and unnecessarily insistent. Leaving, therefore, to the British Government the task of presenting the arguments in extenso against the continuance of all forms of slavery or quasi slavery in the Kongo, as well as the suggestion of methods for reforming existing evils, the American Government confines itself to the simple request that the Belgian Government, in the event that it shall annex the Kongo territories, will diligently address itself to the execution of the provisions of the Brussels act relative to the native races, especially directing its attention to the prescriptions of articles 2 and 5.

Relative to proposition No. 2, the reference to arbitration of all purely commercial and economic questions, the American Government limits itself at this time to an expression of the hope that the Belgian Government may see its way clear to frankly and promptly accept a proposition so reasonable and so entirely in accordance with the rapidly growing practice of civilized nations.

The American Government, however, may be permitted to say that, while not directly interested in the administrative details of the government of any one of the several districts embraced in the compact of 1890, it yet confidently relies

upon the rights secured to it by existing treaties of being accorded all the privileges, commercial and otherwise, accorded in the Kongo to other nations.

The American Government, while thus making known its concurrence with and adherence to the propositions submitted to the Belgian Government by the Government of His Britannic Majesty, does not permit itself to doubt that the brief and frank expression of its views will receive the careful attention and consideration of the Government of the King.

Minister Wilson to the Secretary of State.

No. 330.]

AMERICAN LEGATION,
Brussels, April 17, 1908.

SIR: I have the honor to report the opening of the discussion of the Kongo annexation bill in the Belgian Parliament on Wednesday, the 15th instant.

The debate was opened by the premier, Mr. Schollaert, who announced the purpose of the Government to encourage an ample discussion of the whole question of annexation and proposed that the additional act of the treaty, the treaty itself, and the colonial law should be voted upon in the order named, in one sitting, after a conclusion of the debate.

The leaders of the opposition having expressed themselves satisfied with this declaration, Mr. Schollaert continued his argument for annexation. He traced the history of the Kongo from 1878 to the present day, alluding to the results obtained by the sovereign's initiative and by the efforts of Belgian soldiers, explorers, and missionaries; he claimed that the Kongo administration of justice compared favorably with that of the central African possessions of other powers. As to the international aspect of the question, he said:

We are firmly decided to fulfill scrupulously all the obligations which result for us from the conventions, and especially from the treaty of Berlin.

He then proceeded to an exhaustive statement of the value of the territories which it was proposed to annex, comparing them with possessions of other powers in Asia and Africa. He said the Government would take steps to enable private persons of all nationalities to acquire lands for the purpose of trade, and that the prices for which large tracts had already been sold to corporations were calculated to allay apprehensions as to the financial aspects of annexation. Much of what followed was devoted to an enumeration of the social and moral advantages which would result from annexation.

Mr. Davignon, the minister for foreign affairs, followed Mr. Schollaert.

He admitted in the course of his remarks that two powers, Great Britain and the United States, had asked how it was intended to apply the provisions of the Berlin act in the matter of international rights and freedom of trade. He said that it was not possible at this time to recount the character of the negotiations, but that the declarations of the premier clearly indicated the intentions of the Government. Mr. Davignon concluded his speech with the following moderate and dignified statement:

The Government will see to it that the taxation falling upon the natives shall be moderate, and Belgium will pursue the realization of reforms of all kinds. No one can doubt the loyalty of our intentions. We have an ideal

and nothing shall prevent us from realizing it. We shall know how to respond to the wishes of a nation sincerely eager for colonization, and to justify the confidence of Europe. On various occasions the Chamber has announced its intention of maintaining complete independence and liberty in its votes and the Government realizes that this will be done. No one will be able to doubt our honesty or good faith. The loyalty with which we have fulfilled our engagements in the past is the guaranty of what we shall do in the future in regard to the Kongo.

Mr. Woeste, leader of the extreme Right, spoke at some length, commenting severely upon the English and American reform campaign, and affirming his belief that the object of these intrigues was the defeat of the pending annexation bill.

Mr. Destrée, Socialist, made a rather violent speech, urging an unlimited discussion of the pending question, and threatening the Government with obstruction unless a full expression of the views of the different political parties represented in the Chamber was permitted.

The president of the Chamber announced at the close of the day's discussion that, under an agreement of the majority, the Chamber would meet in regular session every afternoon (except holidays) until May 9 for the consideration of the annexation bill; that after the elections, which occur on May 24, Parliament would be called in extraordinary session at a date fixed some time in June; that if at that time all of the members inscribed for the debate had spoken the vote upon the entire question would be taken at one sitting.

This declaration met with the approval of all the political elements in the Chamber, and it may be therefore safely assumed that the final vote on annexation will be had some time in June or July.

I have, etc.,

HENRY LANE WILSON.

Minister Wilson to the Secretary of State.

No. 334.]

AMERICAN LEGATION,
Brussels, April 24, 1908.

SIR: Since my No. 330, of April 17, there has been—on account of the adjournment of Parliament for the Easter holidays—only a single discussion of the Kongo question.

Mr. de Broxqueville (Catholic Right) spoke at length upon the commercial advantages of the Kongo. He referred to the large amount of private capital invested in the country and stated that eighty-five companies were at present engaged in developing the natural resources of the Kongo basin, and affirmed that their rights should be respected. He admitted that the payment of taxes in labor must continue until a circulating medium could be introduced, but said that it should be the aim of Belgium to change these conditions as soon as possible. He said that all the wealth of the colony would not justify the murder of a single man.

Mr. Bertrand (leader of the Socialist antiannexationists) made a vigorous speech accusing Mr. de Broxqueville and other defenders of the present régime of being personally interested in various Kongo companies. He asked, "What has the Kongo State done with its millions?" "What had works of embellishment to do with the

Kongo?" He claimed that the annual deficit would be at least \$3,000,000, and asserted that the stocks and shares belonging to the State, which were valued in December at \$10,500,000, were now worth only \$5,500,000, and that Belgian Government bonds had experienced a heavy fall in consequence of the prospect of annexation.

The Chamber resumed its sittings yesterday, but the debate on the annexation question was unimportant.

I have, etc.,

HENRY LANE WILSON.

The Secretary of State to Minister Wilson.

No. 159.]

DEPARTMENT OF STATE,
Washington, April 29, 1908.

SIR: I have to acknowledge the receipt of your No. 319, of the 1st instant, transmitting official correspondence regarding conditions in the Independent State of the Kongo.

Your course seems to have been in accordance with the department's telegraphic instructions, and is approved. Keeping in touch with the British minister, you will continue to cooperate with him in this matter where the interests of the two Governments are identical, though resting on different treaties. The department will await your further reports.

I am, etc.,

ELIHU ROOT.

The Belgian Legation to the Department of State.

[Memorandum.—Translation.]

BELGIAN LEGATION,
Washington, May 7, 1908.

In the memorandum handed on April 7 last to the minister for foreign affairs by His Excellency Mr. Henry Lane Wilson,¹ the Government of the United States was pleased to express its conviction that Belgium's action in taking over the Kongo is one of noble disinterestedness. The King's Government is particularly sensible of this opinion and is glad to note that the Cabinet of Washington looks with satisfaction to the forthcoming annexation of the Kongo by Belgium.

The Government of the United States holds that, as a signatory to the general act of the Brussels conference, it is bound to express its views concerning the existing condition of things in the Kongo, which, although it has been overdrawn, does not meet the expectations of the powers. It points, in this connection, to a series of reforms having for their object the exemption of the natives from excessive taxation and forced labor, the possibility of their owning such area of land as they may need, the granting to foreigners of the right to secure tracts of land for the development of their commercial undertakings, and, lastly, the establishment of an independent judiciary.

As regards the first three points indicated by the Government of the United States, the King's Government has already had occasion to make its views public. Through the chief of the cabinet and the

¹ See p. 560.

minister for foreign affairs, addressing the Senate and the Chamber of Representatives, it has announced the measures it proposes to take in favor of the natives. Faithfully voicing the sentiments of the nation, which is deeply imbued with the sense of the civilizing and humane rôle it has to fill in the Kongo, it said that until the use of currency, which the natives are beginning to know, can be made more general among them, the State would see that the taxes be moderate and manual labor equitably recompensed; that it would endeavor to introduce improved methods of cultivation throughout the territory, to settle the negroes, who are still in part nomadic, on lands owned by them and on which they can establish a permanent home, and to enlarge their holdings by very broad and liberal land grants. He added that their commercial aptitudes would be developed and that they would be furnished with the means of bringing them into play through manifold relations with those who bring them the blessings of civilization.

As regards the taxation of the natives, the King's Government feels that its rate must be proportioned to the resources of the taxpayers, so as to remain moderate. It also believes that the tax to be demanded in labor of the native unable to pay in money is but a temporary and provisional measure destined to gradual extinction *pari passu* with the introduction of money, which the King's Government is bent upon favoring to the utmost. This comes to saying that forced labor (if tax payment in that form is meant thereby) is intended to last in the Kongo only within the same bounds and under the same conditions of necessity as it exists in foreign colonies.

In any event the principle of personal liberty laid down in the colonial bill excludes any other form of coercion. The natives can not be compelled, directly or indirectly, with or without compensation, to do work for the concessionary societies, or for any other private concern; labor can only be voluntary and for wages freely agreed upon.

The fourth point indicated by the American memorandum, *viz.*, the acquisition by foreign merchants and settlers of vacant tracts of land to enable them to carry on commercial undertakings, comes within the question of freedom of commerce. The Government of the United States, in its memorandum, brings to mind the assurances it had already received concerning the earnest purpose of the King's Government to act in accordance with the stipulations of the acts of Berlin and Brussels. Belgium ever faithfully kept the international engagements it entered into. As prescribed by the act of Berlin, it will bring the broadest economical régime into operation in its future colony; it will foster in the most liberal measure the expansion of trade and industry without discriminating between nationals and foreigners. It will, as declared to the Chamber of Representatives by the head of the cabinet, see that private persons, whatever their nationality, may acquire such lands as they may need in the conduct of their business or profession.

As to the fifth point contemplated in the memorandum, the establishment of an independent judiciary, it has specially engaged the attention of the King's Government while the colonial bill now before the Belgian chambers was in preparation. The independence and stability of judicial offices are formally guaranteed therein. Furthermore, the State of the Kongo even now has a corps of magis-

trates much larger in proportion to its territory than any of the other colonies in the conventional basin, and it does not appear that they may be charged with any professional delinquency.

Finally, the wish expressed by the Government of the United States, as its own account, that it might see the right accorded to American missionaries to secure tracts of land to be used for their missionary sites and schools, will find gratification in the Belgian Government's desire to please a friendly power, as well as in its observance of the advantages the Independent State has granted by treaty to the citizens of the United States.

The King's Government gives evidence of its being true to the traditional friendship which binds Belgium and the United States by laying before the American Government, before annexing the Kongo, this statement of its purposes, to the sincerity of which the memorandum paid a merited homage.

The Secretary of State to Minister Wilson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 9, 1908.

Mr. Wilson's action, reported his 329, meets with approval this Government, both as to memorandum presented to minister for foreign affairs and reply regarding treatment our communications as unofficial prior to decisive vote upon annexation and to become official immediately thereafter.

Root.

Ambassador Reid to the Secretary of State.

No. 640.]

AMERICAN EMBASSY,
London, June 25, 1908.

SIR: With reference to my dispatch No. 626, of the 11th instant, I have the honor to inclose¹ herewith, for your confidential information, a copy of a memorandum handed by Sir Edward Grey to the Belgian minister in London on the subject of the affairs of the Independent State of the Kongo, which I have received from the foreign office to-day.

I have, etc.,

WHITELAW REID.

*Handed to the Acting Secretary of State by the Belgian Minister,
July 24, 1908.*

[Translation.]

On April 16² last the King's Government received, through the United States minister at Brussels, the second memorandum ad-

¹ See "Africa, No. 4," printed in S. Doc. No. 147, 61st Cong., 1st sess.

² See Minister Wilson's dispatch, No. 329, April 17, 1908, p. 568.

dressed to it by the American Government regarding the forthcoming annexation of the Independent State of the Kongo by Belgium. The document had been drawn up by the Cabinet of Washington after an exchange of views with the Government of His Britannic Majesty, which had asked it to support near the Belgian Government two propositions it intended to submit to the last-named Government—the first concerning the abolition of forced labor within the territories of the Kongo after they became Belgian; the second relative to recourse to arbitration for the settlement of the disputes arising from purely commercial questions.

These propositions were to be brought before the Government of the King simultaneously by the two Governments; so the Cabinet of Brussels deemed it preferable to defer its answer until it should have received from the British Government a request similar to that contained in the second American memorandum. This view was made known to Mr. H. Lane Wilson by the minister for foreign affairs as early as the 16th of April, and it was agreed that the second American memorandum would not be made public until after the English memorandum setting forth the same propositions had been received at Brussels. The memorandum was handed to the minister for foreign affairs on June 25.

The Belgian Government now answers the two Governments of the United States and of Great Britain.

In its answer, dated April 24, to the first American memorandum, the King's Government gave very clear explanations touching the question of forced labor, otherwise known as the labor tax. It declared that native labor was to be free and voluntary in the Kongo, and that the principal of personal freedom, laid down in the colonial law, would suffer but one exception, that of the labor tax to be collected from people who were unable to pay it in currency. This mode of taxation is legitimate; no government ever hesitated to demand it in its colonies, but it constitutes a merely temporary and provisional measure, which shall be entirely removed as the natives grow more familiar with the use of currency, which is beginning to spread in certain districts of the Kongo.

It is unfortunately impossible to fix at this time a date for the entire and final suppression of the labor tax in the future colonies. The Government of His Britannic Majesty itself realizes this impossibility, as it intimates in its second memorandum. The civilization which Belgium will unceasingly endeavor to propagate in the regions of Central Africa which are to form its colonial domains will gradually substitute the currency tax for the labor tax, but in the meantime the latter tax shall be collected in a humane and moderate manner.

As regards the general application to the native races of the provisions of articles 2 and 5 of the Brussels act in which the American Government is concerned, the cabinet of Brussels can but repeat as strongly its former declarations. The improvement of physical and moral conditions of the natives engrosses its best attention. It will, as soon as the chambers shall have voted the annexation treaty and the colonial law, take shape in the swifter progress made in the inquiry prescribed by the decree of June 3, 1906, in all villages, with a view to determining the area of land required by the needs of the inhabitants. As a result of this inquiry much more land will be

allotted to the natives for their farming and commerce. The Government will see that the concessionary companies do not transgress the engagements taken by it and respect the freedom of labor as well as the right of the natives freely to dispose of the products of the soil on the land allotted to them.

The second proposition formulated by the Government of the United States relates to the reference to compulsory arbitration of all commercial and economic questions that would occasion a dispute, the settlement of which could not be reached through the ordinary diplomatic channels. The Cabinet at Washington urges the Belgian Government to accept a proposition so entirely in accordance with the rapidly growing practice of civilized nations. This would prove a sufficient reason for the Belgian Government to examine this proposition with the most earnest attention, if it were not equally impelled thereto by its desire to leave no apprehension in regard to the observation of the act of Berlin in its future colony.

The strong inclination of the Government of the King toward recourse to arbitration for the settlement of international disputes is well known; it was notably affirmed through the conclusion with several States of arbitration treaties, which public sentiment in Belgium viewed no less favorably than the Parliament. Yet in spite of its pronounced predilection for this procedure destined to force itself upon peaceful nations as a happy means of bringing their controversies to an end, the cabinet of Brussels finds it very difficult to admit that Belgium alone among the powers holding possessions in the conventional basin of the Kongo should enter upon an engagement as general in its character as that of compulsory recourse to arbitration, while under article 12 of the act of Berlin arbitration remains optional for the other powers signatory to the act.

But the Belgium Government finds no difficulty in declaring that if, after annexation, it were invited to refer to the tribunal of The Hague, as a last resort, a difference arising from a divergence of appreciation in the interpretation of the treaties which bind the States of the Kongo, it would examine the proposition with special benevolence and be inspired by the broad views which guided it in the drafting of the arbitration conventions concluded by Belgium.

It should, however, in such a case give attention to harmonizing the resort to arbitral procedure with the enforcement of article 84 of the act of The Hague conference to which it is a signatory. That article requires the contesting parties, when the question affects the interpretation of a treaty to which other powers are parties, to give timely notice to all the powers that have signed it. Every one of them has the right to become a party to the litigation; if that right be availed of by one or more, the interpretation contained in the sentence is equally obligatory upon them. Now, the Berlin act is such a treaty—a collective treaty. How many objections, how many difficulties, may arise from a different application of the clauses of that treaty in the various territories comprised in the conventional basin of the Kongo? Therefore, in order to avoid any difficulty, it should be understood that recourse to arbitration should be had only when the other powers holding possessions in said basin have agreed to become parties to the litigation or to accept the interpretation given by the arbitral award.

The Government would further be bound to conform to the rules laid down in article 68 of the constitution before it can make use of the arbitration procedure. "Treaties of commerce," reads that article, "and those that may lay a burden upon the State or bind Belgians individually only go into effect after receiving the assent of the chambers." So that the adoption of a compromis referring to arbitration a question of a commercial character or whose settlement should involve the State treasury or the personal interests of Belgian subjects would remain subject to parliamentary approval. To the mind of the King's Government there is a better means than recourse to arbitration as advocated by the United States to bring about the settlement of disputes in the conventional basin of the Kongo; it would be a direct understanding after annexation among all the powers holding territories in that region. It does not conceal its preference for resorting to this method, which would offer the immense advantage of insuring a general observation of the clauses of the Berlin act.

In the closing part of its memorandum the American Government says that, relying upon the rights secured to it by existing treaties, it expects to obtain all the privileges, commercial and otherwise, accorded in the Kongo to other nations. When it annexes the possessions of the Independent State, Belgium will inherit its obligations as well as its rights; it will be able to fulfill all the engagements made with the United States by the declarations of April 22, 1884.¹

Declarations exchanged between the United States of America and the International Association of the Congo.

The International Association of the Congo hereby declares that by Treaties with the legitimate Sovereigns in the basin of the Congo and that of the Niadi-Kialun and in adjacent territories upon the Atlantic there has been ceded to it territory for the use and benefit of Free States established and being established under the care and supervision of the said Association in the said basins and adjacent territories, to which cession the said Free States of right succeed.

That the said International Association has adopted for itself and for the said Free States, as their standard, the flag of the International African Association, being a blue flag with a golden star in the center.

That the said Association and the said States have resolved to levy no custom-house duties upon goods or articles of merchandise imported into their territories or brought by the route which has been constructed around the Congo cat-racts; this they have done with a view to enabling commerce to penetrate into Equatorial Africa.

That they guarantee to foreigners settling in their territories the right to purchase, sell, or lease lands and buildings situated therein; to establish commercial houses, and to carry on trade upon the sole condition that they shall obey the laws. They pledge themselves, moreover, never to grant to the citizens of one nation any advantages without immediately extending the same to the citizens of all other nations, and to do all in their power to prevent the Slave Trade.

In testimony whereof, Henry S. Sanford, duly empowered therefor by the said Association, acting for itself and for the said Free States, has hereunto set his hand and affixed his seal this 22d day of April, 1884, in the city of Washington.

[L. S.]

(Signed) H. S. SANFORD.

Frederick T. Frelinghuysen, Secretary of State, duly empowered therefor by the President of the United States of America and pursuant to the advice and consent of the Senate, heretofore given, acknowledges the receipt of the foregoing notification from the International Association of the Congo, and declares

¹ Reprint from S. Ex. Doc. No. 196, 49th Cong., 1st sess., p. 260.

that, in harmony with the traditional policy of the United States, which enjoins a proper regard for the commercial interests of their citizens, while at the same time avoiding interference with controversies between other Powers as well as alliances with foreign nations, the Government of the United States announces its sympathy with, and approval of, the humane and benevolent purposes of the International Association of the Congo, administering, as it does, the interests of the Free States there established, and will order the officers of the United States, both on land and sea, to recognize the flag of the International African Association as the flag of a friendly Government.

In testimony whereof he has hereunto set his hand and affixed his seal this 22d day of April, A. D. 1884, in the city of Washington.

[L. S.]

(Signed)

FREDERICK T. FRELINGHUYSEN.

The foregoing explanation will prove to the American Government that the expression of its views was received by the cabinet of Brussels with an attention that was as benevolent as it was merited.

Dated July 12, 1908.

Chargé Bliss to the Secretary of State.

No. 381.]

AMERICAN LEGATION,
Brussels, July 16, 1908.

SIR: I have the honor to report that on the 14th instant Chevalier van der Elst, secretary general of the foreign office, read me a dispatch from the Belgian minister for foreign affairs to Baron Moncheur, Belgian minister to the United States, directing him to hand to the Secretary of State the memorandum it transmitted. The said memorandum is an answer to the memorandum presented to the Belgian Government by Mr. Wilson on April 16 last. Chevalier van der Elst handed me a copy of the Belgian memorandum for my information, at the same time advising me that a memorandum had been presented to the British Government the day before.

He added that his Government desired to publish in a second "Grey Book," to be submitted to the Belgian legislative bodies, the American and British memoranda and the Belgian replies thereto, and expressed a desire to have the early consent of the United States to this effect.

For the information of the department, I beg to transmit herewith a copy of the British memorandum of June 23 and also of the Belgian Government's reply (in the French text) thereto.¹

I have the honor, etc.,

ROBT. W. BLISS.

Minister Wilson to the Secretary of State.

No. 393.]

AMERICAN LEGATION,
Brussels, August 21, 1908.

SIR: I have the honor to transmit herewith copy and translation of the colonial law just adopted by the Belgian Chamber of Repre-

sentatives, and which now requires only the approval of the Senate and of the King, in conjunction with the approval of the act of annexation, to make of annexation an accomplished fact.

At the time of the adoption of the colonial law the treaty of annexation was also passed, but as a copy of its provisions, accompanied by translation, is already in the hands of the department, I have not thought it necessary to transmit it with this dispatch.¹

There can be no manner of doubt that the Senate will approve the treaty of annexation and the colonial law in their entirety, and this, I believe, without amendments germane to the character of either instrument. If any changes are made by the Senate they will not affect the general character of the instruments, but will have to do with their form only. There seems to be no doubt that, following the action of the legislative bodies, the approval of His Majesty the King will be promptly forthcoming.

I have the honor, etc.,

HENRY LANE WILSON.

[Inclosure.—Translation.]

BILL PROVIDING FOR THE GOVERNMENT OF THE BELGIAN KONGO.

[Text adopted by the Chamber at the first reading.]

CHAPTER I.—*Concerning the juridical status of the Belgian Kongo.*

ARTICLE 1. The Belgian Kongo has a legal status distinct from that of the mother country. It is governed by separate and distinct laws. The resources and liabilities of Belgium and the colony remain distinct. In consequence the Kongoese interest charges will rest exclusively to the charge of the colony, unless it shall be decided otherwise by law.

CHAPTER II.—*Concerning the rights of Belgians, foreigners, and natives.*

ART. 2. All the inhabitants of the colony will enjoy the rights recognized by article 7, paragraphs 1 and 2; articles 8 to 15, inclusive; article 16, paragraph 1; article 17, paragraph 1; and articles 21, 22, and 24 of the Belgian constitution. The words "the law" mentioned in article 7, paragraphs 2, 8, 9, 10, 11; article 17, paragraph 1; and article 22 of the Belgian constitution are replaced, in whatever relates to the colony, by the words "the special laws or decrees."

The language which shall be employed is optional. It will be regulated by special laws or decrees in such a way as to guarantee the rights of Belgians and Kongoese and so regulated only for official acts and juridical business.

The Belgians will enjoy in the Kongo in these matters guaranties similar to those which are assured them in Belgium. Special laws or decrees will be promulgated to this effect at a date not less than five years following the promulgation of the present law.

All the decrees and regulations having a general character shall be drawn and published in the French and Flemish languages. The two texts are official.

Belgians and Kongoese registered in the colony and foreigners shall enjoy all the civil rights conceded by the legislation of the Belgian Kongo. Their personal status is regulated by their national law, provided that these are not contrary to public order.

Natives of the Belgian Kongo not registered enjoy the civil rights which are conceded them by the colonial legislation and by their customs, provided these are not contrary either to law or public order. Natives of neighboring countries not registered shall enjoy similar rights.

No person can be constrained to work for the account or profit of commercial societies or private persons.

¹ See Foreign Relations, 1907, p. 810.

The laws will determine as soon as possible the status of the natives, their real rights and individual liberty.

ART. 3. The governor general will guard the preservation of the native population, the improvement of their moral and material conditions. He shall favor the expansion of individual liberty, the gradual abandonment of polygamy, and the development of individual holdings. He shall protect and favor, without distinction of nationality or religion, all the religious, scientific, or charitable institutions and enterprises created and organized for the purpose or aim of instructing the natives and bringing them to a comprehension and appreciation of the advantages of civilization.

Christian missionaries, scholars, explorers, their escorts, belongings, and collections shall be the object of a special protection.

ART. 4. There shall be established a permanent commission of seven members charged with the responsibility of watching over all the territory of the colony, with the protection of the natives, and with the betterment of their moral and material condition.

The commission shall be under the presidency of the procureur general. The other members shall be named by the King from among those persons residing in the territory of the colony who by the nature of their functions appear specially qualified to carry out the protective character of their mission. The commission will appoint one of its members as secretary.

It will meet at least once each year; its president will convoke it.

The commission will address each year to the King a joint report relative to the measures taken in favor of the natives. This report shall be published.

The members of the commission shall report, if necessary individually, to the officers of the law the abuses and illegalities of which the natives may have been made the victims.

CHAPTER III.—*Relative to the exercise of powers.*

ART. 5. The King will regulate by means of decrees those matters which are not or which shall not be regulated by the law. The decrees shall be issued upon the initiative of the minister of colonies. No decree shall have force except after having been published according to the forms prescribed by the law. It should, moreover, have been published in the *Moniteur Belge*.

The courts and the tribunals shall not put the decrees into force whenever they shall be found contrary to the laws.

ART. 6. The executive power shall be lodged in the King. It shall be exercised by means of regulations and proclamations. The courts and the tribunals shall not put the regulations and proclamations into force except when they are in conformity with the laws and decrees.

No regulation or proclamation shall be considered in force except after having been published.

ART. 7. No royal act shall have effect except when countersigned by a minister, who thereby renders himself responsible.

The expenses charged to the special fund of 50,000,000 francs, which amount is granted to the King and to his successors by article 4, paragraphs 3 and 4, of the additional act of March 5, 1908, shall likewise be subjected to this formality.

The annuities specified by the aforesaid additional act are assigned by the King in the proportions which he shall indicate to the objects enumerated in paragraph 5 of article 4.

ART. 8. No customs tax, no domestic tax shall be levied except for the needs of the colony, nor shall any exemption from taxation be granted to persons not born on the soil, except by legislative act.

The governor and the functionaries or agents thereto authorized can grant to the natives temporary exemption from taxation.

The decree will go into force at the same time with the budget law which sanctions its first application.

The numerical force of the army shall be fixed annually by decree.

ART. 9. The circulating medium of gold and silver which have a legal tender in Belgium shall also have legal tender in the colonies.

A royal proclamation shall fix the date on which the gold and silver money coined by the Independent State of the Kongo shall cease to be legal tender and will not be exchanged further by the colonial treasury.

The profits which may result from the coinage of Belgian money necessary to the colony shall accrue to the colonial budget.

It is lawful for the King to coin special money of small denomination for the colony; this money shall not circulate in Belgium.

ART. 10. The budget of receipts and expenses of the colony shall be fixed each year by the law.

Four months at least before the opening of the fiscal year the proposed budget shall be printed and distributed to the members of the legislative chambers by the minister of colonies.

If the chambers have not voted the budget five days before the opening of the fiscal year, the King shall proclaim the receipts, and every three months thereafter until there shall be a decision of the chambers there will be offered at the ministry of colonies the credit obligations necessary for temporary expenses.

The King, or within the colony the governor general, shall direct the appropriation and, in case of urgent need, the supplementary necessary expenses. Within the three months the minister of colonies will transmit a copy of the royal proclamation or ordinance to the chambers and submit a bill of approval.

ART. 11. The accounts general of the colony shall be proclaimed by law after verification by the court of accounts.

The court of accounts will require the ministry of colonies to deliver to it all statements, written accounts, and to give all the information and explanations necessary to the verification of the receipts and expenditures.

The account general of the colony shall be transmitted to the chambers with the comments of the court of accounts.

ART. 12. The colony has no power to make loans, to guarantee the capital or the interest of a loan, or to execute public works except by appropriations duly authorized by law.

Nevertheless, if the necessities of the colonial treasury demand it, the King may, without previous authorization, issue or renew treasury bonds bearing interest and payable within five years. The treasury bonds in circulation shall not exceed the sum of 10,000,000 francs, and the money resulting from their sale shall be appropriated only to the discharge of public expenses regularly voted.

ART. 13. A special law will determine the rules regulating railway and mining concessions or concessions of domanial property.

With every railway or mining concession, every sale or concession for any time whatsoever of domanial property of a superficial area exceeding 10 hectares, there shall be issued a consent or authority by decree.

With all the documentary proofs, during 30 days of session, there shall be deposited with the bureaus of the two chambers all proposed decrees relating to—

(a) Railway, mines, mining, or alluvial gold concessions.

(b) Sale of domanial improved property of a superficial area exceeding 10,000 hectares.

(c) Concession of the use of domanial improved property if their superficial area exceeds 25,000 hectares or when the concession is granted for more than 30 years.

To determine the maximum of superficial area referred to in paragraphs 2 and 3, notice shall be taken of sales or concessions of domanial property where the purchaser or concessioner may have enjoyed a prior profit.

All acts of concession will include a clause providing for repurchase and will mention the cause of the forfeiture.

Every concession shall be temporary.

ART. 14. The civil judiciary and the military judiciary shall be organized by decree.

The public prosecutors shall exercise their functions under the direction of the ministry of colonies, represented in the colony by the procureur general of the court of appeals.

ART. 15. The permanent magistrates shall be nominated by the King. After a period, which shall not exceed 3 years, they shall be renominated for a term of 10 years.

The right of dismissing the procureur general of the court of appeals appertains to the King. He may not, however, either dismiss or suspend the other permanent magistrates, except upon the representation of the procureur general for reasons set forth in the decree and in conformity with the advice of the court of appeals.

At the expiration of their terms of office the magistrates will be entitled to a pension. They may, however, be granted a pension prior to the expiration of

the 10-year term, either upon their request, when they shall have rendered 8 years of service in the colony, including the period of preparation, or where they are prevented by reasons of physical incapacity to efficiently discharge their duties. In the latter case the pension shall not be established except upon the advice and agreement of the supreme court of the colony.

The permanent magistrates definitely in discharge of their functions can not be removed without their consent, except in cases of urgent need and for a temporary period. In all cases of removal they shall receive a salary at least equivalent to that which pertained to the office vacated.

The salaries, leaves of absence, and pensions shall be fixed by decree.

ART. 16. The administrative authority shall not hinder, delay, or suspend the procedure of the courts and tribunals.

Nevertheless the King may, for reasons relating to the public welfare, suspend, in any one district and for a fixed time, repressive action of the courts and civil tribunals and substitute for them military control.

ART. 17. Justice shall be rendered and executed in the name of the King.

The sessions of the courts shall be held in public, unless it shall be evident that such publicity may be dangerous to public order and morals, and in such case the court will render its decision by judgment.

All judgments shall be for reasons, and they shall be delivered in public sessions.

The King shall have the right of remitting, of reducing, and commuting the penalties.

ART. 18. The King shall be represented in the colony by a governor general, assisted by one or more vice governors general.

No one shall be admissible to the functions of governor general unless he shall be a Belgian by birth or by naturalization, or when he has exercised one of these offices in the territories of the Independent State of the Kongo.

ART. 19. The executive power can not delegate the exercise of its rights except to persons and to constituted bodies below it in authority. Nevertheless the power and rights delegated by the Independent State of the Kongo to the special committee of Katanga will continue in force until January 1, 1912, unless a decree shall terminate it at a prior date.

The governor general of the colony shall exercise by means of ordinances the executive power which the King has delegated to him.

The delegation of the legislative power is prohibited. Nevertheless, the King may authorize the governor general, in cases of urgent necessity, to temporarily suspend the execution of decrees and to issue ordinances having the force of law. The ordinances of this character shall cease to be binding after the expiration of six months, if they shall not in the meantime have been approved by decree.

The ordinances having the force of law and the general ordinances of administration shall not be binding unless they have been published.

No action shall be taken against the press, except in conformity with the laws and decrees governing such cases.

CHAPTER IV.—*Relating to the Minister of Colonies and the Colonial Council.*

ART. 20. A ministry of colonies is created. The minister of colonies is nominated and dismissed by the King. He shall take part in the council of ministers.

The articles 86 and 91 of the Belgian constitution are applicable to him.

ART. 21. A colonial council is established consisting of a president and 14 councilors.

The minister of colonies shall preside over the council. He shall have a voice in the discussion and in case of an equal division a casting vote.

Eight councilors shall be named by the King; six shall be chosen by the legislative chambers—three by the Senate and three by the Chamber of Representatives. They shall be elected by a secret ballot and by a clear majority of the votes cast.

One of the councilors named by the King and one of the councilors named by the chambers shall retire each year. The councilors shall retire according to precedence resulting from time of service.

The rank of those who may have been nominated on the same day shall be determined by drawing lots. The retiring councilors can be renominated.

The functions of a councilor and of a member of the Chamber of Representatives or of the Senate are incompatible.

The officials of the colonial administration in active service can not take part in the council.

ART. 22. The colonial council shall consider all questions which the King may submit to it.

Except in case of urgency the colonial council shall be consulted upon all proposed decrees. The drafts of the decrees shall be submitted to it by the King, accompanied by a statement of the reasons therefor.

The council shall give its advice in the form of an argumentative report within the period fixed by its organic law. The report shall indicate the number of the opposition, as well as their reasons therefor.

If the draft of the decree submitted for the King's signature does not accord with the recommendations of the council, the minister of colonies shall add to it an expression of his views.

If the council does not determine the matter within the period fixed by its organic law, the decree may be issued by the minister of colonies, accompanied by a statement of the reasons therefor.

The report of the colonial council, and eventually the report of the minister of colonies, shall be published at the same time with the decree.

The decrees issued in cases of urgency shall be submitted to the council within 10 days from their date of issuance; the reasons for the urgency should be indicated to it. The report of the council shall be published not later than one month after the transmission of the decree.

ART. 23. The colonial council shall ask from the Government all the instructions which it may judge necessary in the prosecution of its work.

It may express its views to it.

CHAPTER V.—*Concerning foreign relations.*

ART. 24. The King shall make all treaties relative to the colonies.

The stipulations of article 68 of the Belgium constitution relative to treaties shall be applied to the treaties relating to the colony.

ART. 25. The minister for foreign affairs of the Kingdom is charged with the relations of Belgium with foreign powers in the subject of the colony.

CHAPTER VI.—*General provisions.*

ART. 26. The decisions rendered in civil and commercial matters by the Belgian courts having force in Belgium have in the colony the same force and shall be executed in full right.

All authenticated legal documents having force in Belgium shall have full force and right in the colony.

The judgments rendered in civil and commercial matters by the courts sitting in the colony having force in the colony shall have in Belgium full force if they conform to the following conditions:

First, that the decision shall not contain anything contrary to public order or to the principles of Belgian public law;

Second, that according to the colonial law it shall be in force and binding;

Third, that in accordance with the same law the copy that is exhibited shall contain the conditions necessary to their authenticity;

Fourth, when the rights of the defendants have been respected.

The decisions of the courts shall be executed by the civil tribunal; the arbitral judgments and authenticated legal documents by the president of the civil tribunal in the place where the execution must be put in force.

The authenticated legal instruments having force in the colony shall have force in Belgium when they conform to the following conditions: First, when the provisions which it is sought to put in force have nothing contrary to public order or to the principles of Belgian public law; second, when according to the colonial law they contain the conditions necessary to their authenticity.

ART. 27. Anyone under charge of a breach of law committed in the colonies, and found in Belgium, may be taken and tried there by the Belgian tribunals, conformably with the colonial penal code, but according to the forms established by Belgian law.

The investigating tribunal acting in the matter may return the person under charge to the colonial jurisdiction, either upon his request or by virtue of a unanimous decision rendered at a public sitting upon the requisition of the public prosecutor, the person charged being present or having been duly cited.

Anyone under charge of a breach of law committed in Belgium, and found in the territory of the colonies, shall be delivered to the Belgian courts to be judged according to Belgian laws.

The person charged, if the Belgian authorities have not requested his return, may be represented before the Belgian courts by special attorney.

When the breach of the law consists of infractions committed partly upon Belgian territory and partly upon colonial territory, it shall be considered as having been committed in Belgium.

When there are several accomplices, of which some are found in Belgian territory and others in colonial territory, the Belgian tribunals only are competent.

The tribunals competent to try the principals are equally competent to try the accomplices.

The decisions rendered in penal matters by Belgian courts or colonial courts shall have in Belgian territory or in colonial territory the authority of a judgment, and shall have full force therein.

Nevertheless, anyone condemned by the Belgian courts to an imprisonment of not less than six months in prison may serve said sentence in Belgium if he so requests.

ART. 28. In all matters the notification of judicial and extrajudicial acts concerning persons domiciled or resident in the colony is subject in Belgium to the general rules relative to the notification of acts concerning persons domiciled or resident abroad. Nevertheless, the minister of colonies may intervene, if necessary, in representation of the minister for foreign affairs.

Reciprocally, the notification of judicial and extrajudicial acts concerning persons domiciled or resident in Belgium is subject in the colony to the general rules relative to the notification of acts concerning persons domiciled or resident abroad.

The rogatory commissions emanating from competent Belgian and colonial authorities shall have full force in the territory of Belgium and in the colonial territory.

ART. 29. The members of the legislative chambers can not be, during their term of office, paid functionaries, salaried employees, or attorneys for the colonial administration.

From the date of promulgation of the proposed law no member of either legislative chamber can be nominated, nor if he now occupies any of the said positions, at the expiration of the term of office, be renominated a delegate of the Government, an administrator, or a commissioner in stock companies which carry on in Belgian Kongo enterprises with a lucrative object if these functions are in any way remunerative or if the State is a stockholder in the company.

This last prohibition applies likewise to members of the colonial council, to the governor general, to the magistrates, and to the functionaries in the service of the colonial government.

Candidates for the legislative bodies, who exercise functions incompatible with the aforesaid legislative prohibition, although elected, may not be permitted to take the oath of office until they shall have resigned.

The members of the legislative bodies can not be nominated to functions and employments referred to in paragraphs 1 and 2 until at least one year after the termination of their term of office. Nomination to the office of governor general or of vice governor general of the colony shall not be subjected to this delay.

ART. 30. The functionaries and Belgian army officers, authorized to accept employment in the colony, before as well as after annexation, preserve their rank and their right of advancement in the administration or the army which they may have temporarily abandoned.

Belgian minors can not enlist in the colonial army without the written consent of their father, or of their mother when she is a widow, or, where they are orphans, of their guardian. In the last case the authorization ought to result from a family council.

During the period of their active service the Belgian military conscripts can not be authorized to enlist in the colonial army. Any authorization which may be given them in violation of the existing rule of law will be considered as null and void.

ART. 31. Independently of the flag and the great seal of Belgium the colony of the Kongo may make use of the flag and the great seal of the Kongo State.

ART. 32. The decrees, regulations, and other acts now in vigor will preserve their obligatory force, except when such provisions are contrary to the present law, in which case they are abrogated.

ART. 33. Each year, together with the proposed colonial budget, there shall be presented to the Chambers, in the name of the King, a report on the administration of the Belgian Kongo.

This report will contain all the explanations necessary to enlighten the national legislative bodies in the political, economical, financial, and moral situation of the colony.

It shall render account of the disposition during the fiscal year of the annuity provided for in article 4 of the additional act of the treaty of annexation of the Independent State of the Kongo to Belgium.

ART. 34. After annexation the permanent magistrates, the functionaries, and all other agents of the Independent State of the Kongo will preserve their positions for the term and under the conditions provided in the contract of their engagements.

Minister Wilson to the Secretary of State.

No. 401.]

AMERICAN LEGATION,
Brussels, September 18, 1908.

SIR: I have the honor to report the adoption by the Belgian Senate of the treaty for the annexation of the Belgian Kongo and of the colonial law for the government thereof.

I had expected to report this important event to the department at the time the vote was taken, but delayed doing so in anticipation of the completion of the legislation by the approval of the King. This is not yet forthcoming, and the best information which I can obtain is that it may be delayed a month yet.

Whenever the treaty and the law shall have received the assent of the executive and is in its final form, the department will be informed of any changes that may have been made in the documents already in its possession.

I have, etc.,

HENRY LANE WILSON.

The Belgian Minister to the Secretary of State.

[Translation.]

No. 652.]

LEGATION OF BELGIUM,
Washington, October 1, 1908.

MR. SECRETARY OF STATE: I have the honor to transmit herewith to your excellency a copy of a pamphlet entitled "Belgique et Kongo" published by the Federation for the defense of Belgian interests abroad.

The publication includes:

1. The text of the treaty for the cession of the Independent State of the Kongo to Belgium and the text of the additional treaty.

2. The speeches delivered on the occasion of the discussion of the treaty in the Belgian Chamber by Mr. Schollaert, minister of the interior, and Mr. Renkin, minister of justice.

The pamphlet is accompanied by a résumé setting forth the most interesting points in the two speeches.

Accept, etc.,

BN. MONCHEUR.

[Inclosure.]

The accompanying pamphlet¹ contains the text of the treaty whereby the Kongo State has been ceded to Belgium, and also an English translation of the speeches of the prime minister, Mr. Schollaert, and of the minister of justice, Mr. Renkin, on the subject.

As will be observed, the prime minister has pointed out with great force and eloquence that in accepting King Leopold's generous gift Belgium has provided herself with a source of enormous colonial wealth, and by the terms of the annexation has given assurance that the colony shall be developed along lines which will guarantee a successful administration and which will secure the maximum amount of benefit to the native tribes as well as to the white colonist and trader.

Special attention is called to some of the points about which there has been much popular misunderstanding and which are very clearly explained in the speeches of Mr. Schollaert and Mr. Renkin, viz:

1. The Kongo State was not created by the Berlin conference, and its internal affairs are not subject to supervision by any other power.

2. All the colonial powers in the Kongo basin are on an equality, and Belgium has the same sovereign rights and the same obligations in the Belgian Kongo as England has in British East Africa or as any other power has in its colonies in the Kongo basin.

3. The concessions granted in the Belgian Kongo are on the same basis as the concessions granted by England, Germany, and other powers in the Kongo basin. The concessionary system is not subversive of the rights and liberties of the native, nor is it an obstacle to freedom of trade. On the contrary, it is a wise measure, adopted by all colonial governments to prevent ruinous and indiscriminate exploitation of the country and to safeguard the interests of the native populations as well as the governments.

4. The land conceded in the Belgian Kongo only covers about one-fifth of the territory of the State.

5. As in other colonies, unoccupied land has been declared Government property, but the native has not been deprived of his land holdings and is not in any way prevented from freely selling the produce from his lands.

6. No native can be compelled, or in any way constrained, to work for any concessionary company or individual. He is also paid for any work he does for the Government.

7. The question of native taxation is a difficult one. It is universally accepted by the nations of the earth, in practice and in theory, that the native population should bear part of the necessary burden of taxation. The Belgian Government will deal with the question "with firmness and with moderation."

8. The Belgian Government will familiarize the native with the value and use of coins as rapidly as possible, so that he may pay his tax (\$1.20 to \$4.80) in currency instead of in work or in produce.

9. In taking over the Kongo, Belgium not only takes over its assets and liabilities, but also takes over its international treaty obligations, which it will scrupulously fulfill. Freedom of religion and freedom of trade will be carefully respected. Belgium will continue to protect the missionaries, of whatever faith or nationality they may be, and merchants of all nations may enter on an equal footing with Belgians.

Mr. Renkin's speech contains an interesting exposition of the natural resources of the Kongo and shows the financial advantages which will accrue to Belgium by annexing the Kongo as a colony. He also calls attention to the fact that the fund of \$10,000,000 which Belgium agrees to create for colonial purposes is not a gift or payment to the King, but is to be used in the interests of Belgium and her colony. This fund is to be paid over in 15 annual installments. According to the final decision of the Belgian Parliament all orders for the disposition of this money must be countersigned by the minister of the colonies. The King has suggested using the first installment as follows: Five hundred thousand dollars for the colonial school; \$100,000 to Belgian missions; \$100,000 for hygienic measures, especially in combating the sleeping sickness; \$60,000 in aid of Belgians invalided home from Africa.

¹ Not printed.

Minister Wilson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Brussels, October 29, 1908.

On Saturday, 31st, the King will create the department of colonies and appoint Mr. Renkin minister for the colonies.

On the same day will appear the royal decree provided in article 4 of annexation treaty fixing the date of Belgian assumption of sovereignty over the Kongo.

WILSON.

The Belgian Minister to the Secretary of State.

No. 737.]

LEGATION OF BELGIUM,
Washington, November 4, 1908.

MR. SECRETARY OF STATE: Pursuant to my Government's orders I have the honor to advise your excellency that the law approving the treaty for the resumption of the Independent State of the Kongo by Belgium was promulgated and published in the *Moniteur Belge* of October 20 last, a copy of which is inclosed herewith.

In consequence whereof the sovereign powers of the State of the Kongo are now transferred to Belgium, which will very soon assume the administration of the colony of the Kongo.

The Belgian Government will promptly issue new exequaturs to consular officers of the Governments which request it.

The Belgian authorities in the colony will hereafter have jurisdiction in business to be transacted with the said officers concerning their respective governments and nationals.

Accept, Mr. Secretary of State, the assurance of my very high consideration.

BN. MONCHEUR.

[Inclosures.]

Moniteur Belge, October 20, 1908, containing laws, royal decrees, and Government acts as follows:

1. Law effecting the transfer to Belgium of the Independent State of the Kongo. (Not printed.)
2. Treaty of cession of the Independent State of the Kongo to Belgium. Printed with Mr. Wilson's No. 261, December 7, 1907. (See *For. Rels.*, 1907, p. 826.)
3. Provisional arrangement for expenditures. (Not printed.)
4. Additional provisions to the treaty of cession. (Not printed.)
5. Convention between the Holy See and the Independent State of the Kongo, May 26, 1906. (Not printed.)
6. Law approving additional act to the treaty of cession. (Not printed.)
7. Additional act to the treaty of cession. (Not printed.)
8. Decree suppressing the foundation of the Crown. (Not printed.)
9. Annexes to the additional act to the treaty of cession. (Not printed.)
10. Credits of the foundation. (Not printed.)
11. Law governing the Belgian Kongo. (Not printed, but for text see inclosure to Mr. Wilson's No. 393, August 21, 1908, translation of the law.)

Minister Wilson to the Secretary of State.

No. 422.]

AMERICAN LEGATION,
Brussels, November 10, 1908.

SIR: I have the honor to transmit herewith copy and translation of a note from Mr. Davignon, the Belgian minister for foreign affairs, conveying the official information of the issuance of the royal decree carrying into execution article 4 of the treaty of annexation of the Kongo to Belgium, and fixing the date on which the Government of the King will assume the exercise of sovereignty over its colonial possessions.

A copy of this note has of course been furnished to all of the legations accredited to Brussels and the communication is therefore, in some sense, a circular note.

The British minister, Sir Arthur Hardinge, believes that the note does not properly require an answer, and he has made none. My own opinion is different, and I have thought it proper to make courteous acknowledgment of the communication, while in no way committing our Government. A copy of my note of reply is herewith transmitted.

I have, etc.,

HENRY LANE WILSON.

[Inclosure 1.—Translation.]

The Minister for Foreign Affairs to Minister Wilson.

THE FOREIGN OFFICE,
Brussels, November 6, 1908.

MR. MINISTER: A royal decree, carrying into execution article 4 of the treaty of annexation of the Independent State of the Kongo to Belgium, has fixed on the 15th of this month as the date on which the Government of the King will assume the exercise of sovereignty in its colonial possessions.

On the eve of assuming the direction of the affairs of the colony which will be of interest to the powers, I beg to assure your excellency that my most lively desire will be to continue, whenever your excellency will have occasion to transact business with this department, the excellent relations which, I congratulate myself, I have always had with you.

I am, on my side, certain of the kindly assistance which your excellency will give me with this end in view.

J. DAVIGNON.

[Inclosure 2.]

Minister Wilson to the Minister for Foreign Affairs.

AMERICAN LEGATION,
Brussels, November 6, 1908.

MR. MINISTER: I have the honor to acknowledge your excellency's esteemed note of November 6 conveying the information that the royal decree carrying into execution the provisions of article 4 of the treaty of annexation is fixed for issuance on the 15th of November, on which date the Government of the King will assume sovereignty over its colonial possessions.

Highly appreciating your excellency's courteous expressions while bringing this important action to my knowledge, I beg leave to advise you that I have immediately transmitted the information to the Government at Washington and asked for instructions therein.

HENRY LANE WILSON.

Consul General Handley to the Secretary of State.

No. 8.]

AMERICAN CONSULATE GENERAL,
Boma, November 24, 1908.

SIR: I have the honor to report that Mr. W. Thesiger, British consul at Boma, returned from his trip of investigation of conditions in the Kasai district, particularly that of the Kasai Co., on September 9, after spending four months in the interior. The latter part of the month he sent to his Government an exhaustive report on the conditions as he found them in that district. I have been able to secure from him considerable information relative to the present state of affairs in that part of the Kongo, and herewith submit, for the information of the department, a summary of the information obtained:

The Kasai Co. came into existence in December, 1901, by a convention or agreement between the directors of the company and the Independent State of the Kongo, its object being to gather rubber, gum copal, and all other vegetable products in the enormous district known as "the Kasai." This privilege was granted for a term of 30 years, and it is, I believe, the largest and most important of the concessionary companies now doing business in the Kongo Free State.

Mr. Thesiger found that in the company's dealings with the native population they habitually disregard the State regulations for the prevention of willful waste of the rubber resources of the country and cast aside every restriction imposed upon them for the purpose of safeguarding the native rights. That this systematic violation of the Kongo Free State laws can not be carried on without the knowledge of the directors of the company and that it would be impossible but for the willful blindness, if not actual connivance, of the State officials themselves.

He declares that in all the country through which he passed, where this company has established posts, their agents have issued orders that the vines are to be cut and not tapped, as in the past, the quantity of rubber procurable from the latter method not being sufficiently large to satisfy the greed of the company.

There are stringent laws against this cutting of the rubber vines and State forest inspectors who are supposed to report to the authorities all cases which come under their notice.

Referring to the wholesale destruction of the vines now going on unchecked he says: "In the 31 villages which I visited in the Bakuba district they sent in monthly 173,000 balls of rubber, weighing on an average from 22 to 28 pounds per 1,000, and that experience shows that it takes from 20 to 40 feet of vine to make 10 balls."

Although the Kasai Co. claims that all their rubber is made by voluntary labor; that it is in no way a tax, and that their agents have neither the right nor the power to force the native to bring it in, the consul claims that "each village is taxed at so many balls a month and that any shortage is punished by imprisonment, fines, or chicotte,¹ while the amount fixed is so high that the natives, especially the Bakuba, have no time to cultivate their fields, repair their houses, hunt, or fish."

¹ Flogging.

While the company also deny the employment of armed sentries, he declares "they have in every village or group of villages one or more capitas,¹ who are, with few exceptions, all armed with cap guns. It may be mentioned that the villagers have to supply gratis to these capitas food, palm wine, a house, and a woman."

The Free State law prohibits the carrying of cap guns by the capitas or native agents of companies who have to deal with the natives in commercial matters.

No trader or commercial agent has any right to punish a native by imprisonment or by flogging. In this regard the consul says "that the Kasai Co. agents not only punish the natives in these and other ways for any shortage in the month's supply of rubber but allow their native capitas to usurp the same powers in the fullest measure in the villages under their charge. I heard of three cases in which these capitas imprisoned women in order to bring pressure upon the men."

Referring to the military raids to enforce the collection of rubber, Mr. Thesiger states that "the company forces Lukengu, a powerful king of the Bakubas, to carry out these raids for them with his native soldiers, who, to the number of some 300 or more, are all armed with cap guns; these soldiers can be met with all over the Bakuba territory, scouring the country for the purpose of enforcing the rubber tax, making prisoners and collecting fines for the benefit of the Kasai Co." He mentions two incidents of these raids. Summarizing the foregoing it will thus be seen that in five different ways—(1) by cutting the vines, (2) by imposing taxes for the benefit of the company, (3) by employing armed sentries, (4) by punishing natives without legal authority, (5) by causing military raids to be made to force the natives to make rubber—the Kasai Co. is, for the sake of profit, deliberately breaking the laws of the State; the laws of humanity are still less regarded.

In the Bakuba country he found everywhere, except in the villages exempt for some special reason, that the rubber tax was so heavy that the villagers had no time to attend to the necessities of life, and many of the capitas told him that they had orders not to allow the natives to clear the ground for cultivation, to hunt, or to fish, as it took up time which should be spent in making rubber. Even so, in some cases, the natives can only comply with the demands made on them by utilizing the labor of the women and children. In consequence their huts are falling to ruin, their fields are uncultivated and are fast being overgrown by brush, and the people are short of food.

This district was formerly so rich in corn and millet and other foodstuffs that the mission of Luebo used in the old days to send there and buy maize for their workmen; now, as regards cultivation, he says, "It is almost a desert and my carriers often had difficulty in procuring sufficient food. The rainy season was approaching and everywhere the complaint was made that the men were not allowed to utilize the few remaining weeks in clearing new ground for the sowing of next year's crop. This means that in the coming year there will be an increased shortage of food."

¹ Native corporals.

With regard to the position of the Government in reference to these abuses, he states: "They must either confess their utter incompetency to enforce their own laws, so far as these companies are concerned, or confess their complicity in these practices."

The consul met several of the younger officials who, he thinks, would willingly use what power they have to put an end to this state of things, but they are to a large extent powerless in the face of the central authority, which does not overlook the fact that it holds 50 per cent of the shares in the Kasai Co., which is, under its present methods, making a profit of some 8,000,000 francs yearly.

Much credit is taken by the State and company for the abolition of the tax in "croisettes,"¹ "but this tax," the consul affirms, "has been supplanted by still more unjustifiable methods of extortion, and I have no hesitation in affirming that the Kasai Co., even if judged by Kongo Free State law, has justly forfeited every right to the privileges granted them by the Government in December, 1901, and that no methods of reform or change of administration will be of any real benefit to the people of this district unless it includes the entire abolition of this company, which has so long been held up as a model of what a concessionary company should be."

It is impossible in this short summary to deal at any length with the question of domestic slavery, which is generally known to prevail throughout the Kasai district. Suffice it to say that the State is taking no real measures to insure its extinction within a reasonable time. Under the pretext that slavery being abolished by decree there can be no slaves in the Kongo, they will not take any measures to insure to the slave the power of redeeming himself and refuse to acknowledge any written certificate of redemption to have any legal value. Slaves who have purchased their redemption are therefore always liable to recapture, and this recapture is made easy for the owner by the chefferie law, under which State agents and State soldiers are employed, as in a recent case in Luebo, to assist native chiefs in capturing any man whom they may declare to belong to them.

Domestic slavery is distinctly profitable to the State and to employers of labor, as, so long as a tribe is well provided with slaves, their chiefs will always be ready to respond to any demand made to them with the authority of the local official for carriers or workmen. It is also profitable to the owner, who receives a large percentage of the wages earned by the slaves thus hired out.

One way to insure the gradual extinction of this evil would be to recognize openly its existence and to provide every facility to the native to redeem himself at a fixed moderate price and to give him an official certificate that he has purchased his freedom.

Many of the violations of law and abuses that the consul has referred to in the foregoing report have been the subject of correspondence between this consulate general and the American missionaries who are stationed at Luebo. Other consular officers here have reported to their governments the prevailing conditions existing in the Kasai district, and some of the missionaries have vigorously protested to the vice governor general at Boma, yet the prevailing

¹ Small copper crosses used in the Kasai district in payment for rubber.

opinion is that no special consideration, arriving at a thorough and unbiased investigation of these conditions, has been manifested by the authorities. I have the honor to be, sir,

Your obedient servant,

WM. W. HANDLEY,
American Consul General.

[The British report is printed in Africa, No. 1 (1909), Cd. 4466.]

Minister Wilson to the Secretary of State.

No. 429.]

AMERICAN LEGATION,
Brussels, November 27, 1908.

SIR: I have the honor to transmit herewith three copies of No. 2 of the Official Bulletin of the Belgian Kongo, which contains the decree¹ organizing the colonial council of Belgium.

The principal points of this decree are as follows:

First. Provision is made that the minister for colonies shall be president of the council; if the latter is absent or unable to preside, his duties shall be discharged by the secretary general or by a director general designated for that purpose.

Second. A secretary appointed by the King is attached to the council as a consulting member. He shall make the procès-verbal of the meetings and sign the same after their approval by the council.

The secretary and the members of the council are to be paid a monetary compensation with free transportation on the railways to and from the place of meeting.

Third. The department of colonies must transmit to the office of the secretary all proposed decrees and, in general, all questions which the King may desire to submit to the examination of the council. It shall also transmit within 10 days following their issuance the decrees issued in cases of urgency.

Fourth. The council must make its report within one month from the day on which its first sitting occurs.

Fifth. The council has the right to take definite decisions when a majority of its members is present, but such decision shall be valid only when a majority of the regular members is present.

I have, etc.,

HENRY LANE WILSON.

Minister Wilson to the Secretary of State.

No. 434.]

AMERICAN LEGATION,
Brussels, December 3, 1908.

SIR: I have the honor to transmit herewith copies of the official report¹ of the session of the Belgian Chamber of Representatives of November 24, which contains the proposed budget for the administration of the Belgian Kongo.

The proposed budget appropriates 962,450 francs or \$192,450 for the central or Belgian administration, to be met by a charge against the revenue of the foundation of the crown; 36,094,036 francs or \$7,218,807 for the current expenses of the local or active administration of the Kongo, to be met by a charge against the receipts thereof, and 8,423,300 francs or \$1,684,660 for the extraordinary expenses growing out of the treaty of annexation, to be met by a loan.

A tabulated statement¹ showing the purposes to which the respective items of \$7,218,807 and \$1,684,660 will be applied accompanies the "exposé des motifs"¹ of the minister. This includes the extraordinary expenses incurred under the treaty of annexation, salaries for civil and military employees, and all of the other expenses which would naturally accompany the installation and maintenance of a new régime in the Kongo.

I have, etc.,

HENRY LANE WILSON.

[To be continued in Foreign Relations, 1909.]

MEXICO.

INTERPRETATION OF ARTICLE X OF THE EXTRADITION TREATY BETWEEN THE UNITED STATES AND MEXICO.

File No. 12208.

The Mexican Chargé to the Secretary of State.

[Translation.]

No. 152.]

MEXICAN EMBASSY,
Washington, March 3, 1908.

SIR: By special direction of my Government, I have the honor to inform you that the department of foreign relations of Mexico wishes to obtain a decision of the department in your worthy charge, by which uniformity would be brought in both countries into the interpretation of Article X of the treaty for the extradition of criminals in force between Mexico and the United States, in that which relates to the period of 40 days, following the provisional arrest of the offender, and granted for the production of the documents on which the request of extradition is founded.

It appears that the rule followed in this country by the department in your worthy charge and the Department of Justice is to count the above-stated period of 40 days from the date of the arrest of the offender to the day of the presentation of the papers to the magistrate in charge of the case, and not to the Department of State.

The department of foreign relations of my Government does not concur in that interpretation of the article already cited, for the following reasons:

First. Because the interpretation of the said department has been to the advantage of the Government of this country, that the presentation of the papers to the Mexican Government through the said department is sufficient to have it understood that the requirement has been met within the period even though, in the subsequent stages of the procedure, more or less time would elapse before the papers finally reach the authority that is to conduct the extradition proceedings; and, as a matter of fact, the American Embassy quite frequently delivers its papers at the said department on the last, or few days before the last of the 40 days, in the extraditions it requests. This interpretation seems equitable in that, after presentation to the Department of State, any delay that may occur will not come from the Government making the request, but from the local authorities who may put off forwarding them, or even from mishap or difficult inland communications.

Second. Because Article X of the treaty does not provide that the documents shall be delivered within 40 days to the commissioner or magistrate who is to conduct the extradition proceedings, but says

that the Government on which the requisition is made "shall endeavor to procure the provisional arrest of such criminal and to keep him in safe custody for such time as may be practicable, not exceeding 40 days, to await the production of the documents," whence it must be inferred that the Government on which the requisition is made must wait 40 days until the documents are presented to it, and that this requirement is fulfilled at the time when they are delivered to the Department of State, which represents the Government.

Wishing that you may, in view of the reasons above set forth, be pleased to formulate a decision that the above-discussed point in Article X of the treaty be uniformly interpreted in the indicated sense in both countries, I have pleasure in renewing to you, etc.

JOSÉ F. GODOY.

File No. 12208/1.

The Acting Secretary of State to the Mexican Ambassador.

No. 295.]

DEPARTMENT OF STATE,
Washington, July 16, 1908.

EXCELLENCY: Referring to the Mexican Embassy's note No. 152 of March 3, 1908, I have the honor to inclose herewith a copy of a letter from the Attorney General in which he expresses the opinion that the 40 days during which a fugitive from justice may be detained under the terms of the extradition treaty between the United States and Mexico, "to await the production of documents upon which the claim for extradition is founded," must be considered as meaning 40 days prior to the production of the documents to the State Department in the United States or the corresponding branch of the Mexican Government, and that if the said documents are thus produced within 40 days, the suspected criminal has no absolute right of release under the terms of the treaty, but may be detained for a reasonable additional period to afford time for an investigation into his probable guilt or innocence.

The department will, accordingly, conform to the opinion of the Attorney General, as expressed in his letter, in all future extradition cases.

Accept, etc.,

ROBERT BACON.

[Inclosure.]

The Attorney General to the Secretary of State.

DEPARTMENT OF JUSTICE,
Washington, July 10, 1908.

SIR: Your note of April 17 transmits a note from the Mexican Embassy of the 3d ultimo, requesting a ruling by this Government upon the meaning of that part of Article X of the extradition treaty of 1899 which specifies the period during which fugitives shall be detained pending the production of the documents necessary for the hearing and determination of a demand for extradition; and you request my opinion on this question because of its importance and because of the desirability of uniformity of interpretation on the part of both Governments.

Article X of the treaty of extradition with Mexico of February 22, 1899 (31 Stat., 1818, 1825), provides:

"On being informed by telegraph or otherwise, through the diplomatic channel, that a warrant has been issued by competent authority for the arrest of a

fugitive criminal charged with any of the crimes enumerated in the foregoing articles of this treaty, and on being assured from the same source that a requisition for the surrender of such criminal is about to be made, accompanied by such warrant and duly authenticated depositions, or copies thereof, in support of the charge, each Government shall endeavor to procure the provisional arrest of such criminal and to keep him in safe custody for such time as may be practicable, not exceeding forty days, to await the production of the documents upon which the claim for extradition is founded."

Under this article the time elapsing between provisional arrest and final surrender to the demanding Government is to be divided into three parts, the period between arrest and production of documents that between production of documents and committal for surrender, and that between committal and actual surrender to the officials or agents of the demanding Government. The precise question raised by the Mexican note relates to the first period, and is whether the treaty requirements as to the 40 days detention are met by production of the necessary extradition documents to the respective state departments of the two Governments within the 40 days specified.

It appears that the accustomed course, in general, under our extradition treaties with foreign nations is for the foreign government to submit its papers through its proper officer directly to the extradition magistrate, and then, if the fugitive is committed for surrender, the papers are forwarded by the magistrate to the State Department for examination and approval. Ordinarily, then, this is the first point at which the State Department bears an official relation to the documents and evidence upon which the extradition of the alleged fugitive is sought. In the case of Mexico, however, the procedure and practice actually followed has been different, and it has been the uniform practice for the Mexican diplomatic authorities to submit their papers first to the State Department, and the papers are then returned to the Mexican Embassy without formal action at that stage, with the suggestion that the embassy forward them at once to the extradition magistrate; and on its part the Mexican Government has always held that the production of our papers within 40 days to its foreign office satisfies the provisions of the treaty. The question is practically important because, in view of the long distances and limited facilities for communication with Mexico, it would often be difficult or even impossible to transmit the papers through the diplomatic channels to the respective State Departments and thence to the extradition magistrate in some outlying district all within 40 days. It must then be considered whether the language of the treaty justifies the view that the production of papers contemplated by the treaty is production to the respective foreign offices, for if so production to the State Department of this Government in the case of a demand for extradition by the Government of Mexico within 40 days is sufficient.

It will be noted that Article X provides that the information regarding the issuance of a warrant by competent authority shall be conveyed "through the diplomatic channel," and that the Government thus addressed "on being assured from the same source that a requisition for the surrender of such criminal is about to be made * * * shall endeavor to procure the provisional arrest of such criminal," etc. This language seems to contemplate that the whole course of proceeding up to the production of the documents is between the two Governments, and the reference to "the diplomatic channel" points to the foreign offices of the two Governments. I understand the Mexican Government has always held that production of our papers within 40 days to its foreign office satisfies the provisions of the treaty, and its present practice is in accordance with this view, and, as above stated, the existing conditions in Mexico make it difficult, if not impossible, to transmit the papers through the diplomatic channel to the Mexican extradition magistrate in an outlying district within 40 days. The purpose of this treaty is the highly salutary one of securing the arrest and punishment of lawbreakers and dangerous members of the community. It should be so construed, in my opinion, as to give effect to this purpose. Moreover, it must be supposed that the two Governments acted and agreed together with the peculiar conditions existing in Mexico present to the minds of both. If one construction assures a reasonable opportunity for each Government to furnish the other proofs necessary to justify the continued detention of suspected criminals, while another construction facilitates the escape of fugitives from justice and tends to impede the punishment of crime, the former should certainly be preferred in the absence of compelling words to the contrary.

In find no such words here. The prisoner is to be detained "not exceeding 40 days" for a specified purpose, namely, "to await the production of the

documents upon which the claim for extradition is founded." To whom must these "documents" be "produced"? The treaty does not say "production to the prisoner" nor "production to the committing magistrate," and I see no sufficient reason why either set of words should be read into it. When the "documents" are submitted to the foreign office of the Government detaining the suspected criminal, there is certainly a "production" of them which satisfies the words of the treaty, and I think this also satisfies the intent and guards against the mischief which it is reasonable to suppose was apprehended by the two Governments. The Government receiving these documents can then see whether the charge against the prisoner it holds is serious and apparently sustained by evidence, and with this knowledge it can determine whether it will or will not prolong his detention. Doubtless the result of this interpretation is that the person under arrest may be detained for more than 40 days mentioned in the article, but the object of this limitation was, in my opinion, to compel reasonable diligence on the part of the Government seeking the extradition, and not to enable the person in custody to escape before the Government in question, however diligent, could furnish proofs of his probable guilt.

In view of the foregoing considerations, I have the honor to advise you that, in my opinion, the 40 days during which the prisoner may be detained under the terms of this treaty "to await the production of the documents upon which the claim for extradition is founded" must be considered as meaning 40 days prior to the production of the documents to the State Department in the United States or the corresponding branch of the Mexican Government, and if the said documents are thus produced within 40 days, the suspected criminal has no absolute right of release under the terms of the treaty, but may be detained for a reasonable additional period to afford time for an investigation into his probable guilt or innocence.

I remain, etc.,

CHARLES J. BONAPARTE.

File No. 12208/2.

The Mexican Ambassador to the Secretary of State.

[Translator.]

No. 17.]

MEXICAN EMBASSY,
Washington, July 21, 1908.

HONORABLE SIR: Referring to department's note No. 295, of the 16th instant, and to the report thereto annexed, given by the Attorney General, Mr. Bonaparte, I have the honor to state to you that this embassy agrees to the rules fixed by the said Attorney General for computing the 40 days referred to in Article X of the extradition treaty.

While stating to you that I am transmitting to my Government the contents of your note and the inclosure, I renew to you, etc.,

ENRIQUE CREEL.

EXTRADITION OF GEORGE DEERING REED TO MEXICO.

Transfer of fugitive from place of detention and trial to place of surrender designated by demanding Government.

File No. 10170.

The Secretary of State to the Mexican Ambassador.

No. 139.]

DEPARTMENT OF STATE,
Washington, December 2, 1907.

EXCELLENCY: Referring to the Mexican Embassy's note of March 10, 1906,¹ and to subsequent correspondence regarding the extradition of George Deering Reed to Mexico, I have the honor to inform you

¹ Not printed.

that the department is in receipt of a telegram, dated the 2d instant, from the Attorney General, in which he says:

Referring to your letter March 13, 1906, and subsequent correspondence, I have the honor to report that George Deering Reed is under arrest and provisional detention in the district of New Jersey, charged with embezzlement in Mexico.

Accept, etc.,

ELIHU ROOT.

File No. 10170/3-4.

The Mexican Chargé to the Secretary of State.

[Translation.]

No. 127.]

MEXICAN EMBASSY,
Washington, January 28, 1908.

MOST EXCELLENT SIR: Referring to the extradition case of George Deering Reed, I have the honor to inform you, as you will please see from the record of proceedings in the case which I send you under separate cover, together with the requisite certificate of Judge Lanning, of the District Court of New Jersey, that a favorable decision has been already given in the case and an order issued that the offender may be delivered to the Mexican authorities.

By virtue thereof, I beg that, in the absence of any objection, you may be pleased to issue the requisite warrant for the surrender of the offender.

Accept anew, etc.,

JOSÉ F. GODOX.

File No. 10170/3-4.

The Acting Secretary of State to the Mexican Chargé.

No. 189.]

DEPARTMENT OF STATE,
Washington, February 14, 1908.

SIR: I have the honor to acknowledge the receipt of your note, No. 127, of the 28th ultimo, transmitting the record of proceedings in the case of the extradition of George Deering Reed, and requesting that the warrant for the surrender of the fugitive be issued.

In reply I have the honor to inclose the warrant herewith.

Accept, etc.

ROBERT BACON.

File No. 10170/7.

The Mexican Chargé to the Secretary of State.

[Translation.]

No. 138.]

THE MEXICAN EMBASSY,
Washington, February 17, 1908.

SIR: With reference to the correspondence exchanged between this embassy and the department in your worthy charge in the extradition case of George Deering Reed, I have the honor to ask, by special

direction of my Government, that the offender be transferred by the authorities of this country to Laredo, Tex., there to be delivered to the agents of my Government duly authorized to receive him.

I have pleasure in renewing, etc.,

JOSÉ F. GODOY.

File No. 10170/8.

The Acting Secretary of State to the Mexican Chargé.

No. 191.]

DEPARTMENT OF STATE,
Washington, February 17, 1908.

SIR: I have the honor to acknowledge the receipt of your note, No. 138, the 12th instant, in which, referring to previous correspondence regarding the extradition of George Deering Reed to Mexico, you request that the fugitive be transferred by the authorities of this Government to Laredo, Tex., there to be delivered to the agents of the Mexican Government duly authorized to receive him.

In reply I have the honor to say that the practice which has heretofore been followed, both in the United States and in Mexico, with reference to the delivery of fugitives from the one country to the other, seems to have been to deliver such fugitives at the place of detention. If, however, the embassy desires to secure the exceptional procedure requested in this case, with the understanding that such action is not to be invoked as a precedent, the department will be pleased to communicate the request to the Attorney General and to ask that the proper official be instructed to comply therewith. The department will take the matter up with the Department of Justice immediately upon the receipt of the embassy's further advices.

As you expressed in telephonic conversation a desire to meet the cost of this extra service, the same will be included in the bill rendered.

Accept, etc.,

ALVEY A. ADEE.

File No. 10170/9.

The Mexican Chargé to the Secretary of State.

[Translation.]

No. 149.]

MEXICAN EMBASSY,
Washington, February 29, 1908.

MOST EXCELLENT SIR: Referring to note No. 191, dated the 17th instant, from the department in your worthy charge, relative to the extradition case of George Deering Reed, and reserving a more detailed answer, I take the liberty of renewing my request that the accused be transported by the authorities of your Government to Laredo, Tex., there to be delivered to the agents of the Mexican Government duly authorized to receive him, with the understanding that my Government will pay the costs of arrest, detention, and transportation of the fugitive, in accordance with the provisions of Article XIV of the treaty for the extradition of criminals in force between Mexico and the United States of America.

In this connection I permit myself to call your attention to the precedent in which my Government, at the request of the American Embassy to Mexico, consented ere now to transfer an offender named Morales to the same town of Laredo for delivery to the authorities of the United States on the border.

I have pleasure in renewing to you, etc.

JOSÉ F. GODOX.

File No. 10170/10.

The Acting Secretary of State to the Mexican Chargé.

No. 204.]

DEPARTMENT OF STATE,
Washington, March 10, 1908.

SIR: In answer to your note, No. 149, of the 29th ultimo, renewing your request that George Deering Reed be transported to Laredo, Tex., for delivery to the Mexican authorities with the understanding that all costs will be paid by Mexico, I have the honor to inclose herewith a copy of a letter from the Attorney General, in which he says that Mr. Thomas J. Alcott, United States marshal for the district of New Jersey, is willing, with one guard, Mr. W. B. Snowden, to undertake to deliver Reed to the Mexican authorities at Laredo.

The Attorney General suggests that, in the event the authorities of Mexico desire the marshal to undertake this mission he (the marshal) be furnished with the credentials necessary to secure the delivery to him of the person of the accused.

Accept, etc.,

ROBERT BACON.

File No. 10170/11.

The Mexican Chargé to the Secretary of State.

[Translation.]

No. 161.]

MEXICAN EMBASSY,
Washington, March 19, 1908.

MOST EXCELLENT SIR: Referring to note No. 204, dated the 10th instant, from the department in your worthy charge, with which you were pleased to transmit to me a copy of the communication of the Attorney General relative to the extradition case of George Deering Reed, in which he says that Mr. Thomas J. Alcott, United States marshal of the district of New Jersey, is willing to deliver the offender to the Mexican authorities at Laredo, taking with him Mr. W. B. Snowden as assistant guard, and suggests that the said marshal be furnished with the necessary credentials to obtain delivery of the person of the accused, I have the honor to inform you that the Attorney General's proposition is accepted, and, in consequence, I inclose herewith the warrant issued by the department in your worthy charge for the surrender of the said offender and the credentials issued by this embassy to Mr. Thomas J. Alcott to enable him to obtain the delivery to him of the accused and to take him to Laredo, Tex., where he will be received by the Mexican authorities authorized to that effect.

It is understood that, in accordance with Article XIV of the extradition treaty in force between the United States of America and

Mexico, the costs of apprehension, detention, and transportation of the accused will be defrayed by my Government.

I further have to ask that, in the absence of any objection, you may be pleased, in view of the desire that the delivery of the offender be effected as soon as possible, to direct that he be delivered to Mr. Alcott before the 22d of this month, to which end the requisite orders might be issued by telegraph.

I have pleasure in renewing, etc.

JOSÉ F. GODOY.

File No. 10170/12:

The Secretary of State to the Mexican Chargé.

No. 213.]

DEPARTMENT OF STATE,
Washington, March 28, 1908.

SIR: Referring to the department's note, No. 204, of the 10th instant, concerning the extradition of George Deering Reed to Mexico, I have the honor to inform you that the department is in receipt of a letter, dated the 25th instant, from the Acting Attorney General, in which he states that on the afternoon of the 23d instant, Thomas J. Alcott, United States marshal for the district of New Jersey, left Princeton, N. J., en route to Laredo, Tex., having Reed in custody; and that Mr. Alcott would turn over his prisoner to the Mexican authorities at the latter place.

Accept, etc.,

ELIHU ROOT.

MESSAGES OF THE PRESIDENT OF MEXICO TO THE MEXICAN
CONGRESS.

File No. 8183/162-164.

Ambassador Thompson to the Secretary of State.

[Extracts.]

AMERICAN EMBASSY,
Mexico, April 2, 1908.

SIR: I inclose herewith a copy of the Diario Oficial of April 1 containing the President's semiannual message at the opening of the Chamber of Deputies yesterday, and a clipping from the Mexican Herald of today which gives a true English translation thereof.

I have, etc.,

D. E. THOMPSON.

[Inclosure.—Extract.]

[The Mexican Herald, Mexico City, April 2, 1908.]

Complete review of public affairs.

Messrs. Deputies and Senators:

In fulfillment of a constitutional duty, I have the honor of appearing before you, as on other occasions on which you have inaugurated your useful labors, to inform you as to the condition of the manifold national interests intrusted to the care of the executive.

FOREIGN RELATIONS.

Our relations with foreign Governments are in every way satisfactory and in most cases are characterized by sincere friendship.

CENTRAL AMERICAN PEACE CONFERENCE.

The Central American peace conference, to which I had the honor of referring in my last message, was held at Washington, and the delegates who represented the various nations of Central America at that conference signed, among other treaties, one that provides for the creation of a permanent court of arbitration, which, in view of the commendable purpose, will, it is to be hoped, contribute to the welfare of the nations in question.

The conference possessed special interest for us, both because of the participation therein of our ambassador at Washington, in concert with a commissioner of the American Government, and because it afforded a propitious occasion for proving to the Republics of Central America that Mexico is keenly alive to all that concerns them, identifying herself as she does with the independence, the peace, and the progress of all the countries of the New World. To the influence of this spirit we owe, no doubt, the visit here of the delegates of Honduras and Nicaragua who represented their respective Governments at the conference, and of whom the former is clothed with the character of minister plenipotentiary to Mexico and in that capacity has negotiated with the Government treaties of amity and extradition which will be submitted to the Senate.

VENEZUELA MAKES PAYMENT UNDER ARBITRAL AWARD.

The Republic of Venezuela, complying with the arbitral award rendered in favor of Mexico in the matter of the claim of Messrs. Martinez del Rio, has been paying to us the stipulated percentage of the customs receipts at La Guayra and Puerto Cabello. The money received has been turned over to the claimants, though a question is pending in regard to certain deductions withheld by the Caracas Government, a question which, it is to be hoped, will be adjusted satisfactorily.

MAGDALENA BAY CONCESSION.

The Government of the United States asked permission to station two coaling vessels for the service of its Pacific Fleet in Magdalena Bay for a period of five years. In accordance with the constitution a bill on the subject was presented to the Senate, limiting, however, the period of the privilege to three years and laying down the principle of strict reciprocity in so far as Mexico is concerned, for it was considered that, on that basis, while on the one hand a service is rendered to a friendly nation, on the other the Republic suffers no harm, nay, secures a privilege which may at some time be of use. The views of the Senate coincided with those of the executive, and the permission was granted on the conditions named.

ARBITRATION TREATY WITH THE UNITED STATES.

An arbitration treaty is being negotiated with the Washington Government through our embassy at the American Capital, and in due course this treaty will be submitted to the Senate. The various controversies that naturally arise between the Government of the United States and the Government of Mexico, owing to their constant relations of every kind, have been adjusted in a spirit of the utmost fairness and friendliness.

THE HAGUE CONVENTION.

Our delegates to The Hague peace conference made known, on September 27 last, Mexico's acceptance of the Declaration of Paris of April 16, 1856, with regard to special points of maritime law, including the abolition of letters of marque, and also signed all the other conventions adopted, with the exception of one which treats of the firing of projectiles and explosives from balloons.

ALL TREATIES TO BE SUBMITTED TO THE SENATE.

These conventions, as well as an extradition treaty which the Government recently negotiated with the Netherlands, will be submitted to the Senate in the same way as was a general arbitration treaty with Italy, negotiated between the delegations of the two countries at The Hague peace conference, and which has already been sanctioned by our second chamber.

A DECORATION FROM THE NETHERLANDS.

In connection with the extradition treaty negotiated between Mexico and Holland, Her Majesty Queen Wilhelmina was pleased to confer on me the Order of the Lion of the Netherlands, and, as a mark of friendship and consideration toward the Republic, commissioned the commander of the cruiser *Gelderland* to repair to Vera Cruz and thence to this capital in order to deliver to me the insignia. I received them and deposited them in the department of foreign relations until such time as I could ask Congress for permission to accept this distinction.

REORGANIZATION OF CONSULAR SERVICE.

The foreign commerce of the Republic has kept pace with the upward movement of our wealth and prosperity, and one of the tokens of this growth is the increased importance of the Mexican consular corps which represents the commercial interests of the country abroad. This has necessitated a reorganization of consular affairs in the department of foreign relations, a new bureau having been created to take charge of the administrative features of the consular service, while the existing consular bureau will interest itself exclusively with the commercial features.

DEPARTMENT OF WAR AND MARINE.

JAMESTOWN EXPOSITION.

When Mexico had once accepted the invitation to take part in the International Exposition of Jamestown in commemoration of the third centenary of the foundation of that city, the commission appointed to represent the war department repaired in good time to Norfolk in order to take part in the solemn inaugural ceremonies.

Mexico Day, as the celebration courteously organized on September 16 last, the anniversary of our independence, was called, proved a great success, and the executive cannot refrain from noticing the satisfactory results obtained by our exhibits, which won 14 first prizes and 4 second prizes.

File No. 8183/165-169.

Chargé Sands to the Secretary of State.

No. 1244.]

AMERICAN EMBASSY,
Mexico, September 18, 1908.

SIR: For the information of the department, I inclose herewith clippings from the Mexican Herald of yesterday and to-day, on the subject of the opening by President Diaz of the first period of sessions of the Twenty-fourth Congress, on the evening of the 16th instant, and the President's message delivered on that occasion.

I have, etc.,

W. F. SANDS.

[Inclosure.—Extract.]

[Mexican Herald, Mexico City, September 17, 1908.]

FOREIGN RELATIONS.

Our relations with foreign nations continue satisfactory, and there are no questions pending with any of them of a nature to disturb that condition.

RELATIONS WITH THE UNITED STATES.

The Government of the United States of America has given proofs of its friendliness toward us, and in general such questions as have arisen between ourselves and that Government have been satisfactorily adjusted.

When, as I shall have occasion to mention later on, attacks were made on small border towns by bands of outlaws, the Washington Government not only concentrated forces along the boundary line to prevent the fleeing marauders from seeking a refuge in American territory, but also instituted proceedings for violation of the neutrality laws against those individuals who had made plans in the United States for the raids into Mexico.

CENTRAL AMERICAN PEACE COURT.

Our ambassador at Washington was present, in company with an American commissioner, at the inauguration of the International Court of Justice, at Cartago, Costa Rica. As a consequence, we have been favored with the visit of a distinguished special envoy of the Costa Rican Government, as we had previously had the pleasure of entertaining commissioners from the nations represented at the Central American peace conference.

We hope that the newly established tribunal will contribute to the maintenance of peace in Central America; and Mexico, for her part, will do all that is possible and proper for the attainment of so desirable an object. With this end in view, the executive consulted Congress as to the establishment of legations in Costa Rica, Honduras, and Nicaragua, and sent the nominations of their personnel to the Senate. The new legations have already been opened, and a diplomatic representative of Mexico is once more in residence at Guatemala City, having charge also of our legation to El Salvador.

REVOLUTION IN HAITI.

In connection with a revolution which broke out in Haiti, the Government of the Republic communicated to the Government of Mexico its determination to recognize no longer the right of asylum in the consulates and legations established in its territory. The executive, notwithstanding the generality and sweeping character of the decision in question, thought proper to comply with the desires of a friendly nation by prohibiting our consuls to harbor Haitian refugees under the present circumstances, while maintaining in principle the practice of granting asylum according to the usage of civilized powers, as an efficacious means, under given conditions, for safeguarding the rights of man and enforcing a proper respect for the claims of humanity.

TREATIES WITH FOREIGN POWERS.

We have entered into postal conventions with some of the Central American nations, and have concluded treaties of friendship and commerce and for the extradition of criminals with Honduras.

COMMITTEE OF JURISTS APPOINTED.

In pursuance of resolutions adopted by the third Pan American conference, a committee of distinguished jurists has been appointed to consider the measures that should be taken to carry out the decisions of the three international conferences of American States that have been held.

CODES OF INTERNATIONAL LAW.

In due time Mexico will appoint her representatives to the conference that is to be held at Rio Janeiro in May, 1909, for the purpose of drawing up codes of international law for the use of the nations of America.

AFFAIRS OF HONDURAS.

One of the resolutions of the Central American peace conference was a declaration as to the neutrality of Honduras, a country which, owing to its geographical situation, has been the theater of international conflicts. Recently its peace was threatened by the incipient revolution, giving rise to questions between it and some of its neighbors. Mexico and the United States, under the obligation which they assumed at the Washington conference to act as mediators in such cases, exercised their good offices to restore harmony among those states which are friends of ours, and our legation at Guatemala City afforded asylum to Sr. Oqueli Bustillos, who had been intrusted by Honduras with a confidential mission to the Guatemalan Government and who believed that he ran some personal risk.

TREATIES PROMULGATED.

The treaty of arbitration with Italy, signed at The Hague on October 16, 1907; the supplementary convention with Germany, amending the first paragraph of the fourth article of the convention concluded on May 24, 1892; and Mexico's adhesion to the Declaration of Paris, of April 16, 1856, with respect to maritime law and the abolition of letters of marque, have been duly promulgated after approval by the Senate.

CONFERENCE ON MARITIME LAW.

The department of foreign relations has appointed a delegate, and other delegates have been appointed by the departments of war and justice, for the diplomatic conference on international maritime law which is to be held at Brussels in the month of December next.

BOUNDARY COMMISSION'S WORK.

In the month of November last the American and Mexican sections of the mixed boundary commission between Mexico and the United States, considerably reenforced by a technical corps of engineers and draftsmen, undertook, and has now completed, the field work for a detailed survey of the Valley of El Paso, embracing a radius of some 200 kilometers. This survey will, it is thought, have an important bearing on the boundary question pending with the United States.

INTERNATIONAL IRRIGATION QUESTIONS.

Two engineers appointed as special commissioners by our Government and by the Government of the United States of America, respectively, are engaged in an investigation, irrespective of nationality, of all the problems involved in the irrigation of the Colorado River Valley, in which both countries are equally interested.

CLAIM OF OWNERS OF MEXICAN STEAMSHIP "TABASQUEÑO."

Message¹ from the President of the United States, transmitting a report by the Secretary of State concerning the claim of the owners of the Mexican steamship "Tabasqueño" and of her cargo against the United States, with accompanying papers.

[May 25, 1908.—Read; referred to the Committee on Foreign Relations and ordered to be printed.]

To the Senate and House of Representatives:

I transmit herewith a report by the Secretary of State, with the accompanying papers, concerning the claim of the owners of the

¹S. Doc. No. 515, 60th Cong., 1st sess.

Mexican steamship *Tabasqueño* and of her cargo against the United States.

In view of our admitted liability in principle in this case, I recommend the claim to the favorable consideration of Congress, and that an appropriation of the sum mentioned by the Secretary of State be made in settlement of the claim.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *May 25, 1908.*

The PRESIDENT:

I have the honor to inclose herewith copies, in duplicate, of a memorandum prepared by the solicitor for this department, and copies, also in duplicate, of other papers, all in relation to the claim of the owners of the Mexican steamship *Tabasqueño* and of her cargo against the United States.

The claim was submitted to this department by the Mexican embassy, and is based upon the arrest and detention of the ship and damage to her cargo during the war with Spain. The claim is made in the name of the owners of the vessel and cargo, all Mexican citizens.

The papers which have been furnished this department by the Mexican Embassy, supplemented by the investigation of the case which has been made by this department, show that the vessel sailed from Vera Cruz on July 25, 1898, for Sagua la Grande, Cuba, with a general cargo of provisions, and was seized by the U. S. S. *Hawk* off the latter port on July 30, 1898. Sagua la Grande was not a blockaded port, the vessel was a neutral vessel, and the cargo was not contraband. The vessel was taken to Key West, and on August 17, 1898, was released at the instance of this department, after protest by the Mexican Embassy.

The department, having admitted liability in principle in this case, has been engaged upon the question of the determination of the amount of damage which should be paid. The amount claimed by the Mexican Embassy aggregated \$73,977. The amount which the department proposes in settlement as the result of an extended investigation of the claim is \$13,485.70, calculated as follows:

Claim for cargo.....	\$11,200.00
Demurrage at Key West.....	1,500.00
Attorney's fees at Key West.....	650.00
Port charges.....	135.70
	13,485.70

with interest at 6 per cent per annum from the date of seizure.

The Mexican Embassy has accepted the calculation of the department with regard to the first three items above set forth; but no mention has been made by it in its recent negotiations with the department of the item of port charges, although vouchers showing the actual payment of this amount by the claimants have been presented to the department, as will appear from the detailed memorandum accompanying this report. It is therefore considered just that the item of \$135.70 for port charges should be included among those for which reimbursement should be made.

The claim is accordingly referred to the President, with the recommendation that it be transmitted to Congress with a request for favorable consideration. The inclosed memorandum contains a history of the negotiations which have been conducted with the Mexican Embassy regarding this case, and a full discussion of its merits in law and in fact. Correspondence between the Mexican Embassy and this department is also inclosed, showing the acceptance by the Mexican Government of the offer of settlement made by the department.

Respectfully submitted,

ELIHU ROOT.

DEPARTMENT OF STATE,
Washington, May 23, 1908.

Memorandum by the Solicitor for the Department of State.

THE TABASQUEÑO V. THE UNITED STATES.

DEPARTMENT OF STATE,
Washington, May 10, 1907.

The records of the department show that on the 30th of July, 1898 (during the war with Spain), the Mexican steamship *Tabasqueño*, which left Vera Cruz for the port of Sagua la Grande, Cuba, July 25, with a general cargo of provisions, was seized by the U. S. S. *Hawk* when about 10 miles from the latter port, and taken to Key West for adjudication. Sagua la Grande was not a blockaded port, and as the cargo was not contraband the Mexican Embassy protested to this department against the seizure, and the matter was at once taken up by Acting Secretary Moore with the Navy Department and the Department of Justice, with the result that on August 16 the United States marshal was instructed by the Attorney General to release the vessel, and on August 17 the department was informed that the vessel had been released.

On March 11, 1903, the Mexican ambassador presented a claim on behalf of the owners of the vessel and of the cargo, consisting of the following items:

1. Seven thousand eight hundred and fifty-two dollars and sixty cents, amount of expenses incurred during the detention of the ship in the port of Key West.
2. Sixty-three thousand one hundred and twenty-four dollars and forty cents, difference in the price of the cargo that ought to have been sold in due time in Sagua la Grande and was subsequently sold in Habana after the war ceased, all as a consequence of the capture.
3. Three thousand dollars, the amount at which Capt. Geronimo Andraca estimates his "moral" injuries suffered during the detention and seizure of his ship.

The ambassador called attention to the fact that the United States had made reimbursement in the similar cases of the *E. R. Nickerson* and the *Wary*, which were presented to this department by the British and German ambassadors here and for which appropriations were made by Congress for the benefit of the British and German subjects who were interested as owners of the vessels and of their cargoes.

Accompanying the note of the Mexican ambassador is a long argument from counsel for the claimants to show that the United States is responsible in damages for the losses which were suffered as a consequence of the seizure. The department replied on April 1 that it was "not disposed to question the principle of liability for the seizure and detention under the circumstances shown," provided clear proofs were made "of the Mexican citizenship of the shippers and of the owners of the vessel at the time of the seizure, as well as the captain and engineer, who appear to have been the consignees." As it appeared that the corporation which is prosecuting the claim seemed to have acquired it since it arose, the department stated that what was desired was evidence of the Mexican citizenship of the parties originally injured. The department also informed the Mexican ambassador that the claim appeared to be greatly exaggerated. Special comment was made on the apparently unreasonable charges for demurrage and the abnormally high prices at which the cargo was estimated, which prices had been claimed to be the market prices prevailing in Sagua la Grande at the time of the seizure.

The Mexican ambassador replied, February 11, 1904, inclosing a statement from claimants' attorney, in which reference was made to sworn declarations of several merchants at Sagua la Grande, already filed by him with the original note of the embassy presenting the claim, showing that the prices of goods then ruling at that place were the same as those now claimed for by claimants. Proof of the Mexican citizenship of the owners of the vessel at the time the claim arose and the assignees of the cargo is submitted; and though the further proof of the Mexican citizenship of the shipper is not furnished, it appears elsewhere in the papers that the shipper, Ruperto Villaneuva, is a Mexican citizen. At all events, if this Government makes any settlement for this claim it will be made with the Mexican Embassy in full of all damages and the embassy will have the responsibility of the further disposition of the proceeds, the fact of Mexican ownership of the ship and cargo having been satisfactorily established.

The department instructed Consul Baehr, at Cienfuegos, on March 11, 1904, to investigate and report as to the prices of grain and provisions ruling at Sagua la Grande at the beginning of August, 1898, and the consul replied on March 28, dispatch No. 52, that the prices were exceptionally high and that the affidavits submitted by the Mexican Government in support of the claim of the owners of the cargo may be accepted as true as showing the correct prices of goods at that time and place.

On May 6, 1904, the department requested Mr. Aspiro to furnish it with "the orders made by the purchasers of the cargo and the invoices of the shipment and bills of lading," "in order to enable the department to investigate the matter completely." The promise was made to give prompt consideration to the claim when these documents were furnished, with a view to the disposition of the matter. The object of this note was to obtain a basis of settlement on the cost of the goods plus a reasonable percentage of profit.

The ambassador furnished in reply, on August 20, 1904, a number of receipted bills corresponding to all the items upon the bill of lading, except a small consignment of 289 bags of corn. While these bills do not constitute an invoice, it would appear that they represent the cost of the cargo as accurately as the invoice would if furnished.

The ambassador, in transmitting the bills, describes them as "the various bills of purchase of the cargo put on board the said steamer in the port of Vera Cruz."

A duplicate of the bill of lading was furnished, the original having been attached to the ambassador's note of March 11, 1903. The ambassador calls attention to the fact that the bills of purchase of the cargo (showing the prices for which it was sold in Habana in October, 1898) were also forwarded, original and translation, with his aforesaid note of March 11, 1903, presenting the claim. It thus appears that the embassy has substantially complied with every request for information thus far made by this department.

No definitive action has yet been taken upon the claim. On December 7, 1905, the new ambassador, Mr. Casasus, inquired the status of the claim, and the department, on the 16th of the same month, answered that the matter would have consideration at the earliest possible moment. Again, on March 27, 1906, Mr. Casasus recalled the case to the department's attention, referring to the department's promise of December 16, 1905, and asking that some preference be given to the claim.

As the department has admitted liability in principle in this case, it is assumed that the only question now open to discussion is that of amount, and to this question the following is addressed:

AMOUNT OF COMPENSATION.

There are three general specifications of claim:

1. Losses at Key West during detention.....	\$7,852.60
2. Losses of prospective profits on cargo.....	63,124.40
3. Moral injuries to captain of vessel.....	3,000.00
Total.....	73,977.00

The third item should be disallowed in toto. It would appear to have been added simply by way of aggravation. It is entirely unsupported, and even if supported, it is submitted that damages are not recoverable for moral suffering unattended by any injury to the person. (Hale on Damages, 92; Burdick's Law of Torts, 94; Beven on Negligence, 2d ed., 77.)

The specification of losses at Key West, which aggregate \$7,852.60, is itemized as follows:

Demurrage, 22 days, at \$300 per day.....	\$6,600.00
Court fees.....	160.90
Attorney's fees.....	650.00
Cablegrams.....	81.00
Port charges.....	135.70
Hotel expenses of captain.....	25.00
Coal consumed.....	200.00
Total.....	7,852.60

With regard to the first item, it appears from the protest of the captain and the note of the Mexican ambassador presenting the claim that the vessel was seized July 30, 1898, and was released August 16 following, making a period of 17 days. Five days may be allowed for the vessel's return to Vera Cruz after her release. This is the time taken by the vessel in going from Vera Cruz to Sagua, the point of capture, and the distance from Key West back to Vera Cruz,

the point of the vessel's departure, is about the same as that between Vera Cruz and Sagua. It is customary to allow for the time taken in returning to the home port, and the claims of the *Nickerson* and the *Wary* were settled upon this basis. No mention has been made of the number of days which would ordinarily be consumed in returning from Key West to Vera Cruz, the point of embarkation, but attention has just been called to the fact that the distance between Vera Cruz and Key West, and between Vera Cruz and Sagua, where the vessel was seized, is approximately the same. Therefore the time elapsed before capture, which is determinable and amounts to 5 days, has been calculated as the equivalent which would be occupied in returning to the vessel's home port. It is customary to allow for time prior to capture.

The period of the vessel's actual detention was 17 days. Adding 5 days for her return to Vera Cruz makes a total of 22 days. This is the same total of time lost as is asked for by claimant.

With reference to the demurrage rate of \$300 per day, it is claimed that this rate is not unreasonable and that the custom established by the steamship companies in ports of the Mexican Gulf is to charge \$500 to \$600 Mexican—that is, from \$250 to \$300 United States currency—per day. Claimants refer to the Ward Line of steamers to confirm this statement.

The *Tabasqueño*, according to the deposition of the captain, was a vessel of 303 tons. In the case of the *Three Bells*, a British vessel of 92 tons, seized at about the same time as the *Tabasqueño*, a claim of \$1,000 was made for 57 days' detention. In that case the department estimated that if any allowance were made, the demurrage claim should be reduced to \$850.¹ At this rate the demurrage for the *Tabasqueño*, calculated at a tonnage of 303, would amount to about \$1,070. In the case of the *E. R. Nickerson*, referred to by the Mexican ambassador, claim was made for demurrage at £3 per day, the *Nickerson* being a 68-ton vessel. At this rate the demurrage for the detention of the *Tabasqueño* on a tonnage of 300 tons would amount to about \$1,456. The estimate for the demurrage item in the *Nickerson* claim was reduced by the department from £3 to £2 per day. If a similar reduction were made in this case, the amount to be allowed for demurrage would be two-thirds of \$1,135, or about \$970. In the case of the *Wary*, the other vessel referred to by the Mexican ambassador, claim was made at the rate of £8 per day for demurrage, the vessel being of only 22 tons register. The estimate, however, was for an allowance of £1½ per day. At this rate the demurrage item for the *Tabasqueño* would be about \$2,250. An average of these three estimates gives a result of \$1,430. I should say, therefore, that an allowance of \$1,500 for this item would be just.

Of the balance of the items of the claim for moneys disbursed by the owners of the vessels at Key West, vouchers for attorney's fees, port charges, and court fees, aggregating \$946.60, are furnished. It may be observed, however, concerning the bill for court fees, that it was represented to the owners by one of the employees of the court that the amount paid by them for court fees would be returned upon application. The department is not informed whether such return or reimbursement has been made. The balance claimed to have been

¹The department subsequently denied all liability for this seizure and rejected the claim in toto.

expended at Key West, for coaling some \$200, cablegrams \$81, and the captain's hotel expenses \$25, amounting altogether to \$306, is not supported by vouchers, and these should be furnished if an allowance is to be made for these items.

In relation to the principal item of the claim, that is, \$63,124.10 (American), being the difference between the price which the cargo would have brought if it had been delivered in due time at Sagua la Grande and the amount for which it was actually sold after the war, the bills of lading showed that the goods as described were shipped on the *Tabasqueño*. The prices, unreasonably high as they seem to be, are supported by affidavits of merchants at Sagua la Grande and confirmed by our own consul at Cienfuegos. The goods were sold at Habana, and claimants present the declarations and accounts of the commission merchants showing what the cargo sold for. The gross receipts of the sales were \$21,928.36, but the expenses of sale were \$14,377.37, leaving only \$7,550.99 as the actual proceeds.

Concerning the sale of the goods it must be borne in mind, first, that the cargo was of a perishable nature, and, second, that it was not sold in Habana until the middle of October, two months after the vessel's release. The various memoranda of sale show that different portions of the same consignment brought five or six different prices, according to quality. Nothing could show more plainly the deterioration of the cargo than these memoranda, and it is self-evident that the greater amount of the deterioration was due to the claimants' own laches, by failing to market their goods more promptly. There is nothing to show even that the portions of the cargo which were in the best condition were up to the market standard, and even the best prices obtained may have been much below the regular market price. In other words, the department does not know, and has no way of ascertaining, how much the cargo would have brought if it had been sold directly after the release of the vessel, and, therefore, the department does not know how much more than the \$21,928.36, which was actually brought, would have been realized but for the laches of the claimants. What the department does know is that at the time of the sale some portions of the cargo had shrunk in value several hundred per cent and that parts of it were thrown away altogether. These losses this Government is now called upon to make good.

The expenses of the sale of the cargo are made up of "customs duties, drayage, commissions, insurance, storage," etc., much the largest item being customs duties. This item in the case of one shipment alone, the *Iard*, being \$5,769.53—nearly as much as the gross proceeds of the *Iard*. It must be assumed that had the cargo been delivered in due time at its destination at Sagua la Grande the claimants would have been required to pay the customs duties, commissions, and most of the other items of charge, and proper deductions should, therefore, be made from the claim as presented, if the department decides to accept the basis of prospective profits as the proper one for the adjustment of the claim.

An attempt has been made in the few immediately foregoing paragraphs to show the practical impossibility of arriving at a fair estimate of damages upon the basis of prospective profits; but, in addition to the impracticability of this method, I am convinced from an

examination of the precedents that it is incorrect in point of law, and that the estimate upon which settlement should be made is the cost of the goods at the port of embarkation plus a reasonable percentage as profit upon the venture.

A fair way to examine the question would be to consider it as if it would come before the Supreme Court of the United States for final decision or revision and judge it by the rules which that court would almost certainly apply if an appeal lay to that tribunal. There is a numerous class of cases, chiefly actions for breach of contract and involving in most cases the law of common carriers, where special considerations apply, in which it is held that the proper measure of damages is the value of the goods at the time and place where the carrier has contracted to deliver them. The basis of the doctrine in these cases is that it is the policy of the law to hold the carrier liable for the full value at the time and place of destination to remove from him all temptation to fraud.

But the rule of damages in cases of marine torts is an entirely different one. It was announced as early as 1794 by the Supreme Court of the United States, in the case of *Del Col v. Arnold* (3 Dall., 333) that for an unlawful spoliation of cargo the measure of responsibility was "the full value of the property injured or destroyed."

The rule was next enunciated by Mr. Chief Justice Marshall in the case of the *Charming Betsy*, 2 Cranch, 64 (1804), wherein it was ordered that—

the commissioners be instructed to take the actual prime cost of the cargo and vessel with interest thereon, including the insurance actually paid and such expenses as were necessarily sustained in consequence of bringing the vessel into the United States, as the standard by which the damages ought to be measured.

The rule of damages thus established has been followed from that time through a series of decisions entirely unbroken and unchanged.

In the case of the *Lively*, 1 Gall., 325 (1812), Mr. Justice Story, after reviewing all the authorities up to that time involving analogous principles, stated (p. 324) that he was not aware of a single authority in the higher courts of admiralty in which supposed profits formed an item of damage in cases of restitution. The learned justice continues:

Independent, however, of all authority, I am satisfied upon principle that an allowance of damages upon the basis of a calculation of profits is inadmissible. The rule would be in the highest degree unfavorable to the interests of the community. The subject would be involved in utter uncertainty. The calculation would proceed upon contingencies, and would require a knowledge of foreign markets to an exactness in point of time and value which would sometimes present embarrassing obstacles. Much would depend upon the length of the voyage and the season of arrival, much upon the vigilance and activity of the master, and much upon the momentary demand. After all, it would be a calculation upon conjecture, and not upon facts. Such a rule, therefore, has been rejected by courts of law in ordinary cases, and instead of deciding upon the gains or losses of parties in particular cases, an uniform interest has been applied as the measure of damages for the detention of property. * * *

Again in 1817, in the *Anna Maria* (2 Wheat., 327), Mr. Chief Justice Marshall announced the same rule, and the next year, in the case of the *Amiable Nancy* (3 Wheat., 560), Mr. Justice Story, citing with approval the cases of the *Anna Maria* and *Del Col v. Arnold*, said:

Another item is \$3,500, for the loss of the supposed profits of the voyage on which the *Amiable Nancy* was originally bound. In the opinion of the court.

this item was also properly rejected. The probable or possible benefits of a voyage, as yet in fieri, can never afford a safe rule by which to estimate damages in cases of marine trespass. There is so much uncertainty in the rule itself, so many contingencies which may vary or extinguish its application, and so many difficulties in sustaining its legal correctness, that the court can not believe it proper to entertain it. In several cases in this court the claim for profits has been expressly overruled; and in *Del Col v. Arnold* (3 Dall. 333), and the *Anna Maria* (2 Wheat., Rep., 327), it was, after strict consideration, held that the prime cost, or value of the property lost, at the time of the loss, and in case of injury, the diminution in value by reason of the injury, with interest upon such valuation, afforded the true measure for assessing damages. This rule may not secure a complete indemnity for all possible injuries, but it has certainty and general applicability to recommend it, and in almost all cases will give a fair and just recompense.

Two years later, in 1820, in the case of *La Amistad de Rues* (5 Wheat., 389), Mr. Justice Story said:

In the cases of marine torts this court have deliberately settled that the probable profits of a voyage are not a fit mode for the ascertainment of damages. It is considered that the rule is too uncertain in its own nature and too limited in its applicability to entitle it to judicial sanction.

And in 1824 (*The Apollon*, 9 Wheat., 362) the same great justice declared:

This court, on various occasions, has expressed its decided opinion that the probable profits of a voyage, either upon the ship or cargo, can not furnish any just basis for the computation of damages in the cases of marine tort. The basis has accordingly been, in every instance, rejected. Where the vessel and cargo are lost or destroyed, the just measure has been deemed to be their actual value, together with interest upon the amount, from the time of the trespass. * * * And it may be truly said that if these rules do not furnish a complete indemnification in all cases, they have so much certainty in their application, and such a tendency to suppress expensive litigation, that they are entitled to some commendation, upon principles of public policy.

* * * * *

The second item is perfectly correct, except as to the allowance of the 10 per cent. The cargo was sold at the market, though not at the port, of its destination, and from the appraisalment it appears to have sold for a higher price than it was valued at. The ground of the allowance of the 10 per cent then fails, for that is given for supposed losses upon a forced sale, or a falling market.

In a different species of marine tort, but one apparently involving the same principle—namely, damages caused by collision—Mr. Chief Justice Taney held that the actual damage sustained at the time and place of the injury is the measure of damages and not the probable profits at the port of destination. (*Smith v. Condry*, 1 Howard, 28, 1843.) A similar rule was likewise laid down in 1871, by Mr. Justice Swayne, where a cargo was lost in transitu. (*The Telegraph* and *Vaughan*, 14 Wall., 258.)

The principle expounded in the foregoing decisions is followed by Mr. Justice Nelson in the case of the *Ocean Queen* (5 Blatch., 493), citing the *Anna Maria*, *Smith v. Condry*, and the *Lively*.

Upon the authority of the foregoing cases, it is submitted that the amount of damage sustained by the owners of the cargo of the *Tabasqueño* must be measured by the cost of the goods at the port of embarkation, plus a reasonable percentage for profit. The bills of purchase, excluding the corn, which have been furnished to the department, aggregate \$35,891.37 (Mexican), equivalent to about \$18,000 in our currency. The department does not know the cost of the corn, as no bill of purchase has been furnished for this item.

Its selling price in Habana was \$738.76. By a comparison of the cost of the cargo in Vera Cruz and the gross selling price therefor in Habana, I find that they are approximately the same. An estimate for the corn is therefore placed at \$750. This would make the estimate for the entire cargo \$18,750.

It is true that a more liberal rule was applied by England in the Delagoa Bay seizures (cf. the cases of *The Mashona* and *The Beatrice*, Foreign Relations, 1900, pp. 529-618) during the South African war, where shipments of provisions owned by American merchants were in several cases paid for at the price prevailing in the port of destination at the time of the seizures. But it will be recalled that these cases were not strictly analogous to the present one, for it was there held that there was probable cause for the seizure and detention of the vessels, and the offer to purchase the supplies was made by the British Government, because it appeared to be a convenient way of making good to the neutral owners the loss which, in view of the Government, would have accrued to the owners through the delay caused by the arrest of the carrying ship; and in the case of one of the American claimants Lord Salisbury said that the payment was made purely *ex gratia*. (Foreign Relations, 1900, pp. 617-618.)

CONCLUSIONS.

In view of the fact that the voyage of the *Tabasqueño* was made in good faith and that she was engaged in an innocent traffic, I would incline to the view that a somewhat liberal interpretation might be given to the rule of damages governing the cargo if it were not for the fact that the vessel lost so much time after her release at Key West, in the middle of August, before proceeding to Habana, the goods not being sold in that city until almost two months thereafter. The cargo would have been much more valuable and would have brought a much higher figure if the vessel had proceeded at once to Habana. It appears to me, therefore, that this Government would be acting generously if it fixed a compensation which would save the claimants harmless on account of their venture and set off an allowance for probable profits against the loss by deterioration during the period of the two months' delay for which this Government is in no way responsible. This loss is an indeterminate one, but it is certainly equivalent to any fair percentage which would be allowed by a prize court for profit reckoned on the prime cost of the cargo.

If this basis of settlement is adopted, the cost of the cargo will be placed at \$18,750. Deducting from this the sum of \$7,550.99, proceeds of the sale at Habana, would leave in round numbers \$11,200, which may be paid on account of the cargo, to which it would be no more than just to add interest at 6 per cent from the time of the injury to date of satisfaction. If the claimants can show that they were not responsible for the two months' delay in the sale, I will recommend that an additional allowance of \$3,000 be made for profits—approximately 15 per cent upon their venture.

With regard to the amount of damages which may be paid on account of the vessel, I recommend that an allowance of \$1,500 be made for demurrage, \$785.70 for attorneys' fees and port charges, for which vouchers have been furnished, and that the embassy should

be asked to furnish vouchers for the items of coal, cablegrams, and the captain's hotel expenses, and also to state whether the charge of \$160.90 for court fees was reimbursed to claimants; that Mr. Creel, the new Mexican ambassador, be advised of the department's conclusions in the premises, and that he be informed that upon receipt of the additional data called for the department will make a recommendation to Congress asking for an appropriation for reimbursement of the claimants in the sums as calculated in the foregoing memorandum.

Respectfully submitted.

JAMES B. SCOTT.

The Acting Secretary of State to the Mexican Ambassador.

No. 60.]

DEPARTMENT OF STATE,
Washington, July 2, 1907.

EXCELLENCY: Answering your note No. 50 of the 9th of May last, I have the honor to inform you that the department has made a careful examination of the claim submitted by your embassy in behalf of the owners of the ship and cargo on account of the seizure of the Mexican steamship *Tabasqueño* by the U. S. S. *Hawk* July 30, 1898, off the port of Sagua la Grande, Cuba, and the subsequent detention of the vessel at Key West.

The evidence submitted by your embassy in support of this claim shows that there are three general specifications of damage:

1. Losses at Key West during detention.....	\$7, 852. 60
2. Losses of prospective profits on cargo.....	63, 124. 40
3. "Moral" injuries to captain of vessel.....	3, 000. 00
Total.....	73, 977. 00

With regard to the third item the department is unable to recommend that any allowance be made. It appears to be entirely unsupported, and the department is constrained to say that, even if it should be sustained by documentary or other proof, the decided preponderance of legal authority is to the effect that damages are not recoverable for mental suffering unattended by any injury to the person.

With regard to the specification of losses at Key West during the detention of the vessel, the department notes that the principal item of claim is for the detention of the vessel. The department accepts the basis proposed by the claimant, of 22 days, including 17 days actual detention and 5 days for return to port of embarkation, but it is unable to agree to the reasonableness of the charge of \$300 per day for such detention. After calculating the amounts paid for demurrage in cases of other seizures made by American cruisers during the late war, where the vessels were ultimately released, the department has reached the conclusion that a total allowance of \$1,500 for demurrage would be just under the circumstances.

For the balance of the items of the claim for moneys disbursed by the owners of the vessel at Key West, vouchers for attorney's fees, court charges, and court fees, aggregating \$946.60, are furnished. It may be observed, however, concerning the bill for court fees,

amounting to \$160.90, that it was represented to the owner by one of the employees of the court that the amount paid by them for this charge would be returned upon application. The department is not informed whether such return or reimbursement has been made. The balance claimed to have been expended at Key West for coal consumed, \$200, cablegrams, \$81, and the captain's hotel expenses, \$25, amounting altogether to \$306, is not supported by vouchers. Vouchers should be furnished for these items before an allowance can be made therefor.

The principal item of the claim is for \$63,124.10, being the difference between the price which the cargo would have brought if it had been delivered in due time at Sagua and the amount for which it was actually sold after the war.

The bills of sale at Habana show that the gross receipts were \$21,928.36, while the expenses of the sale were \$14,377.37, leaving \$7,550.99 as the actual proceeds.

Concerning the sale of the goods, it is observed that the cargo was of a perishable nature and that it was not sold in Habana until the middle of October, two months after the vessel's release. The various memoranda of sale show that different portions of the same consignment brought five or six different prices according to quality. These memoranda plainly show the deterioration of the cargo, and it would appear that the greater amount of this deterioration was due to the claimants' laches in failing to market their goods more promptly. The department does not know how much the cargo would have brought if it had been sold directly after the release of the vessel, and therefore it is unable to estimate how much more than the sum which it actually brought would have been realized but for the laches of the claimants.

The expenses of the sale of the cargo are made up of "customs duties, drayage, commissions, insurance, storage," etc., much the largest item being for customs duties; this item in the case of one shipment alone, the lard, being \$5,769.53—nearly as much as the gross proceeds of the lard. It must be assumed that had the cargo been delivered in due time at its destination at Sagua, the claimants would have been required to pay the customs duties, commissions, and most of the other items of charge.

The observations immediately foregoing may serve to indicate the practical impossibility of arriving at a fair estimate of damages upon the basis of prospective profits, but in addition to impracticability of this method, the department is convinced from an examination of the precedents that such a basis of damages is incorrect in point of law, and that the estimate upon which settlement should be made in the ordinary case of a marine tort is the cost of the goods at the port of embarkation, plus a reasonable percentage of profit on the venture.

As early as 1804, in the case of *The Charming Betsy*, this rule was enunciated by Mr. Chief Justice Marshall. (*The Charming Betsy*, 2 Cranch, 64, 1804.) In that case it was ordered that—

the commissioners be instructed to take the actual prime cost of the cargo and vessel, with interest thereon, including the insurance actually paid and such expenses as were necessarily sustained in consequence of bringing the vessel into the United States, as the standard by which the damage ought to be measured.

The rule of damages thus established has been followed from that time through a series of decisions entirely unbroken and unchanged. (*The Lively*, 1 Gall., 325, 1812; the *Anna Maria*, 2 Wheat., 327, 1817; the *Amiable Nancy*, 3 Wheat., 560; *La Amistad de Rues*, 5 Wheat., 389, 1820; the *Appollon*, 9 Wheat., 362, 1824. And see also the collision cases: *Smith v. Condry*, 1 How., 28, 1843; *The Telegraph* and *Vaughan*, 14 Wall., 258, 1871.)

In the case of the *Apollon* (9 Wheat., 362) Mr. Justice Story said:

This court, on various occasions, has expressed its decided opinion that the probable profits of a voyage, either upon the ship or cargo, can not furnish any just basis for the computation of damages in the cases of marine tort. The basis has accordingly been, in every instance, rejected. Where the vessel and cargo are lost or destroyed, the just measure has been deemed to be their actual value, together with interest upon the amount, from the time of the trespass. * * * And it may be truly said that, if these rules do not furnish a complete indemnification in all cases, they have so much certainty in their application, and such a tendency to suppress expensive litigation, that they are entitled to some commendation upon principles of public policy.

* * * * *
The second item is perfectly correct, except as to the allowance of the 10 per cent. The cargo was sold at the market, though not at the port of its destination; and from the appraisal it appears to have sold for a higher price than it was valued at. The ground of the allowance of the 10 per cent, then, fails, for that is given for supposed losses upon a forced sale or a falling market.

Upon the authority of the foregoing cases this department concludes that the amount of damage sustained by the owners of the cargo of the *Tabasqueño* must be measured in the first place by the cost of the goods at the port of embarkation. Whether or not, under all the circumstances, a percentage should be allowed for profits is reserved for the consideration in a subsequent paragraph.

Bills of purchase covering nearly all of the cargo have been submitted by your embassy, amounting to the equivalent of about \$18,000 in United States currency. Estimating the value of the corn, for which no bill of purchase was submitted, at \$750, the total estimate for the entire cargo amounts to \$18,750.

Upon this original outlay a credit must be deducted of \$7,550.99, the proceeds of the sale at Habana, which the claimants have already received. This would leave in round numbers \$11,200 to be paid on account of the cargo.

With regard to an allowance for profits, the department is of the opinion that under the circumstances of this case, as presented to it, no recommendation should be made. No explanation has been offered of the claimants' failure sooner to market their cargo after the release of the vessel. It seems evident to this department that if the sale had been made before the cargo, which was known to be perishable, had been allowed to deteriorate, a much larger sum could have been realized than that actually received at the sale at Habana, and the balance remaining to be paid in order to save the claimants harmless would have been correspondingly reduced. The department therefore sees no reason why it should make good the deficit and in addition make an allowance for profit where the claimants' own apparent negligence had minimized if not made impossible the opportunity for any profit at all.

The department would be glad to have the embassy supply further proofs as to the minor items of expense at Key West, to which the

attention of the embassy has been directed in the foregoing paragraphs, and it would also be glad to be informed as to whether the Mexican Government agrees with the calculations as above made, with respect to an allowance of \$1,500 for demurrage and \$11,200 on account of the cargo. On all allowances the department is of the opinion that 6 per cent interest should be added, from the time of the injury to the date of satisfaction. If these views meet with the concurrence of the Mexican Government, the department will recommend to Congress, at its next session, an appropriation for the settlement of the case in accordance with the views above expressed.

Accept, Excellency, the renewed assurance of my highest consideration.

ROBERT BACON.

The Mexican Chargé to the Acting Secretary of State.

No. 2.]

THE MEXICAN EMBASSY,
New York, July 6, 1907.

HONORABLE SIR: I have had the honor to receive your note No. 60, of the 2d instant, in which you were pleased to reply to mine of May 9 last, in regard to the claim made on behalf of the steamship *Tabasqueño*.

In reply I beg to inform you that I have already brought the substance of your note to the knowledge of my Government for such action as may be proper.

Accept, sir, etc.,

JOSÉ F. GODOY.

The Mexican Chargé to the Acting Secretary of State.

[Translation.]

No. 47.]

THE MEXICAN EMBASSY,
Washington, D. C., October 5, 1907.

HONORABLE SIR: As offered in my note of the 6th of July last I sent to my Government a copy of your department's note of the 2d of the same month concerning the claim of the steamer *Tabasqueño*.

The department of foreign relations of my Government transmitted the contents of the said note to the interested parties, who replied that while accepting in the main your department's proposal, notwithstanding the valid arguments they could oppose thereto, they wished to remark that:

1. The item of attorneys' fees at Key West, in the amount of \$650, was not, according to the claimants' statement, discussed by your department, from which, in their opinion, it must be inferred that it is allowed. As to the courts' fees and charges, the return of which had been offered, the claimants have not yet received them, in spite of their efforts.

2. They believe that their outlay in coal, cablegrams, hotel bills, etc., are sufficiently proven by the 15 vouchers filed by them. As these papers, transmitted with this embassy's note No. 335, of March

11, 1905, are, to the best of knowledge and belief, in your department in the set marked "A," I suppose it will be easy to verify the claimants' statement on this point.

3. They accept, although they consider it very small, the sum of \$11,200 named by your department as an indemnity for the cargo sold out of season.

To sum up, they make the following statement of items to be paid:

1. Twenty days' demurrage.....	\$1, 500. 00
2. Attorneys' fees at Key West.....	650. 00
3. Court costs and charges.....	160. 90
4. Coal, hotel bills, telegrams, etc.....	306. 00
5. Indemnity for the cargo.....	11, 200. 00

Total..... 13, 816. 90

plus 6 per cent interest from the month of July, 1898, date of the occurrence.

I beg you to be pleased to let me know whether you concur in the foregoing statement, so that I may communicate it to my Government and effect a final settlement of this case, through the recommendations referred to in the end of your note.

Accept anew, honorable sir, the assurances of my high consideration.

José F. Godoy.

The Acting Secretary of State to the Mexican Chargé.

No. 220.]

DEPARTMENT OF STATE,

Washington, April 13, 1908.

SIR: Referring to your note, No. 47, of October 5, 1907, communicating the reply of the Mexican Government relative to the claim of the owners of the Mexican ship *Tabasqueño* against the United States, I have the honor to say that the department has noted that the Mexican Government accepts on behalf of the claimants the department's calculations of \$11,200 and \$1,500 which is proposed to recommend to Congress as the sum to be paid for cargo and demurrage, respectively.

As regards the item of \$650 for attorney's fees at Key West, which is enumerated in the department's note of July 2 as duly covered by voucher, the claimants have correctly understood the department as believing that this item should be included in the amount which the department will recommend to Congress for reimbursement.

The department notes the statement of the embassy that the claimants believe that their outlay in coal, cablegrams, hotel bills, etc., is sufficiently proved by vouchers which have already been submitted by them. Another careful examination has been made of all the inclosures transmitted with the embassy's note, No. 335, dated March 11, 1903, which were thought to contain evidence of expenditures for these items, but no such papers can be found. There is a statement from the captain of the vessel to the effect that these expenditures were made, but this statement is not accompanied by vouchers. It would appear, therefore, that vouchers should be submitted to cover these items of loss before they can properly be included in the department's recommendation to Congress.

With regard to the item of "court costs and charges, \$160.90," which the claimants say has not yet been refunded to them, in spite

of their efforts, the department is in receipt of a recent communication from the Attorney General, in which he says that the records of the district court of the United States for the southern district of Florida show that the above-mentioned sum has been on deposit in the registry of the court since May, 1898, being entered as "costs ordered refunded owners *Tabasqueño*, which they refused to receive." The United States attorney for the southern district of Florida advised that a warrant may be drawn for this amount under order of the district judge in favor of the proper person or persons entitled thereto upon petition to the court, setting up such facts under oath as would satisfy the court of the rightful ownership of the funds by the petitioner. The department, therefore, believes that it will not be necessary to recommend a reimbursement of this item by Congress, inasmuch as it would seem that the claimants can obtain this refundment upon proper application to the court.

Upon receipt of the embassy's reply respecting the items of "coal, hotel bills, telegrams, etc.," above referred to, the department will be in a position to transmit the papers to Congress.

Accept, sir, the renewed assurance of my high consideration.

ROBERT BACON.

The Mexican Chargé to the Secretary of State.

[Translation.]

No. 202.]

THE MEXICAN EMBASSY,
Washington, May 18, 1908.

YOUR EXCELLENCY: Referring to the previous correspondence regarding the owners of the Mexican boat *Tabasqueño* against the United States, and especially to note No. 220 of the department under your worthy charge, dated April 13 last, and relating to this subject, I have the honor to inform you that my Government, in behalf of the claimants, accepts the payment of the following amounts: \$11,200 (eleven thousand two hundred dollars) for the cargo, \$1,500 (one thousand five hundred dollars) for delay or detention, and \$650 (six hundred and fifty dollars) for the fees for the attorneys of the United States, plus interest at 6 per cent on the amounts calculated as due since the time the damage was caused—July 30, 1898—until the payment is made.

I must add that, with regard to the item of \$160.90 (one hundred and sixty dollars and ninety cents) for judicial costs, the claimants will follow the indications of your department by applying at the proper time and in the proper manner to the district judge of Florida and, finally, that the claimants agree that your department shall not accept the chapter on "expenses for coal," "hotel bills," "telegrams," etc., and withdraw this chapter.

In view of the acquiescence of the claimants, I request your excellency to transmit, as you state in your aforementioned note, No. 220, all the documents relating to the subject to the Congress of this country recommending the payment of the amounts specified, in order that, if possible, the payment may be allowed and ordered during the present session of Congress.¹

¹ On January 20, 1909 [35 Stat., 1402], Congress appropriated \$13,485.70, with interest at 6 per cent from date of seizure, in settlement of this claim. Final payment in the sum of \$22,103.06, principal and interest, was made to the Mexican Embassy on April 22, 1909. Acknowledgment was made on May 7, 1909.

I take pleasure in reiterating to your excellency the assurances of my highest and most distinguished consideration.

JOSÉ F. GODOY.

CONVENTION BETWEEN THE UNITED STATES AND OTHER POWERS
CONCERNING LITERARY AND ARTISTIC COPYRIGHTS.

Signed at city of Mexico, January 27, 1902. Ratification advised by the Senate, January 31, 1908. Ratified by the President, March 16, 1908. Ratification of the United States deposited with the Government of Mexico, March 31, 1908. Proclaimed April 9, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention on Literary and Artistic Copyrights between the United States of America and the Argentine Republic, Bolivia, Colombia, Costa Rica, Chile, the Dominican Republic, Ecuador, Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Paraguay, Peru, and Uruguay, was concluded and signed by their respective Plenipotentiaries at the City of Mexico on the twenty-seventh day of January, one thousand nine hundred and two, the original of which Convention being in the English, Spanish, and French languages is word for word as follows:

Convention on Literary and Artistic Copyrights.

Their Excellencies the Presidents of the Argentine Republic, Bolivia, Colombia, Costa Rica, Chili, the Dominican Republic, Ecuador, El Salvador, the United States of America, Guatemala, Haiti, Honduras, the Mexican United States, Nicaragua, Paraguay, Peru and Uruguay.

Desiring that their respective countries should be presented at the Second International American Conference, sent thereto duly authorized to approve the recommendations, resolutions, conventions and treaties that they might deem convenient for the interests of America, the following Delegates:

For the Argentine Republic.—His Excellency Antonio Bermejo, His Excellency Martín García Mérou, His Excellency Lorenzo Anadón.

For Bolivia.—His Excellency Fernando E. Guachalla.

For Colombia.—His Excellency Carlos Martínez Silva, His Excellency General Rafael Reyes.

For Costa Rica.—His Excellency Joaquín Bernardo Calvo.

For Chili.—His Excellency Alberto Blest Gana, His Excellency Emilio Bello Codecido, His Excellency Joaquín Walker Martínez, His Excellency Augusto Matte.

For the Dominican Republic.—His Excellency Federico Henríquez y Carvajal, His Excellency Luis Felipe Carbo, His Excellency Quintín Gutiérrez.

For Ecuador.—His Excellency Luis Felipe Carbo.

For El Salvador.—His Excellency Francisco A. Reyes, His Excellency Baltasar Estupinian.

For the United States of America.—His Excellency Henry G. Davis, His Excellency William I. Buchanan, His Excellency Charles M. Pepper, His Excellency Volney W. Foster, His Excellency John Barrett.

For Guatemala.—His Excellency Antonio Lazo Arriaga, His Excellency Colonel Francisco Orla.

For Haiti.—His Excellency J. N. Léger.

For Honduras.—His Excellency José Leonard, His Excellency Fausto Dávila.

For Mexico.—His Excellency Genaro Raigosa, His Excellency Joaquin D. Casasus, His Excellency José López-Portillo y Rojas, His Excellency Emilio Pardo, Jr., His Excellency Pablo Macedo, His Excellency Alfredo Chavero, His Excellency Francisco L. de la Barra, His Excellency Manuel Sánchez Marmol, His Excellency Rosendo Pineda.

For Nicaragua.—His Excellency Luis F. Corea, His Excellency Fausto Dávila.

For Paraguay.—His Excellency Cecilio Baez.

For Peru.—His Excellency Isaac Alzamora, His Excellency Alberto Elmore, His Excellency Manuel Alvarez Calderon.

For Uruguay.—His Excellency Juan Cuestas;

Who, after having communicated to each other their respective full powers and found them to be in due and proper form, excepting those presented by the representatives of Their Excellencies the Presidents of the United States of America, Nicaragua and Paraguay, who act "ad referendum," have agreed to celebrate a Convention on literary and artistic copyrights, in the following terms:

ART. 1ST. The signatory States constitute themselves into a Union for the purpose of recognizing and protecting the rights of literary and artistic property, in conformity with the stipulations of the present Convention.

ART. 2ND. Under the term "Literary and Artistic works," are comprised books, manuscripts, pamphlets of all kinds, no matter on what subject they may treat of and what may be the number of their pages; dramatic or melodramatic works; choral music and musical compositions, with or without words, designs, drawings, paintings, sculpture, engravings, photographic works; astronomical and geographical globes; plans, sketches and plastic works relating to geography or geology, topography or architecture, or any other science; and finally, every production in the literary and artistic field, which may be published by any method of impression or reproduction.

ART. 3RD. The copyright to literary or artistic work, consists in the exclusive right to dispose of the same, to publish, sell and translate the same, or to authorize its translation, and to reproduce the same in any manner, either entirely or partially.

The authors belonging to one of the signatory countries, or their assigns, shall enjoy in the other signatory countries, and for the time stipulated in art. 5th., the exclusive right to translate their works, or to authorize their translation.

ART. 4TH. In order to obtain the recognition of the copyright of a work, it is indispensable that the author or his assigns, or legitimate representative, shall address a petition to the official Department,

which each government may designate, claiming the recognition of such right, which petition must be accompanied by two copies of his work, said copies to remain in the proper Department.

If the author, or his assigns, should desire that his copyright be recognized in any other of the signatory countries, he shall attach to his petition a number of copies of his work, equal to that of the countries he may therein designate. The said Department shall distribute the copies mentioned among those countries, accompanied by a copy of the respective certificate, in order that the copyright of the author may be recognized by them.

Any omissions in which the said Department may incur in this respect, shall not give the author, or his assigns, any rights to present claims against the State.

ART. 5TH. The authors who belong to one of the signatory countries, or their assigns, shall enjoy in the other countries the rights which their respective laws at present grant, or in the future may grant, to their own citizens, but such right shall not exceed the term of protection granted in the country of its origin.

For the works composed of several volumes, which are not published at the same time, as well as for bulletins or instalments of publications of literary or scientific societies, or of private parties, the term of property shall commence to be counted from the date of the publication of each volume, bulletin or instalment.

ART. 6TH. The country in which a work is first published, shall be considered as the country of its origin, or, if such publication takes place simultaneously in several of the signatory countries, the one whose laws establish the shortest period of protection shall be considered as the country of its origin.

ART. 7TH. Lawful translations shall be protected in the same manner as original works. The translators of works, in regard to which there exists no guaranteed right of property, or the right of which may have become extinguished, may secure the right of property for their translations, as established in article 3rd., but they shall not prevent the publication of their translations of the same work.

ART. 8TH. Newspaper articles may be reproduced, but the publication from which they are taken must be mentioned, and the name of the author given, if it should appear in the same.

ART. 9TH. Copyright shall be recognized in favor of the persons, whose names, or acknowledged pseudonyms, are stated in the respective literary or artistic work, or in the petition to which Article 4th. of this Convention refers, excepting case of proof to the contrary.

ART. 10TH. Addresses delivered or read in deliberative assemblies, before the Courts of Justice and in public meetings, may be published in the newspaper press without any special authorization.

ART. 11TH. The reproduction in publications devoted to public instruction or chrestomathy, of fragments of literary or artistic works, confers no right of property, and may therefore be freely made in all the signatory countries.

ART. 12TH. All unauthorized indirect use of a literary or artistic work, which does not present the character of an original work, shall be considered as an unlawful reproduction.

It shall be considered in the same manner unlawful to reproduce, in any form, an entire work, or the greater part of the same, accom-

panied by notes or commentaries, under the pretext of literary criticism, or of enlargement or complement of an original work.

ART. 13TH. All fraudulent works shall be liable to sequestration in the signatory countries in which the original work may have the right of legal protection, without prejudice to the indemnities or punishments, to which the falsifiers may be liable according to the laws of the country, in which the fraud has been committed.

ART. 14TH. Each one of the Governments of the signatory countries shall remain at liberty to permit, exercise vigilance over, or prohibit, the circulation, representation and exposition of any work or production, in respect to which the competent authorities shall have power to exercise such right.

ART. 15TH. The present Convention shall take effect between the signatory States that ratify it, three months from the day they communicate their ratification to the Mexican Government, and shall remain in force among all of them until one year from the date it is denounced by any of said States. The notification of such denouncement shall be addressed to the Mexican Government and shall only have effect in so far as regards the country which has given it.

ART. 16TH. The Governments of the signatory States, when approving the present Convention, shall declare whether they accept the adherence to the same by the nations who have had no representation in the Second International American Conference.

In testimony whereof the Plenipotentiaries and Delegates sign the present Convention and set thereto the Seal of the Second International American Conference.

Made in the City of Mexico, on the twenty-seventh day of January nineteen hundred and two, in three copies written in Spanish, English and French respectively, which shall be deposited at the Department of Foreign Relations of the Government of the Mexican United States, so that certified copies thereof may be made, in order to send them through the diplomatic channel to the signatory States.

For the Argentine Republic (Signed.) (")	ANTONIO BERMEJO. LORENZO ANADON.
For Bolivia (")	FERNANDO E. GUACHALLA.
For Colombia (")	RAFAEL REYES.
For Costa Rica (")	J. B. CALVO.
For Chili (") (") (")	AUGUSTO MATTE. JOAQ. WALKER M. EMILIO BELLO C.
For the Dominican Republic (Signed.)	FED. HENRIQUEZ I CARVAJAL.
For Ecuador (")	L. F. CARBO.
For El Salvador (") (")	FRANCISCO A. REYES. BALTASAR ESTUPINIAN.

For the United States of America	(Signed.)	W. I. BUCHANAN.
	(")	CHARLES M. PEPPER.
	(")	VOLNEY W. FOSTER.
For Guatemala	(")	FRANCISCO ORLA.
For Haiti	(")	J. N. LÉGER.
For Honduras	(")	J. LEONARD.
	(")	F. DAVILA.
For Mexico	(")	G. RAIGOSA.
	(")	JOAQUIN D. CASASUS.
	(")	E. PARDO, JR.
	(")	JOSÉ LOPEZ-PORTILLO Y ROJAS.
	(")	PABLO MACEDO.
	(")	F. L. DE LA BARRA.
	(")	ALFREDO CHAVERO.
	(")	M. SANCHEZ MARMOL.
	(")	ROSENDO PINEDA.
For Nicaragua	(")	F. DAVILA.
For Paraguay	(")	CECILIO BAEZ.
For Peru	(")	MANUEL ALVAREZ CALDERON.
	(")	ALBERTO ELMORE.
For Uruguay	(")	JUAN CUESTAS.

Es copia del original que ha sido depositado en el Ministerio de Relaciones Exteriores de los Estados Unidos Mexicanos.

México, Marzo 15 de 1902.

El Ministro de Relaciones Exteriores.

[SEAL]

IGNS. MARISCAL.

**ARBITRATION CONVENTION BETWEEN THE UNITED STATES
AND MEXICO.**

Signed at Washington, March 24, 1908. Ratification advised by the Senate, April 2, 1908. Ratified by the President, May 29, 1908. Ratified by Mexico, May 30, 1908. Ratifications exchanged at Washington, June 27, 1908. Proclaimed, June 29, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the Government of Mexico, providing for the submission to arbitration of all questions of a legal nature or relating to the interpreta-

tion of treaties, which may arise between the two countries and which it may not have been possible to settle by diplomacy, was concluded and signed by their respective Plenipotentiaries at Washington, on the twenty-fourth day of March, one thousand nine hundred and eight, the original of which Convention, being in the English and Spanish languages, is word for word as follows:

The Government of the United States of America and the Government of Mexico, signatories of the Convention for the pacific settlement of international disputes, concluded at The Hague on the 29th of July, 1899;

Taking into consideration that by Article XIX of that Convention the High Contracting Parties have reserved to themselves the right of concluding Agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment;

Have authorized the Undersigned to conclude the following arrangement:

ARTICLE I.

Differences which may arise whether of a legal nature or relative to the interpretation of the treaties existing between the two contracting parties and which it may not have been possible to settle by diplomacy, in case no other arbitration should have been agreed upon, shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of the 29th July 1899, provided that they do not affect the vital interests, the independence, or the honor of either of the contracting parties and do not prejudice the interests of a third party.

ARTICLE II.

In each individual case, the High Contracting Parties, before appealing to the Permanent Court of Arbitration, shall conclude a special agreement defining clearly the matter in dispute, the scope of the powers of the Arbitrators and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedurè. It is understood that such special agreements shall be made by the Presidents of both contracting countries by and with the advice and consent of their respective Senates.

ARTICLE III.

The foregoing stipulations in no wise annul, but on the contrary define, confirm and continue in effect the declarations and rules contained in Article XXI of the Treaty of peace, friendship and boundaries between the United States and Mexico signed at the city of Guadalupe Hidalgo on the second of February one thousand eight hundred and forty-eight.

ARTICLE IV.

The present Convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the Government of Mexico in accordance with

its constitution and laws. The ratifications shall be exchanged at Washington as soon as possible, and the Convention shall take effect on the date of the exchange of its ratifications.

ARTICLE V.

The present Convention is concluded for a period of five years dating from the day of the exchange of its ratifications.

Done in duplicate at the City of Washington, in the English and Spanish languages, this twenty-fourth day of March in the year 1908.

ELIHU ROOT [SEAL]
 JOSÉ F. GODOY [SEAL]

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the City of Washington, on the twenty-seventh day of June, one thousand nine hundred and eight;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this twenty-ninth day of June in the year of our Lord one thousand nine hundred and [SEAL] eight, and of the Independence of the United States of America, the one hundred and thirty-second.

THEODORE ROOSEVELT

By the President:

ROBERT BACON

Acting Secretary of State.

MOROCCO.

INTERNATIONAL COMMISSION FOR THE ADJUSTMENT OF DAMAGES GROWING OUT OF THE DISORDERS AT CASABLANCA.

[Continued from Foreign Relations, 1907, p. 889.]

File No. 2151/77.

*The French Minister for Foreign Affairs to the French Ambassador at Washington.*¹

[Translation.]

FOREIGN OFFICE,
Paris, October 11, 1907.

The murders committed at Casablanca on French, Spanish, and Italian subjects led the Government of the Republic some weeks ago to take, jointly with Spain, the military measures demanded of it for the repression of those crimes and the protection of the foreign colonies threatened since the massacre of July 30 by the aggressive attitude of the tribes. It has endeavored to keep its intervention within the terms it had set for itself from the outset, the moderation of which has been unanimously appreciated by the powers.

Thanks to the swiftness of the measures adopted, the lives of the foreigners were saved. The greater number of the tribes that had taken part in the murder of the harbor laborers, the sack of the town, and the hostilities against our forces have already surrendered. And so it seems to us that the time has now come to meet another urgent requirement of the situation by devising the means of repairing the grave damage caused by the attack of the tribes and the consequences it involved.

The shereefian government is responsible for the events it was unable to forestall or check. It does not dispute their gravity and will undoubtedly acknowledge itself bound to indemnify the sufferers. We believe that the cooperation of the powers whose citizens and protégés have sustained the serious consequences of those disturbances would be useful and ought to be assured to it so as to facilitate a thorough and impartial inquiry and thus determine under unassailable conditions the true amount of loss and the appraisalment of compensation. We first exchanged views on this point with the Spanish Government, which joined in our military action at Casablanca and with which we share the mandate with which the powers have vested us in Morocco. We have agreed upon defining as follows the general principles which should govern the decision of the shereefian government in this matter.

The Sultan would organize a commission to which he would invite delegates of the countries whose nationals have suffered most from the disturbances who would act with his own representatives.

¹ Transmitted to the Department of State by the French ambassador.

It would be presided over by Shereef Moulay Lamin, whose situation and personal authority particularly fit him for the place. The other Moorish members might be the present khalifa to the Government of Casablanca, whose character could be appreciated during these last weeks, and a *cadi*. The latter person would be helpful in determining points of local law and usage.

The commission would include a member designated by the French Government, an Englishman, a German, a Portuguese, and an Italian; that is to say, a total of nine members with the Moroccans.

Countries not represented could, nevertheless, attach to the commission an officer of their legation to Morocco, who would take part in the examination and settlement of the claims of their nationals.

The governments would be requested to select their delegates from without the local consular personnel upon which the responsibilities of an inquiry pecuniarily involving the claims of persons subject to their jurisdiction ought not to be placed.

The commission would appoint a native secretary as well as the interpreters it would deem necessary.

Being thus organized, it would determine the amount of direct damages caused by the sack of the town of Casablanca by the tribes and by the repressive action that followed. The principle of indemnification for indirect losses—that is to say, losses that were not caused by pillage or arson—does not appear to be admissible. By entertaining claims of this character the way would be opened for demands that could not be verified under any positive principle of appraisal and the result would doubtless be to increase the amount of the indemnities to such a figure that they would not be likely to be paid.

This, moreover, was the opinion arrived at when the two Governments reached a decision in regard to the compensation for losses caused by the disturbances and bombardment of Alexandria.

As regards murders, an international commission does not appear to be qualified to determine the amount of indemnity suitable for each case. The settlement of questions of this class would more properly be made the subject of direct negotiations between the Governments concerned. The demands to be presented to the Maghzen by the French and Spanish Governments, to cover the cost of their intervention, should likewise not be referred to the commission.

It would seem equitable to grant the largest possible measure of relief to the native residents of Casablanca, who, like the foreigners, suffered from the sacking of the town. It will be recalled that this principle was justly admitted in the case of the Alexandria indemnities.

The commission would examine and pass upon the claims in equity without restricting itself to any particular judicial procedure. It would be allowed full liberty to regulate as it sees fit its internal action, the order and the details of its business. It should, however, find it to its interest to be guided as far as possible in all matters not definitely provided in its own constitution by the performance of the Egyptian indemnity commission.

The question relative to the mode of payment of the indemnities can not be settled at this time, and it is not necessary that it be settled before proceeding with the urgent inquiry proposed by us. It will, however, not fail to be examined in good time and is connected with

the more general question of the payment of the debts contracted by the Moorish Government.

We should be glad to obtain the assent of the powers to these several points. As soon as an agreement shall have been reached we propose to commend, through the representatives of France and Spain, to the examination of the Sultan these foregoing suggestions, which appear to us to be such as to protect all the interests concerned.

File No. 2151/74.

The Spanish Chargé to the Secretary of State.

LEGATION OF SPAIN,
Washington, October 21, 1907.

MR. SECRETARY: I have the honor to inform your excellency that I am advised by cablegram from my Government that the copy of the circular relative to the indemnities on account of the Casablanca incident intended for the Federal Government was mailed from Madrid on the 16th instant.

I shall lose no time in handing the document to your excellency as soon as it reaches me, and in the meantime I beg to say that it is substantially the same as the circular of the Paris cabinet on the same subject, a summary of which I understand was delivered to Mr. Bacon day before yesterday by the French ambassador.

I avail, etc.,

L. PASTOR.

File No. 2151/75.

Memorandum from the French Embassy.

[Translation.]

FRENCH EMBASSY,
(Received) Washington, October 22, 1907.

The Sultan of Morocco would appoint a commission which would be composed of three Moorish members and members designated by the French, British, German, Spanish, Portuguese, and Italian Governments whose nationals have most suffered at Casablanca. Countries not represented might attach to the commission a member of their legation at Tangier who would take part in the settlement of the claims of persons subject to their jurisdiction. The commission would appraise the direct damages caused by pillage and arson. Murders will be made the subject of diplomatic negotiations. Relief would be extended to the natives.

The commission would sit in equity without any special judicial procedure.

The question of the mode of payment of the indemnities will be examined thereafter. The Moorish Government, being responsible for the damage sustained, will bear the charge of the indemnities.

As soon as advised by the powers that they approve these principles France and Spain will jointly submit propositions in that sense to the Sultan.

File No. 2151/75.

Memorandum to the French Embassy.

DEPARTMENT OF STATE,
Washington, October 23, 1907.

By a memorandum handed by his excellency the French ambassador to the Acting Secretary of State on October 21, 1907, the following proposals are made with respect to the indemnities on account of the Casablanca incidents:

The Sultan of Morocco would appoint a commission which would be composed of three Moorish members and members designated by the French, British, German, Spanish, Portuguese, and Italian Governments whose nationals have most suffered at Casablanca. Countries not represented might attach to the commission a member of their legation at Tangier who would take part in the settlement of the claims of persons subject to their jurisdiction. The commission would appraise the direct damages caused by pillage and arson. Murders will be made the subject of diplomatic negotiations. Relief would be extended to the natives.

The commission would sit in equity without any special judicial procedure.

The question of the mode of payment of the indemnities will be examined thereafter. The Moorish Government, being responsible for the damage sustained, will bear the charge of indemnities.

As soon as advised by the powers that they approve these principles France and Spain will jointly submit propositions in that sense to the Sultan.

The Department of State is pleased to inform his excellency the French ambassador that the proposal for an indemnity commission meets with the approval of the Government of the United States.

File No. 2151/74.

The Secretary of State to the Spanish Chargé.

No. 55.]

DEPARTMENT OF STATE,
Washington, October 23, 1907.

SIR: I have the honor to acknowledge the receipt of your note of the 21st instant, by which you inform me of the advice received by you by telegraph from your Government that a copy of the circular relative to the indemnities on account of the Casablanca incidents intended for this Government was mailed from Madrid on the 16th instant.

You state that you will lose no time in handing the document to me as soon as it reaches you, and you add that it is substantially the same as the circular of the Paris cabinet on the same subject, a summary of which was delivered to the Acting Secretary of State by the French ambassador.

The memorandum which his excellency the French ambassador was so good as to leave at this department reads as follows:

The Sultan of Morocco would appoint a commission which would be composed of three Moorish members and members designated by the French, British, German, Spanish, Portuguese, and Italian Governments whose nationals have most suffered at Casablanca. Countries not represented might attach to the commission a member of their legation at Tangier who would take part in the settlement of the claims of persons subject to their jurisdiction. The commission would appraise the direct damages caused by pillage and arson. Murders will be made the subject of diplomatic negotiations. Relief would be extended to the natives.

The commission would sit in equity without any special judicial procedure.

The question of the mode of payment of the indemnities will be examined thereafter. The Moorish Government, being responsible for the damage sustained, will bear the charge of the indemnities.

As soon as advised by the powers that they approve these principles France and Spain will jointly submit propositions in that sense to the Sultan.

In reply to this memorandum, the Department of State has taken pleasure in informing the French ambassador that the proposal for an indemnity commission meets the approval of the Government of the United States.

Accept, etc.,

ELIHU ROOT.

File No. 2151/79-80.

The Secretary of State to the Spanish Chargé.

No. 56.]

DEPARTMENT OF STATE,
Washington, October 29, 1907.

SIR: I have the honor to acknowledge the receipt of your note of the 28th instant¹ inclosing the memorandum of the Spanish Government presenting the proposal made by His Majesty's Government and that of the French Republic, providing for the constitution of a commission to examine into and decide the claims arising out of the events at Casablanca, for which the Moorish Government must be held responsible.

I have the honor to say in reply that the proposal, which appears to be identical with that presented by the French Embassy in its memorandum of October 11 last, meets with the approval of the Government of the United States.

Accept, etc.,

ELIHU ROOT.

File No. 2151/77.

Memorandum to the French Embassy.

DEPARTMENT OF STATE,
Washington, November 2, 1907.

The Secretary of State presents his compliments to the French ambassador and has the honor to acknowledge the receipt of a copy of the communication of the 11th ultimo addressed by his excellency the minister for foreign affairs to his excellency the ambassador relative to the proposal of the Government of the French Republic and that of Spain with regard to the settlement of indemnities on account of the Casablanca incidents.

In this connection the Department of State has the honor to refer to its memorandum of the 23d ultimo.

File No. 2151/84.

The Netherlands Minister to the Secretary of State.

[Translation.]

No. 854.]

ROYAL LEGATION OF THE NETHERLANDS,
Washington, November 12, 1907.

MR. SECRETARY OF STATE: The minister of Spain and the chargé d'affaires of France at The Hague delivered on the 19th of October, last, to the minister of foreign affairs in that city an identic note con-

¹ Not printed.

cerning the settlement of indemnities for damages caused by the events at Casablanca. The minister, in his reply, remarked that the Queen's Government was of opinion that the international commission should also take up pecuniary claims arising from murders committed during or after the said events.

He considers the jurisdiction of the commission over such claims to be the necessary consequence of the principles upon which the jurisdiction assigned to the commission by the Franco-Spanish proposition is based.

I am instructed to make the view of the Queen's Government known to the Government of the Republic and to point out to your excellency the advantage there would be in extending the commission's jurisdiction as above indicated.

Hereby complying with this direction, I embrace the opportunity to renew, etc.,

VAN SWINDEREN.

File No. 2151/84.

The Acting Secretary of State to the Netherlands Minister.

No. 167.]

DEPARTMENT OF STATE,
Washington, November 15, 1907.

SIR: I have the honor to acknowledge the receipt of your note of the 12th instant, by which you advise the department that Her Majesty's minister for foreign affairs, in replying to an identic note of the 19th ultimo from the minister of Spain and the chargé d'affaires of France at The Hague, in relation to the settlement of indemnities for damages caused by the occurrences at Casablanca, stated that in the opinion of the Queen's Government the international commission should also take up the pecuniary claims arising from murders committed during or after the military operations in and near Casablanca.

Referring to your statement that you are instructed to communicate to the department this view of Her Majesty's Government, and to point out the advantage that would result from thus extending the commission's jurisdiction, I have the honor to say that the Government of the United States would not oppose such a proposition if it were found acceptable to the other interested powers.

Accept, etc.,

ROBERT BACON.

File No. 2151/75.

*Memorandum to the French Embassy.*¹

DEPARTMENT OF STATE,
Washington, December 3, 1907.

By a memorandum from the French Embassy, dated October 21, 1907, the department was advised of a proposal that the Sultan of Morocco appoint a commission to be composed of three Moorish members and members designated by the French, British, German, Spanish, Portuguese, and Italian Governments, whose nationals have most suffered at Casablanca, and that countries not represented might at-

¹Mutatis mutandis to Italian Embassy and Spanish Legation.

tach to the commission a member of their legation at Tangier who could take part in the settlement of the claims of persons subject to their jurisdiction.

The Department of State in reply informed the French ambassador, by memorandum of October 23, that the proposal for an indemnity commission met with the approval of the Government of the United States.

Adverting to that portion of the proposal relative to the representation on the commission of countries other than those specified, the Department of State has the pleasure to make known to his excellency the French ambassador that, availing of the suggested course, the American representative at Tangier will be instructed to sit on the mixed commission when American claims are up for discussion and take part in their settlement.

File No. 2151/147-419.

Minister Gummeré to the Secretary of State.

AMERICAN LEGATION,
Tangier, May 16, 1908.

SIR: I have the honor to confirm my telegram to the department of this date, as follows:

Sultan's letter naming May 31 for the meeting of the claims commission at Casablanca has been received. Translation forwarded by mail.

In explanation of the above telegram, I have the honor to report that some days ago the dean of the diplomatic corps received a letter from the Grand Vizier Abdelkrim Ben Sliman, inclosing a letter or decree of His Majesty the Sultan as to the commission of claims for the examination and payment of claims of the various nationalities arising out of the Casablanca incident, the said letter arranging for the constitution of the said commission and naming the 31st day of May next for its first meeting at Casablanca. In his said letter the grand vizier requests the dean to communicate the same to the foreign representatives at Tangier. This was accordingly done, the dean addressing a circular to the corps, inclosing the letter of the grand vizier and the decree of the Sultan, with translations in French of the same. This circular letter of the dean has, however, been so delayed in transit by some of my colleagues that I have not as yet received it, but as I knew the matter was of importance, time being short and distances great, I requested the British minister to permit me to use the copies he had made of the said letters, and through his courtesy am enabled to inclose herewith, for the department's information, copies of the translations of the aforesaid letters of the grand vizier and His Majesty the Sultan, as circulated by the dean of the diplomatic corps.

I will be obliged if the department will instruct this legation as to the standing of the claims of American citizens for damages arising from the Casablanca incident, which have already been submitted to the department, and as to the procedure to be followed in the presentation of the same, in case they be approved, there being no precedent for the formal presentation of claims to a court of claims at this legation.

As set forth in the copy of the memorandum to the French ambassador, in reply to one from him concerning the proposals made by France and Spain with respect to the indemnities on account of the Casablanca incident, inclosed in instruction No. 117, of October 25, 1907, the department will find that the commission of claims, as constituted by the Sultan, is to consist of three Moorish members and one each designated by the French, British, German, Spanish, Portuguese, and Italian Governments, and that other Governments may appoint a representative to sit upon the said commission when the claims of their own nationals are to be decided.

In the memorandum sent by the department to the French and Italian Embassies and the Spanish Legation, at Washington, a copy of which is inclosed in instruction No. 120, of December 3, 1907, the department approves of the said indemnity commission and states that the "American representative at Tangier" will be instructed to sit upon the commission when American claims are presented, and in said instruction No. 120, Mr. Philip, chargé d'affaires, was instructed to participate in the meetings of the commission when American claims are under discussion.

I would therefore respectfully request that the nomination of Mr. Philip, as a member of the claims commission when American claims are presented, be confirmed, and would point out that in no case will the minister of any of the countries represented in Morocco be named to sit upon the said commission, but that the various Governments will either be represented by special appointees sent from their respective countries, or by secretaries of the various legations at Tangier.

Awaiting further instructions in the matter,

I am, etc.,

S. R. GUMMERE.

[Inclosure 1.—Translation.]

Praise to God alone. Compliments.

The Shereefian Government afterwards reached an understanding with the ambassadors of France and Spain, at the time of their visit near his shereefian majesty at Rabat, for the appointment of an international commission to meet at Casablanca for the purpose of examining the claims to be submitted to it on the part of the subjects of the Makhzen and of the foreign subjects with regard to injuries sustained by their real and personal property in consequence of the uprising which occurred there, and of examining what ought to be accepted and what rejected, of settling the claims which were admitted, and of indicating the amount of indemnity to which the accepted claimants would be entitled. In order that the said commission may have full powers to settle all these claims and in order that its decisions may be final by virtue of the shereefian decree which you receive inclosed herewith and which indicates how the said commission shall be organized and operate, our sovereign, whom God strengthen, has authorized me to write the foregoing and to send the shereefian decree to you so that you may communicate it to their excellencies the representatives of the respective powers and to solicit their cooperation in establishing the said commission under the conditions provided by the shereefian decree. His majesty likewise requests you not to appoint on this commission any of the consuls serving at Casablanca. His majesty also hopes that the interested powers will appoint a subcommission composed of their citizens and subjects for the purpose of attending to the preparatory work and thus facilitating the labors of the members of the principal commission. These subcommissions will receive the greatest consideration.

Compliments.

ABDELKRIM BEN SLIMAN.

[Inclosure 2.—Translation.]

Praise to God alone.

(Seal reading: Abdelasis Ben El Hassan, God his Master and his strength.)

By these presents may God elevate and assist him, and cause his bright sun and full moon to ascend to the heaven of happiness. Let it be known that by the help and power of God, by His grace and favor, we have authorized the establishment of an international commission exclusively competent to receive and examine the claims of native and foreign subjects on account of injury caused their real and personal property by acts of insurrection committed at Casablanca since July 30, 1907, and by acts of repression which followed. This commission shall meet on May 31 at Casablanca. It shall be composed as follows: Three members designated by the Shereefian Government, which shall appoint from among them the president; one member designated by each of the Governments of Germany, Spain, France, Great Britain, Italy, and Portugal; that is, nine members in all.

If the case arises, any other country may appoint an officer of its legation to take part in the examination and settlement of claims of its citizens. The commission shall have full power to proceed to the examinations of claims presented to it. It shall decide supremely on each of them, either by rejecting them or by accepting them and fixing an indemnity. However, only direct injuries shall give a right to indemnity. All its decisions shall be reached by a majority of the votes, the president having the casting voice in case of a tie. It shall constitute a quorum even in the absence of one or more delegates. However, if a case should be up for examination when the delegate of the nation to which the claimant belonged is absent, this delegate shall be notified, but his absence shall not delay the examination of the case more than one week. The commission may designate one or more vice presidents as well as one or more secretaries, one of whom at least shall be a native, and it may take for consultation purposes such interpreters, experts, and other persons generally as may seem useful to it. The necessary funds shall be placed at its disposal at the Government bank, to its order, by the Moroccan Government. Provision will subsequently be made for setting the date and devising the means of paying the indemnities granted by the commission.

Greeting: Our shereefian order is given the 25 Rabih 1. 1326 (April 27, 1908).

File No. 2151/170-A.

The Acting Secretary of State to Minister Gummeré.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 2, 1908.

(Mr. Bacon authorizes Mr. Gummeré to sit as United States representative upon the mixed claims commission at Casa Blanca, and instructs him to designate some competent person to act as representative in case it is impossible or undesirable for him to act in that capacity. Says the American representatives should sit with the commission whenever American claims are being considered, and should have a voice and vote in the adjustment of such claims and in the awarding of damages; if, however, this should be denied Mr. Gummeré is instructed to inform the Moroccan Government that the United States can not undertake in advance to accept as binding an award upon any claim in the adjustment of which it has not had a voice and vote. Mr. Bacon says the phrase "direct injuries" in Sultan's note of April 27 should be interpreted to include damages for the loss of documents evidencing a debt, when, under Moorish law, such documents are necessary for collection of debt, and that, concerning damages for losses suffered from interruption of business,

the United States expects most-favored-nation treatment. Mr. Bacon states that the fact that a subcommission has not made a preliminary examination of American claims must not be permitted to interfere with or prejudice their presentation to and adjudication by the mixed commission and that claims of persons holding American certificates of protection obtained and used in good faith should be given most-favored-nation treatment, which same treatment should be accorded the claims of persons coming within the provisions of article 15 of the convention of Madrid of 1880. Mr. Furniss is informed that the agent should present to the commission the claims of those persons only who present sufficient prima facie credible evidence of their American citizenship, and then only with the understanding that this Government will later withdraw the claim of or cancel the award to any of such persons who ultimately fail to establish a bona fide American citizenship. Meanwhile, in accordance with the instructions already given, Mr. Furniss is directed to hasten a comprehensive and thorough investigation by the consul general of the real status of all persons alleging American citizenship with reference to the provisions of the naturalization act of June 29, 1906, and the citizenship act of March 2, 1907, as well as departmental orders issued thereunder.)

File No. 2151/194.

Secretary of Legation Philip to the Secretary of State.

[Extract.]

AMERICAN LEGATION,
Casa Blanca, August 15, 1908.

SIR: I have the honor to report that the Casa Blanca mixed claims commission adjourned to-day, the 15th instant, and that it will re-assemble September 24, 1908, for the purpose of continuing the consideration of claims for indemnity. During the past 25 days I have used every endeavor to hasten a thorough examination of the American claims, and it has been only with the greatest difficulty that I have succeeded in bringing the same before the commission prior to the adjournment.

I beg to state that I presented for consideration by the commission 16 claims for indemnity on the part of persons under American jurisdiction, that being all which have been found by me eligible for consideration. The total awards for these claims amount to about 194,370 francs, which figure may be subject to some little change when a minute investigation of the proceedings is made.

Several of the claims presented contain large items for debts due to claimants, and on account of insufficiency of proofs and lack of time before the adjournment I was unable to obtain a final vote by the commission upon several such claims for debt which have been voted to stand over for presentation at a subsequent date.

I am informed by the French vice president of the commission that, in his opinion, the ensuing four or five months will be consumed by the commission in passing upon various claims for indemnity. Other members consider eight months the probable duration of proceedings.

I have, etc.,

HOFFMAN PHILIP.

File No. 2151/282-283.

Secretary of Legation Philip to the Secretary of State.

AMERICAN LEGATION,
Tangier, November 18, 1908.

SIR: I have the honor to refer to the department's telegraphic instructions of July 29, 1908, sent to me at Casa Blanca, in my capacity of American delegate to the mixed claims commission at that place, and which directed me (1) not to present the claims of persons against whose citizenship presumption had already been proved to exist; (2) to notify the mixed commission, when all other American claims had been considered, of the possible cancellation of awards of such claimants as might subsequently be unable to establish their character as American citizens; (3) not to present the claim of a Cuban citizen.

I beg to state that, it having been impossible to proceed with the business of receiving and examining applications for registration of naturalized American citizens residing at Casa Blanca previous to the work in connection with the presentation of American claims for consideration by the mixed commission, I therefore presented the claims of those persons who, during past years, had been accorded the rights of American citizens in Morocco by the representatives of our Government, in virtue of their naturalization as such, or for other reasons which appeared justifiable.

I beg to state that, in conformity with the department's instructions, I made a formal communication in French to the mixed commission, a copy and translation of which I beg to transmit herewith, which I requested to be entered upon the official minutes of the proceedings, and which I trust will meet with the approval of the department.

I have, etc.,

HOFFMAN PHILIP.

[Inclosure.—Translation.]

Statement made by the American delegate to the Casa Blanca mixed claims commission.

I desire to bring to the knowledge of the international commission that my Government will decide, at a later date, should it be found necessary to cancel any of the awards for indemnity for losses resulting from the disturbances at Casa Blanca in 1907, in cases where claimants under our jurisdiction fail to establish manifestations of their "bona fide" American citizenship.

ACQUISITION OF PROPERTY FOR AMERICAN MISSIONARIES IN MOROCCO AND RENTAL OF A HOUSE IN THE MOORISH QUARTER OF MEQUINEZ.

[Continued from Foreign Relations, 1907, p. 881.]

File No. 594/17-19.

The Acting Secretary of State to Minister Gummeré.

No. 133.]

DEPARTMENT OF STATE,
Washington, February 6, 1908.

SIR: Supplementing the department's instruction of yesterday's date,¹ in relation to the wish of the Gospel Union Mission to rent a

¹ Not printed.

house in the native quarter of Mequinez, I have to inform you that the Rev. George S. Fisher, president of the mission, who it appears returned from Morocco soon after the date of his letter to the department of January 13, called at the department to-day to urge that something be done toward securing the fulfillment of the pledges given to you by the Sultan and the grand vizier in November, 1906.

I inclose for your further information copy of a letter to-day addressed to Mr. Fisher.

The department feels an interest in this matter, as it necessarily must in all cases where the promises of a friendly government are unfulfilled and our requests for explanation and fulfillment are disregarded. You will again address the Shereefian Government inquiring the nature of the shereefian orders given to the basha in November, 1906, asking explanation of their nonenforcement, and demanding assurances that they will be carried out as soon as possible.

I am, etc.,

ROBERT BACON.

[Inclosure.]

The Acting Secretary of State to Rev. George S. Fisher.

DEPARTMENT OF STATE,
Washington, February 6, 1908.

SIR: Referring to your conversation with Mr. Adeo this morning in regard to the delays and difficulties which have attended the application of your union for permission for its missionaries to rent a house in the native quarter of Mequinez, in the interior of Morocco, I beg to send you copy of a letter written to you yesterday in answer to your letter of January 13 and mailed to your address at Lurache in ignorance of your return to the United States.

The files show that this matter has had during the past two years the earnest attention of this department and of the legation at Tangier. On the occasion of his visit to Fez in November, 1906, Minister Gummeré secured the personal promise of the Sultan and the assurances of the grand vizier that the desired permission should be granted, and he subsequently procured a letter of the grand vizier stating that His Majesty had issued a shereefian order to the basha of Mequinez directing him "to be mindful of the said Americans and to take care of their affairs and treat them with favor and not place obstacles in the way of their renting a house in a part of the town not objectionable, but, on the contrary, to assist them in the same." This letter was sent to your local agent at Mequinez and by him delivered to the basha. The shereefian orders not having been obeyed, Mr. Gummeré on several occasions in March and June last wrote urgently to the grand vizier asking fulfillment of his solemn engagement, but so far without result.

Notwithstanding the department's opinion, expressed in my letter to you of yesterday's date, that the present is not an opportune time to press for the fulfillment of the Sultan's promise, I have instructed Minister Gummeré to again address the shereefian government, inquiring the nature of the shereefian orders given to the basha in November, 1906, asking explanation of their non-enforcement, and demanding assurance that they shall be carried out at the earliest possible moment.

I am, sir, your obedient servant,

ROBERT BACON.

[Subinclosure.]

The Acting Secretary of State to Rev. George S. Fisher.

DEPARTMENT OF STATE,
Washington, February 5, 1908.

SIR: I have to acknowledge the receipt of your letter of the 13th ultimo, inclosing copies of your correspondence with the legation at Tangier regard-

ing its negotiations for permission for missionaries to rent a house in the native quarter of Mequinez, and asking the department's assistance in obtaining such permission.

A determined rebellion, with serious disturbances, having recently taken place in Moorish dominions, and it having been reported that the inhabitants of Mequinez have asserted loyalty to Muley Hafid, it will be recognized that the present is not an opportune time to press for the fulfillment of the Sultan's promise given in 1906 with respect to the missionary matters in Mequinez.

You may rest assured, however, that the legation will not lose sight of legitimate American missionary interests, and will, upon fitting occasion, again take up the matter with the Moorish authorities.

I am, etc.,

ROBERT BACON.

File No. 594/22-23.

Minister Gummeré to the Secretary of State.

AMERICAN LEGATION,
Tangier, March 5, 1908.

SIR: I have the honor to acknowledge the receipt of instruction No. 133, of February 6, 1908, regarding the wish of the Gospel Union Mission to rent a house in the native quarter of Mequinez, inclosing copy of a letter addressed by the department to the Rev. George S. Fisher, president of the mission, and further directing me to again address the shereefian government, inquiring as to the nature of the shereefian orders given to the basha in November, 1906, asking explanation of their nonenforcement and demanding assurances that they will be carried out as soon as possible.

In pursuance with the said instruction I have addressed a letter to Sid Abdelkrim Ben Sliman, the grand vizier, a copy of which is herewith inclosed, setting forth the matter briefly and requesting that he will inform me as to the nature of the shereefian orders given to the basha of Mequinez in November, 1906, and an explanation of their nonenforcement and also demanding assurances that they will be carried out as soon as possible.

I am, etc.,

S. R. GUMMERÉ.

[Inclosure.]

Minister Gummeré to the Minister for Foreign Affairs.

No. 21.]

AMERICAN LEGATION,
Tangier, March 5, 1908.

After compliments. I have the honor to inform your excellency that I am instructed by my Government to again bring before you the matter of the securing of a suitable house by the Americans residing in Mequinez. Your excellency will recall that during my visit to the court of his shereefian majesty, in the latter part of the year 1906, I brought this matter to the notice of his majesty and yourself in an especial manner, and not only received the personal assurances from his majesty that my request for such a house would be granted, but also a written statement from yourself, dated November 23, 1906 (Shoual 1324), in which it was expressly set forth that a shereefian order had been issued by His Majesty the Sultan to the governor of Mequinez "to be mindful of the said Americans, to take care of their affairs, and treat them with favor and kindness and not place obstacles in the way of their renting a residence in a part of the town not objectionable, but to assist them in the same."

As I informed your excellency in a letter dated March 12, 1907 (Morarrem 27, 1325), when the said Americans presented themselves to the said basha of Mequinez, instead of assisting them in securing a house he raised foolish objections to those which they proposed, and on their calling on him to assist them, as your excellency had assured me His Majesty's letter had directed, he replied that he would look at the letter and that they could return the next day, and on their so presenting themselves, he refused to see them, but sent word that he could not find the letter of His Majesty. To this your excellency replied that when the governor of Mequinez was written to on the subject he had replied "that the Americans had never applied to him nor informed him of any house, etc." This reply of the said governor was, as your excellency must have seen, after reading my letters of March 12, 1907 (Moharrem 27, 1325), and June 11, 1907 (Rabe Thany 29, 1325), on the subject, an absolute falsehood, and as I have previously informed your excellency, my Government is exceedingly annoyed at the manner in which the solemn assurances of His Majesty the Sultan and of yourself to me, when on a special mission to His Majesty, have been entirely disregarded and unfulfilled.

I have the honor to inform your excellency that I have now received instructions from my Government to request that you will inform me exactly what were the shereefian orders given to the basha of Mequinez in November, 1906, regarding the securing of a house for American citizens and also an explanation as to why the said orders were not enforced. At the same time I am instructed to demand from the shereefian government assurances that the solemn pledges given to me in this matter will be carried out at the very earliest possible moment.

In peace,

S. R. GUMMERÉ.

File No. 594/22-23.

The Acting Secretary of State to Minister Gummeré.

No. 142.]

DEPARTMENT OF STATE,
Washington, March 23, 1908.

SIR: I have to acknowledge the receipt of your unnumbered dispatch of the 5th instant, transmitting a copy of a letter addressed by you to the grand vizier, in regard to obtaining a house for missionaries in the Moorish quarter of Mequinez.

Your action in the matter is approved by the department.

I am., etc.,

ROBERT BACON.

File No. 594/24-25.

Minister Gummeré to the Secretary of State.

No. 337.]

AMERICAN LEGATION,
Tangier, March 25, 1908.

SIR: Referring to my unnumbered dispatch of March 5, 1908, I have the honor to report that I have received a letter from the grand vizier, in reply to the letter addressed to him by myself, a copy of which was inclosed in the said dispatch, regarding the nonfulfillment of the promises made to me as to the securing of a suitable house for our missionaries at Mequinez, and demanding assurances that the said promises be carried out as soon as possible. In his said letter the grand vizier assures me that as soon as order is reestablished at Mequinez, strict orders will be given as to the fulfillment of the promises. A translation of the said letter is herewith inclosed. With the assurance that any further instructions in the matter will be faithfully carried out,

I am., etc.,

S. R. GUMMERÉ.

[Inclosure.—Translation.]

*The Minister for Foreign Affairs to Minister Gummeré.*FOREIGN OFFICE,
Tangier, March 17, 1908.

After compliments. We have received your excellency's letter dated the 5th instant, reminding us regarding the negotiations which took place between us on the occasion of your mission to the Holy Court at Fez, and concerning the matter of a suitable house for your citizens at Mequinez, and to facilitate them in the way of securing the same; explaining the negligence and foolishness on the part of the governor of said city, though he had been instructed by shereefian orders to do what was necessary in the matter; and that on behalf of your Government you renew the demand to secure the above-mentioned (suitable house) as soon as possible in accordance with previous letters from the Maghzen addressed to your excellency, etc.

We have taken note.

We have brought the above to the knowledge of our master the Sultan, whom may God preserve, and he commanded me to answer your excellency that His Majesty has not forgotten to carry out as soon as possible the promises made to your excellency on the subject, but owing to the present situation of which you are aware, we must necessarily wait until order is reestablished at Mequinez and neighborhood, when strict orders will be given so as to fulfill what has been agreed with your excellency.

In peace,

ABDELEKIM BEN SLIMAN.

File No. 594/24-25.

The Acting Secretary of State to Minister Gummeré.

No. 145.]

DEPARTMENT OF STATE,
Washington, April 13, 1908.

SIR: I have to acknowledge the receipt of your No. 337 of the 25th ultimo, transmitting a note from the grand vizier, stating that as soon as order is established at Mequinez directions will be given that American missionaries be granted the promised facilities for securing a suitable residence there.

The department is gratified to receive the grand vizier's assurances that the promises mentioned will be fulfilled when order is restored.

I am, etc.,

ROBERT BACON.

RECOGNITION OF MULAI HAFID AS SULTAN OF MOROCCO.

File No. 2151/106.

*Memorandum from the Spanish Legation.*¹LEGATION OF SPAIN,
Washington, January 17, 1908.

The grave aspect that present events in Morocco may assume from a confirmation of the rumored deposition of Sultan Abd el Aziz, proclaimed at Fez on the 3d instant, may constrain the Government of Spain to take forceful measures, should the defense of the interests with which it has been intrusted in Morocco so demand.

¹ Handed to the Secretary of State by the Spanish minister, Jan. 17, 1908.

In spite of their importance the events that have heretofore taken place in that Empire have not yet induced His Majesty's Government to depart from the line of conduct originally mapped out and strictly put into practice but in case incidents that are not unforeseen should make a change of action advisable the Government of Spain would like to know the Federal Government's opinion thereon.

File No. 2151/106.

The Secretary of State to the Spanish Minister.

DEPARTMENT OF STATE,
Washington, January 20, 1908.

MY DEAR MR. MINISTER: In accordance with my oral promise, I send you inclosed a memorandum in reply to yours of the 17th instant, concerning measures which your Government may find itself obliged to take in Morocco.

Faithfully, yours,

ELIHU ROOT.

Memorandum to the Spanish Legation.

DEPARTMENT OF STATE,
Washington, January 20, 1908.

The Department of State has received the memorandum of the legation of Spain, dated January 17, 1908, and takes note of the statements made therein that the grave aspect which present events in Morocco may assume from a confirmation of the rumored deposition of Sultan Abd el Aziz, proclaimed at Fez on the 3d instant, may constrain the Government of Spain to take forceful measures should the defense of the interests with which it has been intrusted in Morocco so demand; but that in spite of their importance the events that have heretofore taken place in that empire have not yet induced His Majesty's Government to depart from the line of conduct originally mapped out and strictly put into practice.

With respect to the request made in the memorandum for the opinion of this Government should incidents which are not unforeseen make a change of action on the part of His Majesty's Government advisable, the Government of the United States, reaffirming the reservation made on its part to the Algeciras convention, would interpose no objection to such action as may prove necessary to protect life and property, to secure for all peoples the widest equality of trade and privilege with Morocco, and to facilitate the institution of reforms in that country tending to insure complete cordiality of intercourse without and stability of administration within for the common good.

File No. 2151/159.

Minister Gummeré to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Tangier, June 18, 1908.

(Mr. Gummeré reports that the pretender was proclaimed June 17 at Tetuan.)

File No. 2151/166.

*Minister Gummeré to the Secretary of State.*AMERICAN LEGATION,
Tangier, June 18, 1908.

SIR: I have the honor to confirm my telegram to the department of this date.¹

In explanation of the above, I have the honor to report that couriers arrived this morning from Tetuan with letters announcing that the Pretender Mulai Hafid had been proclaimed as Sultan at Tetuan on the 17th instant, amid the rejoicings of the populace, the town remaining tranquil. Everything is still quiet at Tangier, but the people are pleased with the successes of Mulai Hafid.

I am, etc.,

S. R. GUMMERÉ.

*Memorandum from the French Embassy.*THE FRENCH EMBASSY,
Washington, September 14, 1908.

The decision which Sultan Abd el Aziz has just taken in renouncing the struggle against Mulai Hafid, places before the powers a situation which requires their examination. The very attitude which they have maintained during the course of the conflict, their understanding concerning their common interests in Morocco, and the principles upon which they have already agreed when they had to examine the Moroccan question at Algeciras make very easy an agreement upon this situation.

France and Spain, charged with insuring the execution of the most important measures taken by the conference of Algeciras for safeguarding the foreign colonies in the shereefian empire, and especially interested in Moroccan affairs because of their character of neighboring powers, believe it their duty to submit to the cabinets observations suggested to them by the substitution of a new defacto government for the Makhzen of Abd el Aziz.

It appears at once, and that will doubtless be the unanimous feeling of the powers, that it is desirable upon this occasion to affirm, as regards Morocco, their unity and complete agreement, and it seems that the best method of establishing the necessary understanding is to admit the rule that the various Governments will withhold official recognition of the new makhzen only until guarantees and satisfaction have been obtained common to all foreign interests.

The French and Spanish Governments believe that the guarantees to be obtained from the new makhzen should bear upon the following points:

The new Sultan should declare his adherence generally to all the provisions of the act of Algeciras as well as to all the rules of application provided for in that act which have already been established and approved by the diplomatic corps at Tangier, to the commissions instituted in virtue of these regulations, to the shereefian decisions and measures of whatever kind, taken in regard to this subject.

¹ Supra.

It should not be forgotten, in fact, that if this act constitutes the international consecration of the independence of the shereefian empire, it assures at the same time the safety of the foreign interests in Morocco.

The rights conferred upon France and Spain, with the consent of the powers, for the surveillance upon the sea of contraband arms, should be confirmed as well.

The new Government should accept as a whole the other treaties and engagements concluded by the preceding sovereigns of Morocco with the powers, the arrangements made with the diplomatic corps, and contracts with individuals. It should assume also the responsibility for the debts contracted by Abd el Aziz. Debts signed for the benefit of individuals should be submitted to a verification of which the conditions will be determined later.

The settlement of the damages caused by the trouble at Casablanca will be continued before the international commission actually in operation. The Sultan will assume the actual and pecuniary responsibility of the decisions of that commission whose powers he will confirm.

Events show the absolute necessity of having the new Sultan, publicly and officially in the eyes of his people, show his firm intention to maintain relations with foreign Governments and their nationals in accordance with the law of nations.

He should therefore disavow and stop the calls to holy war. To this end he should address shereefian letters to the governors of the tribes and cities, which should aim to prevent or calm all agitation and every hostile act in the interior as well as on the frontiers of Morocco. The Sultan should agree to adopt immediately all the necessary measures to assure the security and liberty of communication around the ports and upon the principal highways of the interior.

These guaranties being obtained, nothing would longer prevent the reception by the powers of an official request for recognition by Mulai Hafid. The Sultan will declare that that implies no renunciation on the part of foreign Governments of the continuance of the settlement of the questions which concern their respective interests exclusively, nor any prejudice to their right to follow up this settlement. In this manner France and Spain reserve the right to be reimbursed for the expense of their military operations and to claim directly the payment of indemnities for the murder of their nationals.

On the other hand, it would be proper for the new Sultan to acquiesce in an honorable arrangement for the personal situation of Abd el Aziz, and the powers will recommend that he treat the officials of his predecessor equitably.

File No. 2151/223-224.

Secretary of Legation Philip to the Secretary of State.

No. 381.]

AMERICAN LEGATION,
Tangier, September 15, 1908.

SIR: I have the honor to transmit herewith translations in French (from the Decanat) and English of an Arabic letter received from the Sultan, Mulai Hafid, by the dean of the diplomatic corps at Tangier on the 12th instant, which has only just reached me. No

action has as yet been taken here as a result of this communication, the receipt of which has been notified to the various Governments concerned by their representatives.

As will be seen by the contents of the above letter, it consists of a formal request for recognition as Sultan, by the powers signatories of the Algeciras act; a complete acceptance of the conditions of the said act and of all existing treaties made between the powers and the predecessors of Mulai Hafid, and requests the cooperation and assistance of the powers in establishing and applying the reforms decided upon, for the development of the country and for the mutual benefit of all foreign nationals and the subjects of Morocco.

Thinking it important to inform the department of the receipt of the said letter without delay, I obtained the gist of its contents from one of my colleagues and telegraphed yesterday, the 14th instant, what appeared to me of chief importance, namely, the request for recognition by Mulai Hafid, adhesion to the Algeciras act and to treaties and other engagements entered into by the predecessors of Mulai Hafid and foreign powers. I also reported at the same time the death of Hadj Mohamed Ben Arby Torres, the late Moorish minister for foreign affairs at Tangier.

I beg to state that subsequent to a very careful perusal of the text of the Arabic letter, it appears that no actual mention is made of the adhesion of other existing engagements or encumbrances upon the Moorish Government than those implied by treaties only.

On consideration, however, I have decided that the wording of my telegram of the 14th instant, though including the words "other engagements," is not such as to create a misunderstanding on the part of the department, and I have therefore refrained from sending an additional explanatory message in regard to this statement which was made upon what I considered absolutely reliable information.

I am, etc.,

HOFFMAN PHILIP.

[Inclosure.—Translation.]

(Seal of Mulai Hafid.)

To His Excellency Count de Ruisseret, minister plenipotentiary of the friendly Belgian nation.

We render praise to God, the Almighty Ruler of His creatures, in accordance with His laws and divine wisdom.

After compliments. You are aware that after we had addressed our last letter to the friendly nations, we have been proclaimed Sultan of this happy Empire, at Tangier and in other parts. This proclamation, which has been for long hidden in the hearts of our subjects, has followed our proclamation in the capitals and in the interior of the country. Consequently we are obliged to exercise our sovereign rights in this Empire and to take the necessary measures to establish the security of our subjects and to those of the friendly powers. Likewise his proclamation renders it specially necessary for us to carry out the agreement which was arrived at between the Moorish Government and the friendly powers by means of the conference of Algeciras, and to put into effect such administrative measures as were provided by the said agreement.

You will be aware that we will be unable to carry out these obligations as long as our representatives at Tangier, who are charged by us to deliberate jointly with the diplomatic corps and to put the measures agreed upon into execution, for the welfare of the country, are not recognized by the friendly powers as the representatives of our Majesty: and you will realize what harm to the contrary results from this state of affairs.

We therefore beg your excellency to inform the honorable representatives of the friendly powers of the above so that they will bring the same to the knowledge of their respective Governments, to enable them to come to an agreement and recognize us as Sultan of this Empire, informing us of their decision through you.

We have no need to dwell on the subject longer. Nevertheless, God Almighty having guarded this fortunate Empire and having dilated the hearts of our subjects to recognize our Majesty and to proclaim us Sultan of the Empire, which has solid relations and well-established rights with all the friendly powers; we declare that we recognize the treaties concluded between our predecessors and the friendly nations, especially the general act of Algeciras, which we look upon as the foundation of prosperity and happy advancement of this Empire, politically as well as economically, owing to the fact that the said act guarantees, on the one side, the independence of this Empire, and, on the other, the establishment of useful reforms.

We trust that the friendly powers will advance us their support, both in the deliberations concerning these reforms, on which relies the prosperity and welfare of our subjects, as well as in their enforcement.

In peace.

Shaaban 9, 1326 (September 7, 1908).

File No. 2151/215.

*The Secretary of State to the French Ambassador.*¹

DEPARTMENT OF STATE,
Washington, October 9, 1908.

MY DEAR MR. AMBASSADOR: I beg to inclose herewith this Government's reply to the memorandum left at the department on September 14, by Mr. des Portes, setting forth the views of your Government regarding the state of affairs in Morocco growing out of the defeat of the forces of the Sultan Abd el Aziz by his successor Mulai Hafid.

An identic memorandum is to-day sent to the chargé d'affaires ad interim of Spain as a reply to the memorandum submitted by him in behalf of the Spanish Government.

I am, etc.,

ELIHU ROOT.

[Inclosure.]

Memorandum to the French Embassy.

DEPARTMENT OF STATE,
Washington, October 9, 1908.

The Government of the United States has taken due note of the memorandum transmitted to the department on September 14, 1908, by the French Embassy at Washington, in which are set forth the views which the Governments of France and Spain entertain in accord concerning the recognition of Mulai Hafid as Sultan of Morocco, and the guaranty which should first be obtained from the new Maghzen

The Government of the United States having carefully considered the observations submitted by the French memorandum, as well as by a similar memorandum from the Spanish Government received through its legation at Washington, is now prepared to announce its readiness to assent to the recognition of Mulai Hafid in general terms, without undertaking to express views as to minor points of difference concerning which the directly interested powers may not have reached an accord, but provided that substantial guaranties shall be given by Mulai Hafid of his purpose and ability to accept and discharge all

¹ Same, mutatis mutandis, to the Spanish chargé, Oct. 9, 1908.

conventional obligations incurred by former sovereigns of Morocco, as well those of the Algeciras act as those growing out of treaty rights and international law, so that the interests of the United States and its citizens in Morocco shall rest on equal footing with those of other nations.

Draft submitted to Department of State by the French Ambassador and the Spanish Chargé, October 19, 1908.

NOTE SENT TO MULAI HAFID BY THE POWERS, NOVEMBER 18, 1908.

The signatory Governments to the act of Algeciras have received a letter dated September 6 last which Mulai Hafid sent them through the dean of the diplomatic corps at Tangier, and by which he announced that, having been proclaimed by all the inhabitants of the Empire of Moghreb, he demanded recognition by the powers as the Sultan of Morocco. He offered at the same time to recognize all the public conventions concluded with the powers by his predecessor, and especially the convention of Algeciras, as well as all the regulations and decisions in which the diplomatic corps at Tangier intervened to assure the execution of that act.

The Governments of the countries represented at Morocco have received with satisfaction the spontaneous declaration of Mulai Hafid, which merits their approval.

But in order to avoid in the future all erroneous interpretation of the extent of his words, they believe they should state exactly the meaning and expressly deduce therefrom the results, in the interest of the relations of friendship and confidence which they wish to maintain with the sovereign authority of the shereefian empire.

They consider that in accepting the treaties concluded by his predecessors with the different powers Mulai Hafid adheres to all the provisions of the Algeciras act as well as to all the regulations of application provided by this act and established or approved by the diplomatic corps at Tangier, to the commissions instituted in virtue of these regulations, to the shereefian decisions and measures, of whatever character, made upon this subject, to the engagement and obligations of every kind resulting from arrangements with the diplomatic corps at Tangier or from regular contracts with individuals.

Mulai Hafid assumes, consequently, the responsibility for the debts contracted by Abd el Aziz up to the day when the latter, in view of his renunciation of the throne, began negotiations through the medium of Menebbhi. However, debts which may have been signed for the benefit of individuals shall be submitted to a verification the conditions of which shall be determined later on the basis of the act of Algeciras.

One of the principal conditions of the maintenance of order is the agreement in relation to the shereefian police in ports and the mandate which, with the approval of the other powers, has been given temporarily to France and Spain to watch over maritime contraband traffic in arms. It is understood that these guaranties shall in no wise be invaded by the shereefian authority.

On the other hand, Abd el Aziz having called the meeting at Casablanca of an international commission charged with regulating the indemnities due by the Moroccan Government on account of dam-

ages caused by the troubles which have arisen in that region, and this measure having received the consent of the powers which have sent their delegates, it is necessary that the commission begin again within the shortest possible time, and with the same powers as formerly, its work which has been momentarily interrupted.

Another consequence of the acceptance of the treaties is the obligation of the Sultan to do whatever is necessary in order to bring security to his subjects and the foreign colonies in all the regions of the Empire. It is proper, consequently, to proceed in harmony with the act of Algeciras, to take all indispensable measures to guarantee the safety and liberty of communications, in such a manner as to permit of the establishment of a stable government, which shall be proper to the interest of all. It is proper also that Mulai Hafid should make this known to the people of Morocco in an official manner, telling them at the same time that his desire is to maintain with all countries and their nationals relations in accordance with the law of nations, such as should exist between friendly countries which mutually respect one another.

These questions are those which interest all the powers. There are others which concern only certain of them. In recognizing a new Sultan, no power renounces its right to follow up with him the settlement of the questions which concern exclusively each individual power.

In this way France and Spain have declared that they reserve the right to follow up directly with the Makhzen reimbursement for the expenses which they have made to assure peace in certain regions of Morocco by means of necessary military expeditions. France and Spain, as well as other powers which find themselves in the same position, will likewise treat with the Makhzen concerning the question of indemnities due for the murder of their nationals.

If, as the powers have all understood upon reading the letter of Mulai Hafid, these explanations agree exactly with his idea, they ask him to inform them thereof in express terms, so that they may recognize him as the legitimate Sultan of Morocco. They beg him to transmit this reply through the dean of the diplomatic corps at Tangier.

They do not doubt that he understands that he owes to his brother, Abd el Aziz, the means of living as becomes a prince who is close to him and who has occupied the imperial throne of his ancestors. They trust, too, that he will treat fairly the officials who formed part of the Makhzen of Abd el Aziz.

File No. 2151/235.

The Secretary of State to Minister Gummeré.¹

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 20, 1908.

(Mr. Root informs Mr. Gummeré that the French ambassador and the Spanish chargé d'affaires have concurrently submitted to department the identic draft of a note to be communicated to Mulai Hafid

¹Repeated to Paris, London, Berlin, Rome, and Madrid.

through the dean of the diplomatic body at Tangier, formulating the terms and conditions of the guaranties to be given by the new Sultan as the condition precedent to his recognition by the powers. Mr. Root says the Government of the United States deems it necessary that its own interests and those of its citizens and commerce be confirmed and guarded on terms of equality with all other treaty powers, and, if the obligation to confirm and guard such interests be made and accepted in the terms of the proposed note, the Government of the United States is prepared for its part to recognize Mulai Hafid. States that the United States therefore acquiesces in the proposed note and in its presentation by the dean.

Mr. Gummeré is instructed to keep in touch with the dean, making known through him to his colleagues the assent of the United States to this step, and, in the event of Mulai Hafid's acceptance of the terms, Mr. Gummeré is directed to confer with the dean as to the form and manner of recognition of the new Sultan by the United States acting for its own part, but coincidentally and in harmony with the like recognition by the other treaty powers.

Adds that in case of any doubt as to details in this regard he should consult the department by cable.)

File No. 2151/238-B.

The Secretary of State to the Spanish Chargé.¹

DEPARTMENT OF STATE,
Washington, October 20, 1908.

DEAR MR. CHARGÉ: Referring to the interview with you yesterday and to the draft which you handed me of the note proposed to be communicated to Mulai Hafid through the dean of the diplomatic body at Tangier, formulating the terms and conditions of the guaranties to be given by the new Sultan, I have the pleasure to inclose a memorandum in response whereby the Government of the United States acquiesces in the proposed conditions precedent to the recognition of Mulai Hafid as Sultan of Morocco.

I am, etc.,

ELIHU ROOT.

[Inclosure.]

Memorandum.

DEPARTMENT OF STATE,
Washington, October 20, 1908.

Due consideration has been given to the draft of a note proposed to be communicated to Mulai Hafid through the dean of the diplomatic body at Tangier, which draft was handed to the Secretary of State on the 19th instant by the Spanish chargé d'affaires.

An identic draft was at the same time handed to the Secretary of State by the ambassador of France.

The note appears to be satisfactorily framed with a view to the safeguarding of the interests of all the powers having treaty relations with Morocco, as well in respect to their several conventional engagements as under the general act

¹ Same, mutatis mutandis, to French ambassador, Oct. 20, 1908, and German chargé, Oct. 22, 1908.

of Algeiras, and under the precepts of international law, while at the same time conserving the equal rights of all the powers in regard to direct contractual and especial matters not growing out of the treaties or the act of Algeiras.

The Government of the United States deems it necessary that its own interests and those of its citizens and commerce be confirmed and guarded, and if the obligation to confirm and guard such interests be made and accepted in the terms of the proposed note, the Government of the United States is prepared, for its part, to recognize Mulai Hafid as the Sultan of Morocco.

The Government of the United States, for its part, favors the proposal that the communication of the note be effected, in the name of all the powers, through the medium of the dean of the diplomatic body at Tangier, and that the reply of the Sultan be communicated to the several powers through the same channel.

The minister of the United States at Tangier will be forthwith instructed by cable to put himself in touch with the dean of the diplomatic body, to the end that the acquiescence of the United States in the proposed step shall be definitely made known to his colleagues, and that, in the event of categorical and unqualified acceptance of the offered terms being made by Mulai Hafid, the recognition of Mulai Hafid, by the United States, for its own part, shall be effected coincidentally with the like recognition by the other treaty powers.

File No. 2151/238-C.

The Secretary of State to Minister Gummeré.¹

No. 162.]

DEPARTMENT OF STATE,
Washington, October 22, 1908.

SIR: I quote a telegram sent to you by the department on the 20th instant.²

I inclose for your information a copy of the draft submitted by the French ambassador and Spanish chargé, as well as a copy of this department's memorandum in response.

I am, etc.,

ELIHU ROOT.

File No. 2151/290.

Minister Gummeré to the Secretary of State.

AMERICAN LEGATION,
Tangier, November 20, 1908.

SIR: I have the honor to report, in confirmation of my telegram of the 19th instant regarding the presentation by the dean of the diplomatic body of the collective note to Mulai Hafid, as follows: On the 17th instant the dean circulated, among the diplomatic body, letters received by him from the French and Spanish ministers, respectively, in which, by order of their Governments, they informed him that all the powers signatory to the general act of Algeiras having approved, without reserve, of the Franco-Spanish note to Mulai Hafid and its presentation to him by the dean of the diplomatic body at Tangier, they therefore inclosed a certified copy of the said note for presentation, in reply to the note of the 6th of September last. The dean proposed to the diplomatic body two

¹ Mutatis mutandis to Paris, No. 278; London, No. 230; Rome, No. 204; Vienna, No. 259; Brussels, No. 176; The Hague, No. 13; Stockholm, No. 108; Lisbon, No. 170; St. Petersburg, No. 188.

² Supra.

modes for the transmission of the said note: First, to deliver the note itself to Mulai Hafid's representative at Tangier; second, to address a letter directly to Mulai Hafid himself in the sense of the note, and called a meeting of the diplomatic body for the next day to consider the two propositions, and in the meantime the interpreters of the several legations were called together to translate the note itself into Arabic. In response to the dean's call, a meeting of the diplomatic body was held at the Belgian Legation on the morning of the 18th instant to consider the manner of the presentation of the collective note to Mulai Hafid, when it was unanimously decided that the same should be done by means of a letter written by the dean directly to Mulai Hafid and transmitted to him through his representative at Tangier. It was also decided that the letter transmitting the note should be written in the following terms, viz:

A l'auguste, victorieux, éclairé, très, élevé Prince chérifien, Mulai Hafid, Proclamé Sultan par tous les peuples de l'Empire du Maroc. De la part des Puissances signataires de l'Acte Général d'Algeciras, Je soussigné, Envoyé Extraordinaire et Ministre Plenipotentiaire de S. M. le Roi des Belges, en qualité de Doyen du Corps Diplomatique, ai reçu la mission de transmettre, en réponse à la communication du 6 Septembre, la note dont voici le texte (suit le texte de la note collective).

The letter ends as follows:

que le Tout Puissant vous garde en honneur et en paix.

Fait à Tanger, le 18 Novembre 1908.

(signed)

COMTE CONRAD DE BUISSERET,

E. E. et M. P. de S. M. C. le Roi des Belges...

I have the honor to report further that the said letter, together with the collective note, having been translated into Arabic by the interpreters of the several legations at Tangier, the same was delivered by the dean to the representative of Mulai Hafid for transmission on the 19th instant.

I am, etc.,

S. R. GUMMERÉ.

File No. 2151/299-300.

Minister Gummeré to the Secretary of State.

AMERICAN LEGATION,

Tangier, December 7, 1908.

SIR: I have the honor to confirm my telegram to the department of this date, reporting that a reply to the collective note of the powers presented to Mulai Hafid by the dean of the foreign representatives at Tangier, has been received, in which all the conditions of the said note have been accepted without reserve, with the exception of a slight reservation as to the verification of the debts owing by the Moorish Government to various persons.

I have the honor to report further that on the evening of the 5th instant, a letter from the dean was circulated among the diplomatic body, announcing that the reply of Mulai Hafid had been received, and requesting that interpreters of the various legations should meet at the Belgian Legation at 9 o'clock the next morning for the purpose of translating the same, and calling for a meeting of the diplomatic body at the said legation at 3 p. m., of the same day, for the purpose of considering the said reply of Mulai Hafid. At that hour, accordingly, the said meeting of the diplomatic body was held, and the

letter of Mulai Hafid, together with the official translation thereof, was submitted to them by the dean. As reported to the department in my telegram, in his said reply Mulai Hafid accepts all the terms of the collective note of the powers, without reservation, except a slight one as to the verification of certain debts. It was unanimously decided by the diplomatic representatives that the said reservation was unimportant and that the official translation of Mulai Hafid's reply should be at once submitted to their respective Governments for their consideration and action thereon. I have the honor to inclose herewith a copy of the said official translation for the department's consideration. The action of the various Governments in the matter will be reported to the department, and, as directed by the department, I will confer with the dean as to the form and manner of the recognition of the new Sultan, by the United States, in case the same is agreed upon by the powers, reporting to the department by cable as to details.

I am, etc.,

S. R. GUMMERÉ.

[Translation.]

(Great seal of Mulai Abd el Hafid.)

Peace be to God alone. There is no might or strength but in God, the very High and Great.

To the intelligent and wise friend who is seeking the good of the two friendly and powerful Governments, the minister of the respected Government of Belgium, dean of the honorable diplomatic corps at Tangier (the well guarded), Count Conrad de Buisseret.

After offering to God who brings success to all plans the full praise that is due him, we have received the letter by which you make known the intentions of the friendly powers signatory to the act of the conference of Algeciras as regards their hope that our Majesty, installed by God, will signify to them our acceptance of the points set forth in the said letter transmitted by you in behalf of all the said powers.

We have perused the contents of the letter and taken good note of all its indications expressed and implied. We have carefully examined the points therein stated and have accepted them out of respect for the agreement reached in that respect by the friendly powers. As to the question of debts, it is important to draw the attention of the powers to the necessity of verifying those debts and ascertaining their foundation. International law does hold this Empire responsible for those debts, but it is equally true that the customs, laws, and statutes of this Empire demand that the responsibility for those debts shall fall upon persons who had divided the money and used it in their commercial undertakings. This is as clear as the sun shining over the earth and needs no demonstration.

Consequently we are in duty bound to accept the responsibility for the above-mentioned debts just as it is our duty to proceed against those from whom they must be reclaimed.

We hope the friendly powers will in no wise intervene in their behalf, whatever may be the decisions reached by us. Investigation of this matter shall be carried on with the same equity as is expected of us in regard to their rights, for justice must take its course. And so, after examination of the proof relative to the debts due to individuals, after consideration of the circumstances under which they were assumed, after ascertaining their origin, cause and application in accordance with the principles established in such cases, the Maghzen stands ready to discharge, with the help of God, all such debts as shall be found to be valid under the law.

As for the military expenses of the two friendly powers, France and Spain, when they make the amount known to us, all will go well, God willing.

We are fully confident that all the friendly powers that have agreed upon sending that note to our Majesty, after adopting the points therein set forth,

will respect the provisions relative to our private and general interests which the said powers have agreed to recognize by the act of the conference.

Our sole object is to maintain public order and to place business on a sound footing by averting in every equitable way all possible causes of disturbance.

May you all remain in peace.

Done the 4th Sacred Kode, 1326 (November 29, 1908).

File No. 2151/290.

The Acting Secretary of State to Minister Gummeré.

DEPARTMENT OF STATE,
Washington, December 11, 1908.

SIR: I have to acknowledge the receipt of your unnumbered dispatch of the 20th ultimo, reporting that, on the preceding day, the collective note of the diplomatic corps was presented to the representative at Tangier of the Sultan, Mulai Hafid.

Awaiting Mulai's reply, of which the department has been advised by telegraph.

I am, etc.,

ALVEY A. ADEE.

File No. 2151/293.

The Secretary of State to Minister Gummeré.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 17, 1908.

The Spanish minister shows me text of note recognizing Mulai Hafid as Sultan, which note it is proposed to have delivered to-day by the dean of the diplomatic corps. The terms of the proposed note are found satisfactory. You will inform the dean that the United States, for its part, accepts the assurances given by Mulai Hafid and acquiesces in the concurrent notification of recognition.

Root.

File No. 2151/293.

Memorandum from the Spanish Legation.

[Translation.]

LEGATION OF SPAIN,
Washington, December 17, 1908.

The Governments signatory to the act of Algeciras have received the letter of the 4th of Ramadan, 1326, which Mulai Hafid sent them through the dean of the diplomatic corps at Tangier in reply to their communication of November 18. The Governments of the countries represented in Morocco have received that reply with satisfaction. They have found in it evidence that the conditions they had formulated in their note of November 18 in the interest of the relations of friendship and confidence they wish to maintain with the sovereign authority of the Shereefian Empire meet Mulai Hafid's sentiments exactly. In consequence the powers signatory to the act of Algeciras have decided to recognize Mulai Hafid as the lawful Sultan of Mo-

rocco and have charged the dean of the diplomatic corps at Tangier to notify this recognition to the representative of His Majesty the Sultan in the said city.

File No. 2151/293.

The Secretary of State to the Spanish Minister.

DEPARTMENT OF STATE,
Washington, December 19, 1908.

MY DEAR MR. MINISTER: I beg to advise you, in confirmation of the assurance orally given you on the 17th instant, that, in view of the statements made in your memorandum of the same date, which you left at the department, telegraphic instructions were sent on the 17th instant to the American minister at Tangier directing him to inform the dean of the diplomatic corps that the Government of the United States accepted the assurances given by Mulai Hafid and acquiesced in the concurrent notification of his recognition as Sultan.

I am, my dear Mr. Minister, very sincerely yours,

ELIHU ROOT.

File No. 2151/310.

Minister Gummeré to the Secretary of State.

No. 407.]

AMERICAN LEGATION,
Tangier, December 30, 1908.

SIR: I have the honor to report that on the 29th instant the dean of the diplomatic corps circulated among the corps identical letters received by him from the French chargé d'affaires and the Spanish minister, informing him of the text of the Franco-Spanish note which had been proposed to the powers signatory to the act of Algeciras as a response to Mulai Hafid's reply to the original note of the powers; and that, as all of the powers had approved of the same, they were charged to request him to communicate the same to the representative of Mulai Hafid at Tangier as soon as the adhesion to the said note of the powers signatory to the act of Algeciras have been announced to him by their respective representatives at Tangier. The dean further stated that as soon as he has received the said announcement from all of the representatives he would convoke a meeting of the interpreters of the various legations for the purpose of translating the note into Arabic before delivery to the representative of Mulai Hafid.

I have the honor to report, further, that up to the present date the representatives of the United States, Germany, Italy, Sweden, Holland, Russia, Great Britain, and Portugal have informed the dean of the adhesion of their respective Governments to the Franco-Spanish note. Further action in the matter will be immediately reported to the department.

I am, etc.,

S. R. GUMMERÉ.

NETHERLANDS.

COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND
THE NETHERLANDS UNDER SECTION 3, TARIFF ACT, JULY 24,
1897.

*Signed at Washington, May 16, 1907. Ratified by the Netherlands,
July 11, 1908. Proclaimed, August 12, 1908.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas the Government of the Netherlands has entered into a Commercial Agreement with the United States in conformity with the provisions of the third section of the Tariff Act of the United States approved July 24, 1897, by which Agreement in the judgment of the President reciprocal and equivalent concessions are secured in favor of the products of the United States;

Therefore, be it known that I, Theodore Roosevelt, President of the United States of America, acting under the authority conferred by said Act of Congress, do hereby suspend during the continuance in force of said Agreement the imposition and collection of the duties imposed by the first Section of said Act upon the articles hereinafter specified, being the products of the industry of the Netherlands; and do declare in place thereof the rates of duty provided in the third Section of said Act to be in force and effect from and after the date of this, my Proclamation, as follows:

Brandies, or other spirits manufactured or distilled from grain or other materials, one dollar and seventy-five cents per proof gallon.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this twelfth day of August, in the year of our Lord one thousand nine hundred and eight,
[SEAL.] and of the Independence of the United States of America the one hundred and thirty-third.

THEODORE ROOSEVELT.

By the President:

ALVEY A. ADEE,

Acting Secretary of State.

The President of the United States and Her Majesty the Queen of the Netherlands, mutually desiring by means of a Commercial Agreement to facilitate the commercial intercourse between the two countries, have appointed for that purpose their respective plenipotentiaries, namely:

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

Her Majesty the Queen of the Netherlands, Jonkheer R. de Marees van Swinderen, Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States;

Who, having exchanged their respective full powers, which were found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I.

It is agreed on the part of the United States, pursuant to and in accordance with the provisions of the third section of the Tariff Act of the United States approved July 24, 1897, and in consideration of the concessions hereinafter made on the part of the Netherlands in favor of the products of the soil and industry of the United States, that brandies, or other spirits manufactured or distilled from grain or other materials, products of the industry of the Netherlands imported into the United States, shall, from and after the date when this Agreement shall be put in force, be subject to the reduced tariff duty provided by said Section 3, namely, one dollar and seventy-five cents per proof gallon.

ARTICLE II.

Reciprocally and in consideration of the preceding concession, the Royal Government of the Netherlands agrees that, during the continuance in force of this Agreement, the duties imposed upon the following named products of the industry of the United States imported into the Netherlands shall not exceed the tariff rates hereinafter specified, viz:

Upon mutton, salt pork, and salted bacon, 0.75 florin per 100 kilograms.

Upon mutton, salt pork, and salted bacon, when smoked or dried, 1 florin per 100 kilograms.

ARTICLE III.

The Royal Government of the Netherlands further guarantees to continue to admit into the Netherlands during the aforesaid period canned meats manufactured in the United States in packages weighing more than four pounds (English) at the rates of duty hitherto levied, namely: One, six, and eight florins per one hundred kilograms, according to quality and the distinctions made in the Tariff of the Netherlands respecting meats, although entitled under strict application of the law to levy upon such canned meats a duty of twenty-five florins per one hundred kilograms.

ARTICLE IV.

It is mutually agreed by the High Contracting Parties that in the event that the Royal Government of the Netherlands shall, at any time during the continuance in force of this Agreement, withdraw from any product of the soil or industry of the United States imported into the Netherlands the benefit of the lowest tariff rates imposed by the Netherlands upon a like product of any other origin,

either Party shall thereupon have the right to terminate this Agreement upon giving to the other three months' prior notice of its intention to do so.

ARTICLE V.

It is further agreed on the part of the United States that the instructions to the Customs Officers set forth in the annexed diplomatic note and made a part of the consideration of this Agreement shall go into effect not later than July 1, 1907.

ARTICLE VI.

This Agreement shall be ratified by the Royal Government of the Netherlands as soon as possible, and upon official notice thereof the President of the United States shall issue his proclamation giving full effect to the provisions of Article I of this Agreement. From and after the date of such proclamation this Agreement shall be in full force and effect, and shall continue in force until one year from the date when either Party shall notify the other of its intention to terminate the same.

Done in duplicate, in the English and Dutch languages, at Washington this 16th day of May, one thousand nine hundred and seven.

ELIHU ROOT [SEAL]

R DE MAREES VAN SWINDEREN [SEAL]

The Secretary of State to the Minister of the Netherlands.

DEPARTMENT OF STATE,

Washington, May 16, 1907.

SIR: Referring to the Commercial Agreement signed this day between the Government of the Netherlands and the Government of the United States, I have the honor to inform you that instructions will be issued to the Customs Officers of the United States to the following effect:—

“Market value as defined by section 19 of the Customs Administrative Act shall be construed to mean the export price whenever goods, wares, and merchandise are sold wholly for export, or sold in the home market only in limited quantities, by reason of which facts there can not be established a market value based upon the sale of such goods, wares, and merchandise in usual wholesale quantities, packed ready for shipment to the United States.”

These instructions shall take effect not later than July 1, 1907, and shall remain in force thereafter for the term of the aforesaid Agreement. In pursuance thereof the export price of Maastricht pottery imported into the United States from the Netherlands under the conditions described in your Note of March 23, 1907, shall be accepted by the customs officers of the United States as the true market value of the aforesaid articles of merchandise.

Receive, Mr. Minister, the renewed assurance of my highest consideration.

ELIHU ROOT.

STATUS OF MORMON MISSIONARIES.

File No. 15885.

The Netherlands Chargé to the Assistant Secretary of State.

[Translation.]

No. 851.]

ROYAL LEGATION OF THE NETHERLANDS,
Washington, September 30, 1908.

MR. ASSISTANT SECRETARY OF STATE: The Interdenomination Council of Women for Christian and Patriotic Service (156 Fifth Avenue, New York) has addressed to Her Majesty the Queen, my gracious sovereign, a petition praying that she may be pleased to take the initiative of a law prohibiting the propaganda made, as it seems, by the "Missionary Propaganda of the so-called Mormon Church, or Church of the Latter-day Saints."

The petition is based on the following grounds:

1. Because they have a missionary center at Rotterdam; and from the number of young women being brought to the United States it is evident they are making numerous European converts to a form of religion which teaches polygamy as a religious practice.

2. Because their work amounts to a branch of white slavery traffic, numerous instances being found of women, who, brought here by them, are abandoned and left to be objects of charity in various communities, apparently because their eyes are opened to the iniquity of the system, and they refuse to accept the polygamous practices of the so-called church.

3. Because there is now a bill before our Congress at Washington proposing to add an antipolygamy amendment to the Constitution of the United States, which legislation will put an end to the polygamous practice and teachings of the Mormon Church in this country; and if other countries simultaneously enact legislation against this practice the young girls, now being deceived under the guise of religion, will be protected not only at our ports of entrance, but also against such teachings in their home countries.

Before reaching a decision on the said petition the Queen's Government wishes to learn the opinion of the American authorities regarding the arguments advanced in its support, and more particularly points 2 and 3 as well as to whether it is true that the Mormon religion is, in our days, opposed to polygamy.

I have therefore the honor to have recourse to your excellency's habitual obligingness and to ask that you will kindly put me in position to transmit to my Government the official information above referred to.

Thanking your excellency in advance for such action as you may be pleased to take on this note, I embrace this opportunity to renew, etc.

W. A. ROYAARDS.

File No. 15885.

The Acting Secretary of State to the Netherlands Chargé.

No. 210.]

DEPARTMENT OF STATE,
Washington, October 10, 1908.

SIR: I have the honor to acknowledge the receipt of your note of the 30th ultimo, wherein you quote from a communication addressed

to Her Majesty the Queen of the Netherlands by the Interdenomination Council of Women for Christian and Patriotic Service urging legislation to prohibit in the Netherlands the missionary propaganda of the Mormon Church, and request, by direction of your Government, information on the points raised in said communication with reference to the position of the Mormon Church on the question of polygamy.

In reply I have the honor to say that the attitude of the Department of State toward Mormon missionaries asking protection abroad has been that, if such missionaries observe the civil laws of marriage and practise no doctrines violating the law of morality, they shall receive the same impartial protection as other American citizens or missionaries. (See Foreign Relations, 1897, p. 123.)

By a manifesto issued October 6, 1890, the Mormon Church, or Church of the Latter Day Saints, declared the purpose of such church no longer to sanction the practice of polygamous marriages. In 1893 the President of the United States took official cognizance of such declaration to the extent of pardoning Mormon adherents who had abstained from polygamy since 1890. A copy of the President's proclamation is inclosed herewith.¹

The debates in the United States Senate in 1907, and the final vote declining to unseat Senator Smoot of Utah, seem to show the general acceptance of the Mormon declaration that plural marriages are no longer taught. (See Congressional Record, 59th Cong., 2d sess., pp. 3273 to 3429.)

Polygamy is prohibited by the laws of the States and of the United States, and aliens who commit polygamy or admit their belief in the practice of polygamy are excluded from admission into the United States. (Copy of alien law herewith. See also 34 Stat. L., p. 899.)

No final action has been taken in Congress on the bills introduced to amend the Constitution by prohibiting polygamy.

Accept, etc.,

ALVEY A. ADEE.

¹Not printed.

NICARAGUA.

PROTECTION OF CHINESE INTERESTS IN NICARAGUA.

File No. 14413.

The Acting Secretary of State to Minister Coolidge.

No. 114.]

DEPARTMENT OF STATE,
Washington, July 15, 1908.

SIR: I inclose herewith a copy of a note from the Chinese minister, in which he requests that the American minister to Nicaragua and the American consular officers in that country be instructed to continue their protection of Chinese subjects and their interests in Nicaragua.

Now that Nicaragua has been made a separate mission, it is proper to renew and confirm to you the instructions heretofore given to Minister Baker for the use of the good offices of the legation and of the American consuls in Nicaragua in behalf of Chinese subjects residing in Nicaragua in the absence of a Chinese representative in that quarter.

You will accordingly take under the protection of the legation at Managua Chinese subjects and their interests in Nicaragua in the way pointed out in instructions Nos. 470 and 535,¹ dated, respectively, July 3, 1896, and February 6, 1897, to Minister Baker. Copies of those instructions are inclosed herewith. You will give the consuls in Nicaragua the appropriate instructions in the premises.

I am, etc.,

ROBERT BACON.

[Inclosure.]

The Chinese Minister to the Secretary of State.

No. 7.]

IMPERIAL CHINESE LEGATION,
Washington, July 1, 1908.

SIR: I have the honor to transmit to you the contents of a petition which I have recently received from my people who are residing at Bluefields and other cities of Nicaragua, Central America.

It seems that ever since the year 1894 unfriendly legislation has been passed by the Government of Nicaragua against my people, at first only prohibiting the landing of new arrivals, and subsequently even refusing admission to merchants who had returned to the homeland on visits. A recent law demands the payment of \$100 from every Chinese departing from the country and \$500 on his reentrance. In several other ways the subjects of our Empire have been harassed and unfavorably treated.

At the request of my Government the interests of Chinese subjects residing in Nicaragua have been placed, by permission of your Government, under the protection of your diplomatic and consular representatives in that country, who

¹ See Foreign Relations, 1897, p. 96.

have exerted good offices on their behalf, but with the lapse of time and the change of officers the relations between the representatives and my people have not been as intimate as they were before.

I shall deem it a favor, therefore, if you will issue instructions to your diplomatic and consular representatives to continue the friendly protection of the Chinese residents in Nicaragua which was so ably and thoroughly undertaken by their predecessors. Whatever steps they may take to remove the harsh legislation against my people and to ameliorate their conditions will be heartily appreciated by my Government.

Accept, etc.,

WU TING FANG.

NORWAY.

ARBITRATION CONVENTION BETWEEN THE UNITED STATES AND NORWAY.

Signed at Washington, April 4, 1908. Ratification advised by the Senate, April 17, 1908. Ratified by the President, June 18, 1908. Ratified by Norway, May 23, 1908. Ratification exchanged at Washington, June 24, 1908. Proclaimed, June 29, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the Kingdom of Norway, providing for the submission to arbitration of all questions of a legal nature or relating to the interpretation of treaties, which may arise between the two countries and which it may not have been possible to settle by diplomacy, was concluded and signed by their respective Plenipotentiaries at Washington, on the fourth day of April, one thousand nine hundred and eight, the original of which Convention, being in the English and Norwegian languages, is word for word as follows:

The President of the United States of America and His Majesty the King of Norway desiring in pursuance of the principles set forth in articles 15-19 of the Convention for the pacific settlement of international disputes, signed at The Hague July 29, 1899, to enter into negotiations for the conclusion of an Arbitration Convention, have named as their Plenipotentiaries, to wit:

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

His Majesty the King of Norway: O. Skybak, His Chargé d'Affaires at Washington;

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

ARTICLE I.

Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the two Contracting Parties and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of July 29, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two Contracting States, and do not concern the interests of third Parties.

ARTICLE II.

In each individual case the High Contracting Parties, before appealing to the permanent Court of Arbitration, shall conclude a special Agreement defining clearly the matter in dispute, the scope of the powers of the Arbitrators, and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure. It is understood that on the part of the United States such special agreements will be made by the President of the United States by and with the advice and consent of the Senate thereof.

ARTICLE III.

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 Majesty the King of Norway. The ratifications shall be exchanged at Washington as soon as possible, and the Convention shall take effect on the date of the exchange of its ratifications.

ARTICLE IV.

The present Convention is concluded for a period of five years, dating from the day of the exchange of its ratifications.

Done in duplicate at the City of Washington, in the English and Norwegian languages this 4th day of April in the year 1908.

ELIHU ROOT [SEAL]
O. SKYBAK [SEAL]

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the twenty-fourth day of June, one thousand nine hundred and eight;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this twenty-ninth day of June, in the year of our Lord one thousand nine hundred and [SEAL] eight, and of the Independence of the United States of America the one hundred and thirty-second.

THEODORE ROOSEVELT

By the President:

ROBERT BACON

Acting Secretary of State.

PANAMA.

ELECTION AND INAUGURATION OF DON JOSÉ DOMINGO DE OBALDIA AS PRESIDENT OF PANAMA.

File No. 847/135.

Chargé Weitzel to the Secretary of State.

No. 346.]

AMERICAN LEGATION,
Panama, August 31, 1908.

SIR: I have the honor to advise that the electoral college of Panama held a formal session in this city yesterday, Sunday, afternoon, as provided by the constitution, for the purpose of declaring the result of the vote heretofore, on August 1, cast by the presidential electors in each of the Provinces of the Republic, as already reported in Mr. Squire's No. 328, of the 7th ultimo.

It was announced that Don José Domingo de Obaldía had received all the votes cast, 258 out of a possible 269, and he was accordingly declared elected President for the term of four years, beginning October 1, 1908.

The partisans of Obaldia took advantage of the opportunity to tender him a banquet at the Hotel Central and a serenade in one of the public parks, the purpose of the demonstration being an attempt to influence the members of the National Assembly, which meets to-morrow in regular session.

At the banquet Mr. Obaldia announced that he would "live up to his promises by securing the best elements of all parties to help him govern and sustain the Republic," and his speech is interpreted to be a bid for support sufficient to organize and control the legislative body, a majority of which is at present claimed by the Amador administration.

The National Assembly will be in session for one month before the new President takes office and will in the meanwhile exercise its constitutional prerogative of electing the "First Designado," who is the officer next in line of succession to the Presidency.

I have, etc.,

GEORGE T. WEITZEL.

File No. 847/141.

Chargé Weitzel to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Panama, October 2, 1908.

(Mr. Weitzel reports that the inauguration was very successful, a large crowd being present, including the commander and two officers of U. S. S. *Buffalo*. Says that a new ministry has been formed with Jose Augustin Arango as minister for foreign affairs. Adds that Carlos Constantine Arosemena is appointed minister at Washington.)

File No. 847/152-153.

Chargé Weitzel to the Secretary of State.

No. 361.]

AMERICAN LEGATION,
Panama, October 2, 1908.

SIR: I have the honor to advise, in continuation of my telegram of even date, that the inauguration of the Hon. José Domingo de Obaldia, as President of the Republic, took place at 3 o'clock yesterday afternoon, at the National Theater, in the presence of the members of the National Assembly, the diplomatic and consular corps, officials from the Canal Zone, the commander and two officers of the U. S. S. *Buffalo*, and an assemblage of about 2,000 people. The retiring President, Dr. Amador, did not attend, nor did any of the prominent members of the opposition party.

Immediately after the ceremony a reception was held by the President for the diplomatic and consular corps in the Government Palace, during the course of which Mr. C. E. Mallet, the British minister resident and acting dean, made a short address of congratulations and good wishes, which was responded to by His Excellency. The members of the diplomatic corps thereafter went to the Executive Mansion to pay respects to Madame Obaldia. Late in the afternoon I called alone on Dr. Amador and his wife at his private residence. He leaves soon for Jamaica, to be gone two months.

I am sending under separate cover inclosure No. 1, three copies of the addresses delivered by the president of the National Assembly and the President of the Republic, respectively, at the inaugural ceremonies, and inclosure No. 2, a translation of the latter's discourse as it appeared in a local newspaper of the Obaldia party.

I have, etc.,

GEORGE T. WEITZEL.

[Inclosure.]

*President Obaldia's Speech.**Mr. President of the National Assembly, honorable deputies:*

In taking the solemn oath that I will obey the constitution and laws as President of the Republic, I accept the responsibility that the supreme office imposes upon me. My oath gives true expression to my unswerving determination to devote myself to the service of my country, with abnegation and with loyalty, so that I may show myself worthy of the high honor conferred upon me by the manhood of the generous people of Panama.

I recently had occasion to publicly manifest my deep satisfaction at the unusual but so felicitous event, that the transmission of power among us should at last take place in the legitimate, pure, and irrevocable manner, which you, Mr. President, have so rightly praised; because thereby the credit of the Republic institutions which we have given ourselves is enhanced, the principal cause of our internal discords is removed, and a bright horizon of faith and hope is unfolded to the patriots of Panama, who until now have yearned in vain for the exercise of their rights and the safeguarding of their public liberty.

I shall ever be the staunchest supporter of these political achievements which are redeeming, and in which you rightly pride yourself with our fellow citizens.

As an earnest of the sincerity of my words, I offer the example of my whole life, and can point specially to the recent events which culminated in my elevation to the presidential chair. You will see that never did I solicit office or accept unworthy means to gain selfish ends, neither would I submit to indecorous humiliations to insure my success. Permit me to assert that the citizen

who acts thus can never be a menace to the rights and liberties that the nation has placed under his care.

It is particularly gratifying to me that you, in the name of this high assembly wherein sit representatives of every section of our country, should recognize and declare as you have done that I do not owe my election to official favor, nor to courtesan intrigues, nor to corrupt methods, nor to dishonorable compromises which would limit my ability to do good and wither my moral power to fulfil the supreme duties laid upon me as head of the executive government. It is that I am persuaded, Mr. President, that the official favor which those who aspire to the public power seek is the ordinary form of imposition, and he who figures on thus elevating himself, builds upon fragile foundations and submits to conditions that are incompatible with the character and independence of worthy men.

The participation of Governments in electoral contests is according to some a measure of tranquility; but this tranquility, sir, which nowise differs from the lethargy of servitude, is so odious to me that I prefer a thousand times the dangers which an excess of popular liberty may bring. In this case, however, liberty can not degenerate into demagogism, "the eternal danger of democracy" according to the happy expression of Castelar, but it becomes as a healthful respect of public opinion, the free manifestation of which should be protected by all just men.

The forces which have elevated me to the highest seat in the nation are those which normally and legitimately should preponderate in a free country, and this alone banishes all thought of illegal acts or irregular transactions. My deepest obligation, that from which I will never swerve, is to remain faithful to my public promises oft reiterated, spontaneously and solmenly, or what is the same thing, to be true to my own ideas to which I owe the high distinction conferred upon me and which guaranty has further strengthened my conscience as an honest man.

Notwithstanding this, those who persist in refusing to recognize the supremacy invested by right in the majority in every Republic have attempted to deny all merit to the elements which combined to bring about my triumphs in the elections, and they have even rashly affirmed that my success is due primarily to the will of the Government of the United States, and that the known attitude of that Government, the ally and friend of our nation, was the result of weaknesses and damnable compromises injurious to the interests of our country.

This, gentlemen, is the time to emphatically declare that these charges, subversive of my dignity as a Panaman and to my honesty as a magistrate, are utterly devoid of any truth. Never have we in any way approached the United States that they should take the position it adopted in our electoral contest considering it compatible with its treaty rights. Truly we may say that it is not the actions of the people of Panama, but the conduct of the personnel of its Government, which brought about the attitude assumed by the United States during our campaign; and it is precisely for this reason that our country has derived nought but benefit from their action which insured the respect of suffrage, the triumph of the people's will, and the reawakening of public confidence.

I am convinced, Mr. President, of the imperious necessity for our country to turn over a new leaf. It is necessarily essential above all else that the nation's affairs should have preference over mere politics, in order that the labors of the executive may bear fruit. The government of the people is, as science and experience teaches, eminently a practical question. To be successful in the task of administering national interests the diligence and caution required by ordinary business transactions is essential, and for this reason the best governments are those which devote themselves with the greatest zeal and give stability to the matters intrusted to their care.

In politics, it is most important that we should strive to conserve public order, as this is the greatest of benefits; without it there is no possibility for profitable work; but as peace among us is guaranteed more by the sound sense, industrious habits, and patriotism of the people of Panama than by virtue of any international agreement, I may rest assured that public tranquility will not be disturbed. The régime of laws and order which I propose to maintain will also contribute to this end, as it will eliminate every reasonable cause for subversive impulses.

File No. 847/143.

The Minister for Foreign Affairs of Panama to the Secretary of State.

[Telegram.—Translation.]

FOREIGN OFFICE,
Panama, October 3, 1908.

I take pleasure in informing you that the most excellent Señor Don José Domingo de Obaldia took possession of the Presidency of the Republic on the 1st instant and appointed his cabinet as follows: Secretary of foreign relations, the undersigned; secretary of government and justice, Ramon M. Valdes; secretary of the treasury, Carlos A. Mendoza; secretary of public instruction, Eusebio A. Morales; secretary of Fomento, J. José E. Lefevre.

ARANGO.

File No. 847/141.

The Secretary of State to the Minister for Foreign Affairs of Panama.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 3, 1908.

I beg you to present to President Obaldia my sincere congratulations and good wishes upon his inauguration as President of Panama. It is the cause of much gratification to me personally also that the pleasant intercourse which has existed between the State Department and yourself, as minister in Washington, may be continued by reason of your elevation to the responsible and honorable position of minister for foreign affairs.

ELIHU ROOT.

File No. 847/142.

The Minister for Foreign Affairs of Panama to the Secretary of State.

[Telegram.—Translation.]

FOREIGN OFFICE,
Panama, October 3, 1908.

Profoundly thankful for your excellency's felicitations. I avail myself of the opportunity to express my hope that the relations of our two countries may ever be as close and cordial as they have been heretofore.

ARANGO.

File No. 847/141.

The Secretary of State to Chargé Weitzel.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 3, 1908.

The President is sending a congratulatory message to President Obaldia. You will convey to new minister for foreign affairs sin-

cere congratulations and wishes for the development and reenforcement of the necessarily intimate ties that join Panama and the United States and the perpetuation of sincere friendship between them.

Root.

File No. 847/141.

President Roosevelt to President Obaldia.

[Telegram.]

THE WHITE HOUSE,
Washington, October 3, 1908.

I congratulate you on your auspicious inauguration. Your intimate knowledge of the close relationship and mutual needs of the two countries can not fail to help the beneficial conduct of all matters between them and strengthen their friendly ties.

THEODORE ROOSEVELT.

File No. 847/144.

The Minister for Foreign Affairs of Panama to te Secretary of State.

[Telegram.]

FOREIGN OFFICE,
Panama, October 6, 1908.

President Obaldia requests me to convey to you the expressions of his appreciation of your kind congratulations, and I beg that you will accept my own for your benevolent phrases concerning myself. I feel confident that our always pleasant and cordial relations will be continued and aid much toward a satisfactory solution of the affairs between our respective Governments.

ARANGO.

File No. 847/146.

The Counsellor of the Legation of Panama to the Secretary of State.

LEGATION OF PANAMA,
Washington, October 6, 1908.

SIR: I have the honor to advise you that the inauguration of Don Jose Domingo de Obaldia as President of the Republic of Panama occurred at the capital of the Republic on the 1st instant, and that the following named have been constituted members of the new cabinet, to wit: Don Jose Augustin Arango as secretario de relaciones exteriores; Don Ramon A Valdes as secretario de gobierno y justicia; Don Carlos A Mendosa as secretario de hacienda; Don Eusebio A Morales as secretario de instruccion publica.

I have, etc.,

W. NELSON CROMWELL.

File No. 847/145.

President Obaldia to President Roosevelt.

[Telegram.]

PANAMA, PANAMA, *October 7, 1908.*

I am deeply grateful for your kind cablegram of congratulations. Throughout my administration it shall be my aim to strengthen the friendly ties which so happily exist between our respective peoples. My greetings and best wishes for your personal and your generous country's welfare.

OBALDIA.

File No. 847/162-163.

President Roosevelt to President Obaldia.

[Telegram.]

THE WHITE HOUSE,
Washington, October 31, 1908.

Please accept my cordial thanks for good wishes extended by yourself and members of your cabinet in your message of October 28.

THEODORE ROOSEVELT.

COMMISSION FOR THE APPRAISEMENT AND SETTLEMENT OF DAMAGES TO PROPERTY IN THE PANAMA CANAL ZONE, UNDER ARTICLE VI OF THE TREATY OF 1903, BETWEEN THE UNITED STATES AND PANAMA.

File No. 5747/1.

Minister Squiers to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Panama, April 4, 1907.

Panama Government has appointed two members joint commission under provisions of Article XV Isthmian Canal convention, and both members nominated on the part of the United States are here. Panama desires that appointment of umpire, according to provisions of same article, be immediately made to avoid any possible delay in proceedings of commission.

SQUIERS.

File No. 5747/6-7.

Minister Squiers to the Secretary of State.

No. 220.]

AMERICAN LEGATION,
Panama, February 22, 1908.

SIR: I have the honor to inform the department that in a conversation this morning with Mr. Arias, secretary of state for foreign affairs, he requested me to suggest to the department that I be in-

structed to take up with him the question of the appointment of the fifth person, or umpire, of the commission, according to the provisions of Articles VI and XV of the treaty of November 18, 1903, between the United States and the Republic of Panama.

He stated in support of his suggestion that the lands of Panamanians have been expropriated in the construction of the canal, but that claims for compensation still remain unpaid. The effort made last year by the commission to settle the claims had failed, as at that time the fifth member, or umpire, had not been appointed. He also said that the claimants in certain cases were much in need of the money, and he hoped that the American Government would take action according to the provisions of Article XV, with a view to a speedy settlement.

He further said that his Government was willing to accept an American citizen residing on the Isthmus, but gave me no information of just who he had in mind.

I have, etc.,

H. G. SQUIERS.

File No. 5747/6-7.

The Secretary of State to Minister Squiers.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 8, 1908.

(Mr. Root, referring to dispatch of February 22 last, says it is believed it would facilitate matters if the Panaman Government would authorize Minister Arango to take up with the department the question of selecting an umpire. Instructs Mr. Squiers to interview the minister for foreign affairs and ascertain his views on this point.)

File No. 5747/13.

Minister Squiers to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Panama, April 9, 1908.

(Mr. Squiers reports that the minister for foreign affairs approves the suggestion and will instruct Minister Arango to take up the matter with the department.)

File No. 5747/19-21.

The Secretary of State to Minister Squiers.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 21, 1908.

(Mr. Root instructs Mr. Squiers to give formal notification to the Panaman Government that Mr. Edward C. Bumpus, of Massachu-

setts, and Hon. Edwin Denby, of Michigan, have been appointed as United States commissioners plenipotentiary on the tribunal for the assessment of land under Article VI of the treaty of November 18, 1903, between the United States and Panama.)

File No. 5747/22.

The Minister of Panama to the Secretary of State.

[Translation.]

No. 12.]

LEGATION OF PANAMA,
Washington, May 27, 1908.

EXCELLENCY: I have the honor to inform your excellency that by a cable I have received to-day from my Government I am instructed to advise your excellency that His Excellency Dr. M. Amador Guerrero, President of Panama, has appointed Señors Gil Ponce Jaen and Santiago de la Guardia to discharge the duties stipulated in Article VI of the convention of November 18, 1903.

I avail, etc.,

J. J. AROSEMENA.

File No. 5747/24-27.

Minister Squiers to the Secretary of State.

AMERICAN LEGATION,
Panama, June 1, 1908.

SIR: I have the honor to inclose herewith original of foreign office note dated May 30 (with translation), also supplementary note of same date; also copy of letter from Richard Reid Rogers, general counsel of Isthmian Canal Commission, all with regard to the exercise of judicial power by the joint committee provided for by Article VI of the treaty between the United States and the Republic of Panama of November 18, 1903.

I have, etc.,

H. G. SQUIERS.

[Inclosure 1.—Translation.]

The Minister for Foreign Affairs to Minister Squiers.

DEPARTMENT OF FOREIGN AFFAIRS,
Panama, May 30, 1908.

MR. MINISTER: In the conference that took place in this city, presided over by His Excellency the President of the Republic, between his excellency the Secretary of War of the United States of America, the Hon. William H. Taft, and your excellency, on one side; myself, the minister in Washington, Mr. Jose Augustin Arango, and the legal adviser of the legation, Dr. William Nelson Cromwell, on the other, it was agreed that inasmuch as it was neither presumable nor logical that the high contracting parties of the treaty of November 18, 1903, for the construction of the canal, would have the pains to provide for the organization of a court of the highest standing, its members being chosen from amongst select personnel by the Presidents of both countries, for it to have assessing power only, it was necessary to acknowledge as the most correct interpretation of Article VI of said treaty that the joint commission created thereby and the elective form of which is provided in Article XV of the same treaty, should have

judicial powers, according to the proceedings which by common consent should be established by the two Governments or that may be temporarily adopted by the commission itself, to decide the controversies as to rights that may arise from those who have suffered damages, in whose benefit that special court (joint commission) was created according to Article VI, the Government of the United States, and also the amount of damages to which it refers.

In consequence it was specially agreed that to said commission should be submitted for decision the titles of possession or ownership on the Canal Zone that may be disputed by the United States represented by the Isthmian Canal Commission.

The matter of the assessment of the property of the Pacific Mail Steamship Co. of its lands in the island of Naos, which the United States has in view, was considered settled by the unanimous decision of the last joint commission, composed of Messrs. Lewis, Arosemena, Ambler, and Blair.

It was further agreed that the sentence issued by the commission in connection with the damages caused by the Malambo fire should be considered by the Secretary of War of the United States, the Hon. William H. Taft, and therefore that item is excluded from the matters to be dealt with by the next or future joint commission.

It appears convenient to make the point clear that the joint commission has no authority to consider or decide in any manner whatsoever the dispute of individuals between themselves respecting rights to claims. These controversies pertain to the ordinary courts of law that have the power to hear such cases and not to the joint commission established by the treaty.

The interpretation given to Article VI requires the express acknowledgement of the Department of State of the United States, and I respectfully request you to ask for it.

Please accept, etc.,

RICARDO ARIAS.

[Inclosure 2.]

Mr. Richard Reid Rogers to Minister Squiers.

ISTHMIAN CANAL COMMISSION, LEGAL DEPARTMENT,
Ancon, Panama, May 28, 1908.

DEAR MR. SQUIERS: In looking over the note of Secretary Arias to yourself, I find it substantially in accord with the understanding except that with respect to the exercises of judicial powers by the commission it lacks definiteness. I would therefore suggest that in replying to this note you express the following ideas:

That the full judicial powers referred to in the first and second paragraphs of the Secretary of State's note to you be exercised for the purpose of determining the following questions:

1. Whether the lands in question are covered by any grant from the Crown of Spain to private individuals.

2. Whether the lands in question are covered by any grant to public or municipal divisions of the State as ejidos or communes.

3. Whether, in the absence of proof that title has been alienated out of the State or any public division thereof by grant cession, a possessory title valid against the State or public can have been acquired thereto by prescription.

4. In the absence of a valid title to the said lands by the occupants thereof, what character of improvements, if any, the occupants thereof in good faith are entitled to be compensated for.

5. The damages suffered by the owners or occupants, upon the assumption, first, that they have valid titles against the United States; second, upon the assumption that they have no valid legal titles but are entitled to compensation for improvements.

You will observe that I have here copied the memorandum previously handed to me by Mr. Arias and which he in turn has not incorporated in his note to you. I regard it, however, as quite important that the questions to be submitted to this commission should be defined, and if the questions to be submitted to the commission can be formulated now unquestionably a great deal of time and confusion will be saved when the tribunal actually begins to sit.

In view of the fact that this tribunal will convene here upon the 7th proximo, I doubt whether you will have an opportunity to secure an express acquiescence in this arrangement by the Secretary of State before the hearings begin. I apprehend, however, that if we can agree on the question to be submitted, no difficulty will ensue from this source.

I remain, very respectfully,

RICHARD REID ROGERS,
General Counsel.

File No. 5747/24-27.

The Acting Secretary of State to Minister Squiers.

No. 117.]

DEPARTMENT OF STATE,
Washington, June 26, 1908.

SIR: I have to acknowledge the receipt of your unnumbered dispatch of the 1st instant, and in reply I have to say that the department agrees with the views as to the scope of Article VI of the treaty of 1903 between the United States and Panama expressed in the note of Minister Arias to you as defined and set forth in greater detail by Mr. Rogers, general counsel of the Isthmian Canal Commission, in his note to you of May 28 last.

I am, etc.,

ALVEY A. ADEE.

File No. 5747/35.

The Minister of Panama to the Acting Secretary of State.

[Translation.]

No. 18.]

LEGATION OF PANAMA,
Washington, July 9, 1908.

EXCELLENCY: I am instructed by my Government to propose to your excellency's Government Mr. Edwin Denby as umpire of the mixed commission mentioned in Articles VI and XV of the convention of November 18, 1903, which I do with great pleasure and the hope that Mr. Denby will be acceptable to your excellency's Government.

I renew, etc.,

J. A. ARANGO.

File No. 5747/45-46.

Chargé Weitzel to the Secretary of State.

No. 339.]

AMERICAN LEGATION,
Panama, August 19, 1908.

SIR: I have the honor to advise that Mr. Everett C. Bumpus, of Massachusetts, and Hon. Edwin Denby, of Michigan, the United States commissioners plenipotentiary, and Dr. Gil Ponce J. and Señor Julio J. Fábrega, representing the Republic of Panama, composing the joint commission for the assessment of damages to lands taken by the Isthmian Canal Commission, formally delivered to the secretary of foreign affairs of Panama on the 8th instant the award made by the said tribunal under Articles VI and XV of the treaty of November 18, 1903, between the United States and Panama and

also the decision of the umpire, Mr. Denby, on the findings of the joint commission of 1907. For the use of the files I am sending herewith the text of the decision as published in the Canal Record of August 12, 1908.

It may not be amiss to state that the final result reached in these long pending claims has made a good impression both on the Panama people and the Americans resident here and is very favorably commented on as an evidence of the generous justice of the American Government.

Messrs. Bumpus and Denby have been highly complimented for their tact, judicial discretion and broadmindedness. They returned to the United States on the 10th instant.

With assurances of the greatest esteem, I am, etc.,

GEORGE T. WEITZEL.

[Inclosure.]

[From The Canal Record, August 12, 1908.]

To the Hon. Elihu Root, Secretary of State of the United States, and Horacio F. Alfaro, Secretary of State of the Republic of Panama:

The joint commissioners, appointed under the provisions of Articles VI and XV of the treaty between the United States of America and the Republic of Panama relating to damages caused by the construction and maintenance of the ship canal across the Isthmus of Panama to connect the Atlantic and Pacific Oceans and dated November 18, 1903, have the honor to report that, under the authority vested in them by their respective Governments, they met in the city of Panama on June 8, 1908, and proceeded to qualify for such office by taking the proper oath before the clerk of the Supreme Court of the Canal Zone.

They thereupon organized the commission provided for by the treaty, elected Hon. Edwin Denby chairman of the same, established rules of procedure, and caused the parties in interest in the cases brought on for hearing before the commission to be lawfully notified, so that they might appear before the same at a certain time and place for the hearing and determination of such causes.

The United States appeared by its attorney, who participated in the proceedings. Some of the claimants appeared by counsel; others appeared per se. The United States attorney also brought to the attention of the commission the fact that certain lands would be appropriated in the building of such canal, the title to which was unknown.

In the latter causes, in order that every opportunity might be given to any party to appear and claim title and damages concerning the same, the commission caused notice to be published in the Star and Herald, a paper published in the city of Panama, giving general notice of the time and place when such causes would be heard. All the causes heard and determined are set forth in the list embodied in this report.

Many questions were raised by the attorney for the United States in some of the cases in reference to the title or interest, if any, which the claimants therein had in the estates appropriated by the United States in the premises. The commission carefully considered and determined all such questions, and, in such cases where damages were subsequently assessed, have taken this question of title into consideration in passing upon the extent of damages to be allowed. It was difficult to determine and not always possible to find, in the complications which arise in applying the law relating to titles in this country, whether a claimant might or might not have an absolute title in the estate affected by reason of any alleged defect in his title, and, as far as it appeared, his possession of the premises would have been permanent for all practical purposes. It seems to the commission, therefore, that such claimants have the right to be treated as "landholder" under the provision of Clause VI of the treaty, and damages assessed accordingly.

Having disposed of the question of title, the commission heard all the evidence presented bearing upon the fair value of the property appropriated by the United States (to which section 6 of the treaty applies) and any damage arising from the same to the property of the claimants. They especially considered as elements of such valuation the extent and character of the property so affected, its location, for what it was adapted or could be adapted within a reasonable time; these, as well as other pertinent considerations, were taken into account, and formed the basis upon which the damages have been assessed. The commission did not consider the effect the building of the canal would have upon the value of such estates.

Following is a list of cases so determined and the amount of damages:

Estates.	Hectares taken by the United States.	Claimants.	Damages awarded.
Cardenas.....	126.0	Hurtado family represented by Narciso Garay.	\$10,000
Penas Blancas en Medio.....	218.5	Louisa Cerezo and heirs of Aniceto Cerezo.	4,000
Juan Grande.....	(¹)	Luz Espinosa.....	250
El and La Pihiva.....	406.0	Josefina Jiron and Angilica Jiron.....	20,000
Tabernilla.....	183.5	Jean Gris and Ramon M. Valdez.....	4,500
Bailomonos.....	102.0	Heirs of Francisco Ardilla, heirs of Remigio, Dutari Correa, Alfaro Hermanos, heirs of Carlos Icaza Arosemena, damages for whole estate.	2,000
Calle Bruja.....	248.0	Unknown.....	2,480
Palo Horqueta and Matias.....	576.0	.....do.....	5,760
Barro Colorado and Palenquilla.....	162.5	.....do.....	1,625
Palenquilla and Frijol Grande.....	190.0	.....do.....	1,900
Barro Colorado and Frijol Grande.....	72.5	.....do.....	725
Santa Cruz.....	74.0	.....do.....	740
Hacienda Andrade.....		Antonio Andrade.....	90,000

¹ Undivided one-fourth of 42 hectares.

As part of the damages caused by the various claimants represented by Messrs. Teran and Hinckley, we allow the sum of \$481 gold as costs expended in behalf of the said claimants, same to be paid by the Government of the United States to Dr. Oscar Teran.

Interest also is to be paid upon the said awards from the date of this report at the rate of 6 per cent per annum until the same shall be paid or tendered by the Government of the United States. In so far as the cases involving unknown claimants are concerned we direct that the Government of the United States pay into the Supreme Court of the Canal Zone, or any other court having competent jurisdiction, upon the request of any party claiming to have an interest in any of such awards, the amount of the sum awarded therein.

The United States requested that the damages should be awarded by the hectare, claiming that as to some of the estates affected an accurate survey had not been obtained of the amount to be appropriated and only an estimation of the same could be given. The commission is, however, of the opinion that it should follow the ordinary rule of allowing damages in full and that any other course might create future confusion, and perhaps controversies, in reference to the amount and character of the property appropriated. It is also of the opinion that the variation between the amount of area estimated and that which might be determined upon a survey is not of substantial moment, and, if in any case such happens to be the fact, it could have been cured by a proper prior survey of the same.

The claim set up by Ernesto Arosemena for damages arising from the expropriation of the estate of Mamei y Culo Seco was withdrawn.

In the cases of Penas Blancas en Medio and Bailomonos, damages were claimed on account of the fact that the Panama Railroad Co. had issued passes over its railroad for the benefit of the landowners or landholders in consideration of being given a right of way over the estates affected. We have not considered such claims in estimating the damages, but reserved to the parties any rights they may have to enforce such claims in the premises.

In the matter of the claim of Antonio Andrade, wherein the Government objected to certain elements of damages to be considered, we have overruled

the objection and have assessed the same upon the principle that he is to be allowed the amount which, as landholder, his property will be affected by the action of the United States in taking same for canal purposes.

In submitting this report, it may not be deemed amiss to congratulate all parties concerned that these complicated and difficult questions have been conclusively determined by the unanimous action of the commission and the rights of all in interest, as we believe, fully and amply protected. It is also proper to add that we have been greatly aided in coming to determination by the zeal and ability displayed by counsel of the United States Government, as well as by counsel who represented some of the claimants.

EDWIN DENBY, *Chairman*,
EVERETT C. BUMPUS,

Commissioners on behalf of the Government of the United States.

GIL PONCE J.,
JULIO J. FRABEGA,

Commissioners on behalf of the Government of the Republic of Panama.

EXPROPRIATION PROCEEDINGS.

Cases determined: Juan Diaz Cabellero, containing 83,618 hectares; Gavilan and Gavilancito, containing 17 hectares; San Lazaro, containing 1 hectare.

FINDINGS OF EDWIN DENBY, UMPIRE.

The question of title does not arise in any of these cases, as the titles of claimants are undisputed. Claimants challenge the right of the Government of the United States to abandon a portion of a tract once noticed for expropriation and concerning which a trial has been had before commissioners, but no agreement reached.

I find that the United States has the right to abandon before final judgment, but must give fair compensation to owners for occupation, actual or presumed, of the land and pay any incidental damages accruing therefrom.

I find the United States is liable in damages as follows: To Mr. Francis Schuber for the occupation and use for four years of the property known as Corozal, situated on the estate of Juan Diaz Cabellero, for the damages done by the occupation and subsequent abandonment of 75 hectares, more or less, of the said estate, and for the value of 83,816 hectares of land now expropriated, \$45,000 gold, with interest at the rate of 6 per cent per annum from the date of this report.

To Maria Concepcion, Sosa, for the expropriation of 17 hectares of the estate known as Gavilan and Gavilancito, \$15,000 gold, with interest at the rate of 6 per cent per annum from the date of this report.

To Mr. Gabriel Duque, for the occupation for one year of 11 hectares of the estate known as San Lazaro and subsequent abandonment of the same, and for the expropriation of 1 hectare of the said estate, \$1,000 gold, with interest at the rate of 6 per cent per annum from the date of this report.

EDWIN DENBY, *Umpire.*

JURISDICTION OVER WATERS OF MANZANILLO BAY.

[Interpretation of Article II of the treaty of 1903 between the United States and Panama.]

File No. 312/62.

The Minister of Panama to the Secretary of State.

[Translation.]

No. 24.]

LEGATION OF PANAMA,
Washington, July 22, 1907.

EXCELLENCY: In the middle of the year 1905, the concern styled "The Central & South American Telegraph Co.," with headquarters in the city of New York, submitted to the Government of

Panama, through its agent, propositions for the continuance of the contract the company had made with the Government of Colombia, or for a renewal of the contract or the signing of a new contract on bases similar to those found in existing contracts between the concern and the Government of Colombia and the other South American countries.

The Government of Panama, heeding the interests of the country and the prohibition contained in the organic law of the Republic, found itself constrained to deny the petition of the cable company, and, in turn, offered to its representative the draft of a liberal contract, the only objections to which on the part of the company were the terms of duration offered by the Government and the defect that it was not granted an exclusive privilege.

From that time until now the company has been treating with your excellency's Government about the matter, and information has reached the department of foreign relations of my country to the effect that the said Government has granted the Central & South American Telegraph Co. permission to lay its cable as far as Colon or some point in the Panama Canal Zone.

As my Government has no positive knowledge of the fact and as the cable would have to cross Panaman waters, the secretary of foreign relations of my country directs me respectfully to apply to your excellency for information on the subject, and closes his instructions by asking me to say to your excellency that under the narrowest limit recognized by international law—three marine leagues—the whole of the Bay of Limon, within which, according to the Hay-Bunau Varilla treaty, the canal begins, is part of the territorial waters of Panama; and that this makes it appear that the cable company proposes to ignore our rights, notwithstanding Panama's liberal offers to the said company and to the American Government itself; and, as this seems unlikely, I should address the Department of State and request an explanation of what has been or may be done in this very delicate matter and ask that until the two Governments reach a mutually satisfactory agreement that will adjust the difficulty, orders be issued to suspend all operations for the laying and landing of the telegraphic cable, as it is proposed to do.

I am asked by my Government to communicate by cable to Panama the result of this inquiry. I beg that your excellency will deign to let me know as soon as possible the circumstances of the case to enable me to comply with my Government's wishes.

If your excellency should wish to have an interview with me respecting this matter, I shall be very glad to place myself at your excellency's disposal.

I avail, etc.,

J. A. ARANGO.

File No. 312/62.

The Acting Secretary of State to the Minister of Panama.

No. 55.]

DEPARTMENT OF STATE,
Washington, August 3, 1907.

SIR: I have the honor to acknowledge the receipt of your note of the 22d ultimo referring to the negotiations between the Central & South American Telegraph Co. and the Government of Panama for

the landing of the company's cable and to a report that this Government had granted permission to the company to land in the Canal Zone.

You ask to be advised what has been done in this matter.

In reply I have the honor to say that a copy of your note has been transmitted to the Secretary of War. As soon as the department receives his reply a further response will be made to your note.

Accept, etc.,

ALVEY A. ADEE.

File No. 312/65.

The Acting Secretary of State to the Minister of Panama.

No. 56.]

DEPARTMENT OF STATE,
Washington, August 24, 1907.

SIR: Referring to your note of the 22d ultimo and the department's reply of the 3d instant in regard to the landing of the cable of the Central & South American Telegraph Co., I have the honor to say that the department, as stated in its note of August 3, transmitted a copy of your note to the Secretary of War, who, under date of August 16, advises me as follows:

Under the terms of the treaty [between the United States and Panama] and under the provisional delimitation agreement of June 15, 1904, the waters of Manzanillo Bay below mean low-water mark should be regarded as territory of the Canal Zone, and therefore subject to the jurisdiction of the United States. The cable of the Central & South American Telegraph Co. was laid pursuant to a permit granted by the President of the United States, and has been laid through the waters of Manzanillo Bay beyond the mean low-water mark, and landed within the city of Cristobal.

As will be seen from this statement of the Secretary of War, the cable of the Central & South American Telegraph Co. has been laid in waters which, by the terms of Article II of the convention of November 18, 1903, are comprised in the grant to the United States for its use, occupation, and control.

Accept, etc.,

ALVEY A. ADEE.

File No. 312/71-73.

The Acting Secretary of State to Minister Squiers.

No. 78.]

DEPARTMENT OF STATE,
Washington, January 2, 1908.

SIR: I inclose copy of a letter from the President transmitting one from the chairman and chief engineer of the Isthmian Canal Commission,¹ stating that the Panaman Government construes Article II of the treaty of November 18, 1903, in such a way as to deprive the United States of jurisdiction over the waters of Manzanillo Bay and over the waters affording entrance to the canal.

I also inclose a copy of my reply to the President.¹

You will advise the Government of Panama that this Government holds that Panama has no jurisdiction whatever, of any kind, over the waters through which ships must pass in entering the Panama Canal.

¹ Not printed.

The department on August 24 last advised the Panaman minister at this capital, touching the right of the Central & South American Cable Co., to lay a cable through Manzanillo Bay beyond mean low-water mark, that "the cable has been laid in waters which by the terms of Article II of the convention of November 18, 1903, are comprised in the grant to the United States, for its use, occupation, and control."

A copy of that note is also inclosed.¹

I am, etc.,

ROBERT BACON.

¹ Supra.

PERSIA.

MURDER OF REV. BENJAMIN W. LABAREE.

[See also Foreign Relations, 1904, 1905, 1906, and 1907.]

File No. 5931/171.

Minister Jackson to the Secretary of State.

[Extract.]

No. 33.]

AMERICAN LEGATION,
Teheran, February 12, 1908.

SIR: I have the honor to confirm the telegram sent you on the morning of the 9th instant, as follows:

Dasht Kurds, dissatisfied with Turkish treatment, are willing to return to Persian allegiance and obey orders of the Persian authorities, provided the Shah pardons and gives promise that there will be no further prosecution because of murdered missionary. In presenting letter of recall, my predecessor is said to have expressed satisfaction that the Labaree case was satisfactorily settled. I have been requested to confirm the settlement formally and to state that no further demand for punishment of accessories will be made by the American Government. Please instruct as soon as possible.

I have also to confirm the text of your reply, which was received yesterday, as follows:

We have already relinquished demand for punishment of accessories to murderers of Labaree, leaving Persian law to take effect if the murderers return to Persian jurisdiction. If the Persian Government believes high consideration of national welfare counsel nonprosecution, we will not raise objection.

To-day I called on the minister of foreign affairs (the Musher-ed-Dowleh) at his weekly reception, and left with him a note in which I stated that "the American Government will not raise any objection if the accessories to the murderers of Mr. Labaree should be pardoned"; that "my Government considers the case closed and it has already relinquished its demand for the punishment of these men, but it was anticipated that the Persian Government would punish them as a matter of course if they returned to Persian jurisdiction"; and that "if the Persian Government is of the opinion, however, that their pardon is advisable because of considerations of national welfare, no objection will be raised by the United States." The minister thanked me warmly for this communication.

I shall now inform Mr. Doty, our consul at Tabriz, that the incident is closed and that no further demand for punishment of the men in question is to be made.

It is improbable that at this date any particular person could be proven to have been an accessory, and in view of the death of the actual murderer (in regard to which there can be no reasonable doubt) and the reparation already made, I think that we have acted wisely in relinquishing all further demand for punishment.

I have, etc.,

JOHN B. JACKSON.

File No. 5931/171.

The Secretary of State to Minister Jackson.

No. 9.]

DEPARTMENT OF STATE,
Washington, March 16, 1908.

SIR: I have to acknowledge the receipt of your No. 33, of the 12th ultimo, in regard to the settlement of the Labaree case, and the status of the Turco-Persian boundary dispute.

You have correctly apprehended the attitude of this Government in the Labaree matter as expressed in the department's note to the Persian envoy, July 17, 1907.¹ It was not competent to this Government to exercise a domestic prerogative of Persian sovereignty and assume to absolve the accessories to Labaree's murder from the consequences of their violation of Persian law, should they be found in Persian jurisdiction; but the United States cheerfully assented to the request of Persia that its demand for the punishment of the guilty parties should be withdrawn, inasmuch as the accessories were outside of Persian jurisdiction, and this Government's demand for their punishment appeared to be regarded as requiring Persia to pursue and capture them in alien territory. The request of the Persian Government and the ready compliance of the United States therewith looked to the avoidance of international complication with Turkey, and it naturally behooved this Government to make it clear that no misunderstanding as to its attitude might indirectly contribute to any such complication. The present course of this Government in deferring to whatever action of the Persian Government in respect to the accessories may be counseled by high reasons of public policy on the part of Persia is a further proof of its earnest and considerate friendship.

I am, etc.,

E. Root.

¹ See Foreign Relations, 1907, p. 948.

PERU.

MESSAGE OF THE PRESIDENT OF PERU.

File No. 3742/28-30.

Secretary of Legation Neill to the Secretary of State.

No. 148.]

AMERICAN LEGATION,
Lima, July 29, 1908.

SIR: I have the honor to report that the regular sessions of Congress were opened yesterday with the usual display, being the eighty-seventh anniversary of the independence of Peru.

The President read his message, of which I herewith transmit two official copies, and the salient points in translation as inclosures.

All the members of the diplomatic corps were present.

I have, etc.,

RICHARD R. NEILL.

[Inclosure.—Translation.]

Résumé of President Pardo's Message.

Foreign relations have been kept up on a footing of perfect cordiality between Peru and other nations.

The arbitration of the question as to limits with Bolivia, subject to the decision of the President of the Argentine Republic, is in an advanced state.

The new arrangement as to traffic with Bolivia via Mollendo is now in force and gives every possible facility to the Bolivian trade.

The modus vivendi agreed upon with Brazil as to a portion of the territory in dispute still continues without having succeeded in arriving at a definite solution. Both Governments have nevertheless come to an understanding that the final settlement foreseen in the protocol of July 12, 1904, shall be effected before May 31, 1909.

Conflicts between Colombians and Peruvians continue to occur in Putumayo owing to the canceling by the Government of Colombia of the treaty of 1905. These incidents are to be deplored, but our Loreto authorities have interfered, reestablishing order and opening an official investigation to prove who was to blame.

The question about limits with Ecuador awaits the decision of the arbitrator, the King of Spain.

In February of this year Callao was visited by the powerful American Atlantic Fleet, under the command of Admiral Evans. The sincere and friendly reception which the inhabitants of Lima and Callao gave to the crews of the American war vessels and the honors which in my person this squadron tributed to Peru form an evident proof of the cordial relations which unite the two Governments, and in which the people of one and the other country fully share, as was shown likewise during the recent voyage of the cruiser *Admiral Grau* to San Francisco, Cal.

The question regarding the definite nationality of Tacna and Arica has not yet been settled, and every day the bonds of nationality and patriotic affection which unite us to those provinces are becoming closer and stronger. During the diplomatic discussion our foreign office has had occasion to show clearly once more to the Government of Chile and to those of other friendly nations that the

compliance on the part of Chile with the treaty of Ancon is the only method to resolve with justice the pending question.

The recent revolution started by a group of rebels, and simply due to an outburst of political passion, surprised the entire nation; but it was promptly suppressed, as the whole population is opposed to revolution, because they now comprehend that any revolution is more fatal to their interests and to the country than it ever can be to the party or Government in power.

The number of Government schools in the Republic is 2,410, with 156,011 pupils. During the past year 105 new schools have been opened. A North American mistress has been brought out, under contract, for the inspection and direction of the schools for girls.

The works of fortifying Lima and Callao are being carried on gradually according to modern systems and mounted with Armstrong guns; two other batteries are being constructed for the use of Schneider-Canet quick-firing guns.

Several young naval officers are gaining practical knowledge by serving in the navies of the United States, France, and Spain, and the Governments of those countries have earned the gratitude of Peru by their kind attention.

The bond stores in Callao customhouse continue giving excellent results. This "warrant" system will soon be extended to others of the principal custom-houses.

The national mint has coined in the past year £214,000 in gold coin and £104,000 in silver sols of 24d. each.

The budget for 1909 amounts to £301,194.

The value of importation in the past year was £5,514,787 and of the exportation £5,747,732.

The value of the import and export trade in the first half year of 1908 was £5,264,540; that is to say, £175,000 more than in the same period of 1907.

The Government could not be insensible to the want of facilities in the port of Callao for the loading and discharging of vessels, and has arranged with the dock company the extension of the present wharves and construction of new ones, besides an increased number of lighters, winches, etc., and it will not renew the privileges of the company on the expiration of the contract in 1912.

The service of the public debt has been conducted with the greatest punctuality.

The construction of different railways for the purpose of improving the means of communication, cheapening freights, and extending trade with the most important centers has continued without interruption.

By means of the wireless-telegraph system daily communication has been established between Lima and Iquitos.

The Government continues devoting special attention to the problem of immigration and during the past year has granted free passages to 566 European immigrants, of which 435 were of the male and 131 of the female sex.

ELECTION AND INAUGURATION OF SEÑOR DON AUGUSTO B. LEGUIA AS PRESIDENT OF PERU.

File No. 3742/16-18.

Secretary of Legation Neill to the Secretary of State.

No. 120.]

AMERICAN LEGATION,
Lima, May 27, 1908.

SIR: I have the honor to report that during the days of the 25th, 26th, and 27th of May the election for President took place throughout Peru under the Civil-Constitution Alliance, the result of which is as follows:

For President of the Republic, Señor Augusto B. Leguia; for First Vice President, Dr. Eugenio Larrabure y Unanue, and Second Vice President, Dr. Belisario Sosa.

No other candidate appeared.

The inauguration will take place on September 24 of this year. Congress will meet on July 28 next. While in session, it is said, a measure will be proposed to extend the presidential term from four to six years, and no doubt this will become a law.

I have, etc.,

RICHARD R. NEILL.

File No. 3742/5-A.

The Secretary of State to President-elect Leguia.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 28, 1908.

Mrs. Root joins me in hearty and sincere congratulations upon your election to the Presidency of Peru, and in the best wishes for a successful and glorious administration.

ELIHU ROOT.

File No. 3742/7.

President-elect Leguia to the Secretary of State.

[Telegram.]

LIMA, PERU, May 29, 1908.

I deeply appreciate Mrs. Root's and your congratulations upon my presidential election and tender you my sincerest thanks therefor.

I regard your kind message as a further proof of friendship toward Peru, which my administration will at all times reciprocate.

LEGUIA.

File No. 3742/36-42.

Minister Coombs to the Secretary of State.

[Extract.]

No. 170.]

AMERICAN LEGATION,
Lima, September 28, 1908.

SIR: I have the honor to state that Mr. Leguia was inaugurated President of Peru on the 24th instant with the usual ceremony for conducting the transmission of power from the outgoing to the incoming President.

The ceremony, which took place in the new House of Deputies, was dignified and impressive.

The diplomatic and consular corps were present by invitation.

On the next day, the 25th, the new President, attended by his cabinet, received the diplomatic corps at the palace, and afterwards I called upon the retiring President, Mr. Pardo.

I have, etc.,

LESLIE COOMBS.

PORTUGAL.

ASSASSINATION OF THE KING AND CROWN PRINCE OF PORTUGAL AND THE ACCESSION OF KING MANUEL THE SECOND TO THE THRONE.

File No. 11513.

Minister Bryan to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Lisbon, February 1, 1908.

(Mr. Bryan reports that the King of Portugal and the Crown Prince have been assassinated, being instantly killed by rifle shots on their arrival from the country. Says the Queen and second son were saved.)

File No. 11513/1.

The Portuguese Minister to the Secretary of State.

LEGATION OF PORTUGAL,
Washington, February 2, 1908.

SIR: It is my painful duty to inform you that I received last night from my Government a cable, of which the following is a translation:

This afternoon, shortly after 5 o'clock, as their Majesties, on their return from Villa Viçosa, were crossing the Terreiro do Paço, in an open carriage, in which were also their royal highnesses, they were in a dastardly and barbarous manner shot at with guns and revolvers, His Majesty the King and the Crown Prince being killed. Three of the assassins were immediately destroyed and three others were captured. The greatest consternation prevails in the city. The maintenance of public order is absolutely assured. To-morrow the Official Gazette will publish the proclamation acclaiming Prince Dom Manuel King of Portugal.

I avail, etc.,

ALTE.

File No. 11513/1.

The Acting Secretary of State to the Portuguese Minister.

DEPARTMENT OF STATE,
Washington, February 2, 1908.

SIR: I have received with profound sorrow your note of the 2d instant by which you officially make known to this Government the sad intelligence of the assassination of His Majesty Don Carlos I and his son the Crown Prince.

Inexpressibly shocked and grieved at this dreadful tragedy, the President has sent to the young King and to his bereaved Queen Mother an expression of his heartfelt condolence in their great affliction; and in the absence of Mr. Root I have directed the American minister at Lisbon to tender to the Portuguese Government the condolence and sympathetic sorrow of the people of the United States.

To this I beg to add the expression of my own detestation of the dastardly crime and to assure you of my personal sympathy.

Accept, etc.,

ROBERT BACON.

File No. 11513/1.

President Roosevelt to the King of Portugal.

[Telegram.]

THE WHITE HOUSE,
Washington, February 3, 1908.

I hasten to express to you and to your bereaved Queen Mother my heartfelt condolence by reason of the tragic death of your royal father and brother. The American people feel a peculiar bond of sympathy with the royal family and the people of Portugal in their great affliction, and they have been inexpressibly shocked and grieved at the dreadful tragedy.

THEODORE ROOSEVELT.

File No. 11513/1.

The Acting Secretary of State to Minister Bryan.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 3, 1908.

(Mr. Bacon informs Mr. Bryan that the President has sent to the young King and to the bereaved Queen Mother a personal message of sympathy, and directs him to tender to the Portuguese Government through the usual channels the condolence and sympathetic sorrow of the people of the United States. In the absence of Mr. Root Mr. Bryan is requested to convey to the minister for foreign affairs adequate expression of Mr. Bacon's personal sentiments.)

File No. 11513/14.

Minister Bryan to the Secretary of State.

No. 374.]

AMERICAN LEGATION,
Lisbon, February 3, 1908.

SIR: I have the honor to confirm my cipher dispatch of February 1,¹ and to state that at about half past 5 o'clock on Saturday I heard that the King and Crown Prince had been shot. At the royal palace,

¹ Supra.

whither I hurried, nothing definite could be learned. Driving to the arsenal of marine I had ocular evidence in the sight of the corpses of King Carlos and his heir that the report was true of both being dead. Asking authority of the prime minister for the immediate transmission of my message, I cabled the sad news to the department, and fearing that there might be a delay in the delivery and deciphering of this dispatch I likewise telegraphed the same information to the President.

We learned from eyewitnesses that on their return after a sojourn of several weeks in the country the royal family were cordially welcomed by their courtiers; the King, Queen, with their two sons, then entered one carriage. As it turned from the main square into a narrow street a heavily bearded man rushed from the crowd and discharged a rifle at the King, which, with a pistol shot that followed, killed him instantly, three bullets taking effect in the back and neck.

Three or more men poured a volley of shots at the carriage, several balls wounding the Crown Prince fatally while he was standing shooting at the assassins. The Queen vainly tried to protect her elder as she did successfully her younger son. She also stood beating one of the assassins in the face with a large bouquet, holding her cloak in front of the prince and crying for help. While three of the murderers were meeting their fate at the hands of the police and multitude the royal carriage dashed into the court of the marine hospital near by. The King died instantly, the Crown Prince before he was taken from the carriage. The bereaved mother and grandmother, with the younger prince, who was slightly wounded in the arm, were hurried away under heavy guard. The courtiers and one or two diplomats remained until the bodies of the King and his superb boy were lifted back into equipages, where their faces were covered and their chamberlains took their wonted seats beside and in front of them, all being driven through hushed crowds to the palace.

In my former dispatches I have narrated the events that gradually brought about an acute state of affairs that forcibly affected the public mind and which culminated in this dreadful tragedy. During the preceding week there had been many arrests of prominent Republicans and Dissidents in consequence of real or imaginary disturbances and, on one night, of an abortive attempt to incite the people to revolution. A decree was then promulgated vesting the ministry with absolute power to banish whomever it chose to accuse of being inimical to the State. This arbitrary act created deep indignation among all classes. It was the death knell of Franco's absolutism. It cost the King and his son their lives. While mystery surrounds the assassins, and little is known of their previous affiliations, it does not appear that they were the tools of any organization, or that they had abettors or accomplices of prominence. Although they undoubtedly had formed a murderous conspiracy, it seems as if they were merely their own agents of destruction, moved by the spirit of universal protest against the despotic decree of banishment, which threatened them alike with those more conspicuous.

The young King, who completed his eighteenth year in October, possesses the rare charm of his mother, whom he worships. His preceptors tell me that he is of studious habits and has a firm will. One of these instructors confirms the assurance of the youthful sovereign

that he entertains grateful sentiments to our Government for having hastened the visit of an American squadron to Lisbon in 1904, so that it might participate in his initiation as a naval cadet. The young prince often stated he would never forget this courtesy.

I have, etc.,

CHARLES PAGE BRYAN.

File No. 866/34.

Minister Bryan to the Secretary of State.

[Extract.]

No. 375.]

AMERICAN LEGATION,
Lisbon, February 3, 1908.

SIR: I have the honor to confirm my cable message of this date as follows:

SECRETARY STATE, *Washington.*

Only surviving son of King Carlos proclaimed King Manuel II. New ministry formed. Perfect calm prevails.

BRYAN.

and to report that the formal proclamation of the new King D. Manuel II occurred yesterday at 3 o'clock. The resignation of the João Franco ministry was promptly accepted and the construction of a new cabinet confided to Vice Admiral Ferreira de Amaral, who was previously prime minister for a brief period and who has been considered independent in politics. He tendered the leaders of the older parties each two portfolios to be offered to their friends. Three places have been filled by independents who have no pronounced party affiliations. The new ministry is composed as follows: Premier and minister of the interior, Admiral Amaral; minister of the treasury, Manoel Expregueira; minister of justice, Campos Henriques; minister of war, General Telles; minister of navy, Admiral Augusto de Castilho; minister of foreign affairs, Wenceslau de Lima; minister of public works, Calvet Magalhães.

All the members of the new cabinet have served in previous ministries and are personally well known to me.

I have, etc.,

CHARLES PAGE BRYAN.

File No. 11513/2.

Minister Bryan to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Lisbon, February 4, 1908.

(Mr. Bryan reports having expressed to the Queen Dowager the sympathy of the President and says the funeral obsequies will occur next Saturday. States that the Prince of Wales and other special ambassadors will attend.)

File No. 11513/2.

The Secretary of State to Minister Bryan.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 4, 1908.

(Mr. Root informs Mr. Bryan that he will represent the President as special ambassador at the funeral.)

File No. 11513/6-7.

The Secretary of State to Minister Bryan.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 4, 1908.

The Senate passed yesterday the following resolutions:

Resolved, That the death by unlawful and inhuman violence of the King and Crown Prince of Portugal is sincerely deplored by the Senate of the United States of America.

Resolved, That a copy of these resolutions be delivered to the President of the United States with the request that he communicate the same to the Government of Portugal.

You will communicate this to the minister for foreign affairs, expressing the sympathy and good will with which the President thus complies with the request of the Senate.

ROOT.

File No. 11513/12.

*The Portuguese Minister to the Secretary of State.*LEGATION OF PORTUGAL,
Washington, February 4, 1908.

SIR: The whole Portuguese nation could not fail to be deeply touched by the sympathy so generously extended to them by the Government and people of America in the hour of their great grief.

The President, Congress, and the Department of State have voiced the feelings aroused in this country by the dastardly outrage enacted at Lisbon in a chivalrous and friendly spirit that long will be remembered by the Royal Family, the Government, and the people of Portugal.

I have received instructions by cable to tender, in their name, to the Government and to the people of the United States my heartfelt thanks.

As for me, personally, I beg that you will kindly express to President Roosevelt my sense of the deep obligation under which he has placed me by the message of condolence he was graciously pleased to send through Col. Bromwell, and also that you will allow me to add how highly I appreciated the courteous expression of sympathy that you, sir, addressed to me, in your note of the 3d instant.

I avail, etc.,

ALTE.

File No. 11513/8-9.

The Secretary of State to Minister Bryan.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 5, 1908.

The House of Representatives yesterday adopted the following resolutions:

Resolved, That the House of Representatives of the United States of America has heard with profound sorrow of the assassination of King Carlos and Crown Prince Luiz and tenders to the people of Portugal their sincere sympathy in their national bereavement.

Resolved, That a copy of these resolutions be delivered to the President of the United States with the request that he communicate the same to the Government of Portugal.

The President directs that you accordingly transmit through the minister for foreign affairs this heartfelt manifestation of the deep feeling of the people of the United States uttered by their direct representatives in the National Congress.

Root.

File No. 11513/27.

Minister Bryan to the Secretary of State.

No. 381.]

AMERICAN LEGATION,
Lisbon, February 17, 1908.

SIR: I have the honor to report that the minister for foreign affairs, on behalf of the Government and people of Portugal, has requested me to express to Congress, through the Vice President and the Speaker, sincere acknowledgments of the condolatory resolutions adopted by the American Senate and House of Representatives and transmitted by the President through this legation. Those resolutions had a very happy effect here, in the assurances they conveyed of participation by the legislators and people of our country in Portugal's mourning, and of the abhorrence felt throughout our Republic for abominable political crimes, new to this land.

I have, etc.,

CHARLES PAGE BRYAN.

File No. 11513/27.

The Acting Secretary of State to Minister Bryan.

DEPARTMENT OF STATE,
Washington, March 5, 1908.

SIR: I have to acknowledge the receipt of your dispatch No. 381, of the 17th ultimo, in which you state that you have been requested by the minister of foreign affairs of Portugal to convey sincere acknowledgments to Congress of the resolutions of condolence passed

by the United States Senate and House of Representatives in view of the assassination of the King and Crown Prince of Portugal.

Copies of your dispatch have been transmitted to the Vice President and the Speaker of the House of Representatives for the information of the Senate and House of Representatives.

I am, etc.,

ROBERT BACON.

File No. 11513/34.

The Portuguese Minister to the Secretary of State.

LEGATION OF PORTUGAL,
Washington, March 7, 1908.

SIR: When Parliament meets at Lisbon next month a fitting response will no doubt be made to the motions voted by the Senate and the House of Representatives of the United States with reference to the dastardly outrage which resulted in the death of my late lamented sovereign, His Majesty Dom Carlos I, and of His Royal Highness Crown Prince Dom Luiz Philippe.

In the meantime I have received instructions from his excellency the minister for foreign affairs to present to those august assemblies the very sincere thanks of His Majesty the King, my gracious sovereign, and of the Portuguese Government for their kindly action in connection with that sad event.

In order to carry out these instructions I venture, sir, to have recourse to your unfailing courtesy in the hope that you will be good enough to convey to the Senate and to the House of Representatives of the United States this expression of His Majesty's and the Government's sentiments.

I avail, etc.,

ALTE.

File No. 11513/34.

The Acting Secretary of State to the Portuguese Minister.

No. 54.]

DEPARTMENT OF STATE,
Washington, March 19, 1908.

SIR: I have the honor to acknowledge the receipt of your courteous note of the 7th instant, in which, by instruction of the ministry of foreign affairs of Portugal, you request that this department may convey to the United States Senate and the House of Representatives the sincere thanks of His Majesty the King of Portugal and of the Portuguese Government, for the sympathetic resolutions of those bodies, passed in view of the assassination of the King and Crown Prince of Portugal.

I have the honor to say in reply that I have taken pleasure in communicating copies of your note to the Vice President of the United States and the Speaker of the House of Representatives for the information of the bodies over which they respectively preside.

Accept, etc.,

ROBERT BACON.

EXTRADITION CONVENTION BETWEEN THE UNITED STATES AND PORTUGAL AND EXCHANGE OF NOTES CONCERNING DEATH PENALTY.

Signed at Washington, May 7, 1908. Ratification advised by the Senate, May 22, 1908. Ratified by the President, October 26, 1908. Ratified by Portugal, September 21, 1908. Ratifications exchanged at Washington, November 14, 1908. Proclaimed, December 14, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the Kingdom of Portugal, providing for the mutual extradition of fugitives from justice, was concluded and signed by their respective Plenipotentiaries at Washington, on the seventh day of May, one thousand nine hundred and eight, the original of which Convention, being in the English and Portuguese languages, is word for word as follows:

The United States of America and His Most Faithful Majesty the King of Portugal and of the Algarves, having judged it expedient, with a view to the better administration of justice and to the prevention of crimes within their respective territories and jurisdictions, that persons convicted of or charged with the crimes hereinafter specified, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have resolved to conclude a convention for that purpose, and have appointed as their Plenipotentiaries:

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

His Most Faithful Majesty the King of Portugal and of the Algarves, Viscount de Alte, His Envoy Extraordinary and Minister Plenipotentiary near the Government of the United States of America;

Who, after reciprocal communication of their full powers, found in good and due form, have agreed upon the following articles, to wit:

ARTICLE I.

It is agreed that the Government of the United States of America and the Government of His Most Faithful Majesty the King of Portugal and of the Algarves shall, upon mutual requisition duly made as herein provided, deliver up to justice any person who may be charged with or may have been convicted of any of the crimes specified in Article II of this Convention committed within the jurisdiction of one of the Contracting Parties while said person was actually within such jurisdiction when the crime was committed, and who shall seek an asylum or shall be found within the territories of the other, provided that such surrender shall take place only upon such evidence of criminality, as according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offence had been there committed.

ARTICLE II.

Persons shall be delivered up according to the provisions of this Convention, who shall have been charged with or convicted of any of the following crimes:

1. Murder, comprehending the crimes designated by the terms of parricide, assassination, manslaughter, when voluntary; poisoning or infanticide.

2. The attempt to commit murder.

3. Rape, abortion, carnal knowledge of children under the age of twelve years.

4. Bigamy.

5. Arson.

6. Willful and unlawful destruction or obstruction of railroads, which endangers human life.

7. Crimes committed at sea:

(a) Piracy, as commonly known and defined by the law of Nations, or by Statute.

(b) Wrongfully sinking or destroying a vessel at sea or attempting to do so.

(c) Mutiny or conspiracy by two or more members of the crew or other persons on board of a vessel on the high seas, for the purpose of rebelling against the authority of the captain or commander of such vessel, or by fraud or violence taking possession of such vessel.

(d) Assault on board ships upon the high seas with intent to do bodily harm.

8. Burglary, defined to be the act of breaking into and entering the house of another in the night time with intent to commit a felony therein.

9. The act of breaking into and entering the offices of the Government and public authorities, or the offices of banks, banking houses, saving banks, trust companies, insurance companies, or other buildings not dwellings with intent to commit a felony therein.

10. Robbery, defined to be the act of feloniously and forcibly taking from the person of another, goods or money by violence or by putting him in fear.

11. Forgery or the utterance of forged papers.

12. The forging or falsification of the official acts of the Government or public authority, including Courts of Justice, or the uttering or fraudulent use of any of the same.

13. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, created by National, State, Provincial, Territorial, Local or Municipal Governments, banknotes or other instruments of public credit, counterfeit seals, stamps, dies and marks of State or public administrations, and the utterance, circulation or fraudulent use of the above mentioned objects.

14. Embezzlement or criminal malversation committed within the jurisdiction of one or the other party by public officers or depositaries, where the amount embezzled exceeds two hundred dollars or the equivalent in Portuguese currency.

15. Embezzlement by any person or persons hired, salaried or employed, to the detriment of their employers or principals, when the crime or offense is punishable by imprisonment or other corporal

punishment by the laws of both countries, and where the amount embezzled exceeds two hundred dollars or the equivalent in Portuguese currency.

16. Kidnapping of minors or adults, defined to be the abduction or detention of a person or persons, in order to exact money from them or their families, or for any other unlawful end.

17. Larceny, defined to be the theft of effects, personal property, or money, of the value of twenty-five dollars or more, or the equivalent in Portuguese currency.

18. Obtaining money, valuable securities or other property by false pretences or receiving any money, valuable securities or other property knowing the same to have been unlawfully obtained, where the amount of money or the value of the property so obtained or received exceeds two hundred dollars or the equivalent in Portuguese currency.

19. Perjury or subornation of perjury.

20. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, executor, administrator, guardian, director or officer of any company or corporation, or by anyone in any fiduciary position, where the amount of money or the value of the property misappropriated exceeds two hundred dollars or the equivalent in Portuguese currency.

21. Crimes and offences against the laws of both countries for the suppression of slavery and slave trading.

22. The extradition is also to take place for the participation in any of the aforesaid crimes as an accessory before or after the fact, provided such participation be punishable by imprisonment by the laws of both Contracting Parties.

ARTICLE III.

The provisions of this Convention shall not import claim of extradition for any crime or offence of a political character, nor for acts connected with such crimes or offences; and no person surrendered by or to either of the Contracting Parties in virtue of this Convention shall be tried or punished for a political crime or offence. When the offence charged comprises the act either of murder or assassination or of poisoning, either consummated or attempted, the fact that the offence was committed or attempted against the life of the Sovereign or Head of a foreign State or against the life of any member of his family, shall not be deemed sufficient to sustain that such a crime or offence was of a political character, or was an act connected with crimes or offences of a political character.

ARTICLE IV.

No person shall be tried for any crime or offence other than that for which he was surrendered.

ARTICLE V.

A fugitive, accused or criminal, shall not be surrendered under the provisions hereof, when, from lapse of time or other lawful cause, according to the laws of the place within the jurisdiction of which

the crime was committed, the criminal is exempt from prosecution or punishment for the offence for which the surrender is asked.

ARTICLE VI.

If a fugitive, accused or criminal, whose surrender may be claimed pursuant to the stipulations hereof, be actually under prosecution, out on bail or in custody, for a crime or offence committed in the country where he has sought asylum, or shall have been convicted thereof, his extradition may be deferred until such proceedings be determined, and until he shall have been set at liberty in due course of law.

ARTICLE VII.

If a fugitive, accused or criminal, claimed by one of the parties hereto, shall be also claimed by one or more powers pursuant to treaty provisions, on account of crimes committed within their jurisdiction, such criminal shall be delivered to that State whose demand is first received.

ARTICLE VIII.

Under the stipulations of this Convention, neither of the Contracting Parties shall be bound to deliver up its own citizens or subjects.

ARTICLE IX.

The expense of the arrest, detention, examination and transportation of the accused or criminal shall be paid by the Government which has preferred the demand for extradition.

ARTICLE X.

Everything found in the possession of the fugitive, accused or criminal, at the time of his arrest, whether being the proceeds of the crime or offence, or which may be material as evidence in making proof of the crime, shall so far as practicable, according to the laws of either of the Contracting Parties, be delivered up with his person at the time of the surrender. Nevertheless, the rights of a third party with regard to the articles aforesaid shall be duly respected.

ARTICLE XI.

The stipulations of this Convention shall be applicable to all territory wherever situated, belonging to either of the Contracting Parties or in the occupancy and under the control of either of them, during such occupancy or control.

Requisitions for the surrender of fugitives from justice shall be made by the respective Diplomatic Agents of the Contracting Parties. In the event of the absence of such Agents from the country or its seat of Government, or where extradition is sought from a colonial possession of Portugal or from territory, included in the preceding paragraph, other than the United States, requisition may be made by superior Consular officers.

It shall be competent for such Diplomatic or superior Consular officers to ask and obtain a mandate or preliminary warrant of arrest for the person whose surrender is sought, whereupon the judges and magistrates of the two Governments shall respectively have power and authority, upon complaint made under oath, to issue a warrant for the apprehension of the person charged, in order that he or she may be brought before such judge or magistrate, that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify the same to the proper executive authority, that a warrant may issue for the surrender of the fugitive.

If the fugitive criminal shall have been convicted of the crime for which his surrender is asked, a copy of the sentence of the Court before which such conviction took place, duly authenticated, shall be produced. If, however, the fugitive is merely charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime was committed, and of the depositions upon which such warrant may have been issued, shall be produced, with such other evidence or proof as may be deemed competent in the case.

ARTICLE XII.

If when a person accused shall have been arrested in virtue of the mandate or preliminary warrant of arrest, issued by the competent authority as provided in Article XI hereof, and been brought before a judge or a magistrate to the end that the evidence of his or her guilt may be heard and examined as hereinbefore provided, it shall appear that the mandate or preliminary warrant of arrest has been issued in pursuance of a request or declaration received by telegraph from the Government asking for the extradition, it shall be competent for the judge or magistrate at his discretion to hold the accused for a period not exceeding two months so that the demanding Government may have opportunity to lay before such judge or magistrate legal evidence of the guilt of the accused, and if at the expiration of the said period of two months such legal evidence shall not have been produced before such judge or magistrate, the person arrested shall be released, provided that the examination of the charges preferred against such accused person shall not be actually going on.

ARTICLE XIII.

In every case of a request made by either of the two Contracting Parties for the arrest, detention or extradition of fugitives, criminal or accused, the legal officers or fiscal ministry of the country where the proceedings of extradition are had shall assist the officers of the Government demanding the extradition before the respective judges and magistrates, by every legal means within their or its power; and no claim whatever for compensation for any of the services so rendered shall be made against the Government demanding the extradition, provided, however, that any officer or officers of the surrendering Government so giving assistance, who shall, in the usual course of their duty, receive no salary or compensation other than specific

fees for services performed, shall be entitled to receive from the Government demanding the extradition the customary fees for the acts or services performed by them, in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

ARTICLE XIV.

This Convention shall take effect from the day of the exchange of the ratification thereof; but either Contracting Party may at any time terminate the same on giving to the other six months' notice of its intention to do so.

The ratification of the present Convention shall be exchanged at Washington as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the above articles, and have hereunto affixed their seals.

Done in duplicate at the city of Washington, this 7th day of May, one thousand nine hundred and eight.

ELIHU ROOT. [L. s.]
ALTE. [L. s.]

And whereas, the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged at Washington on the fourteenth day of November, one thousand nine hundred and eight;

And whereas, in giving their advice and consent to the ratification of the said Convention, and as a part of the act of ratification, the Senate of the United States did, in a resolution adopted on May 22, 1908, state their understanding "that it is agreed by the United States that no person charged with crime shall be extraditable from Portugal upon whom the death penalty can be inflicted for the offense charged by the laws of the jurisdiction in which the charge is pending, and that this agreement on the part of the United States will be mentioned in the ratifications of the treaty and will, in effect, form part of the treaty."

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof, subject to the understanding stated in the said resolution of the Senate.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington this fourteenth day of December in the year of our Lord one thousand nine hundred and
[SEAL.] eight, and of the Independence of the United States of America, the one hundred and thirty-third.

THEODORE ROOSEVELT

By the President:

ELIHU ROOT

Secretary of State.

NOTES¹ CONCERNING THE DEATH PENALTY, EXCHANGED BETWEEN THE PORTUGUESE MINISTER AND THE SECRETARY OF STATE AT THE TIME OF SIGNATURE OF THE EXTRADITION CONVENTION BETWEEN THE UNITED STATES AND PORTUGAL.

[Translation.]

The undersigned Envoy Extraordinary and Minister Plenipotentiary of His Most Faithful Majesty the King of Portugal and the Algarves has the honor to inform the Secretary of State of the United States that he has been instructed by His Excellency the Minister for Foreign Affairs of Portugal to place on record on behalf of the Portuguese Government, with reference to the Extradition Treaty which the Secretary of State and the undersigned have just signed, its understanding that the Government of the United States assures that the death penalty will not be enforced against criminals delivered by Portugal to the United States for any of the crimes enumerated in the said treaty, and that such assurance is, in effect, to form part of the treaty and will be so mentioned in the ratifications of the treaty.

Washington, em 7 de maio, 1908.

VISCONDE D' ALTE.

A Sua Excellencia ELIHU ROOT,

*Secretario d'Estado dos Estados Unidos da America,
etc., etc., etc.*

DEPARTMENT OF STATE,
Washington, May 7, 1908.

In signing to-day with the Envoy Extraordinary and Minister Plenipotentiary of His Most Faithful Majesty the King of Portugal and of the Algarves the extradition treaty which was negotiated between the Government of the United States and that of Portugal, the undersigned Secretary of State has the honor to acknowledge and to take cognizance of the Minister's note of this day's date stating that he has been instructed by His Excellency the Minister for Foreign Affairs of Portugal to place on record, on behalf of the Portuguese Government, its understanding that the Government of the United States assures that the death penalty will not be enforced against criminals delivered by Portugal to the United States for any of the crimes enumerated in the said treaty, and that such assurance is, in effect, to form part of the treaty and will be so mentioned in the ratification of the treaty.

In order to make this assurance in the most effective manner possible, it is agreed by the United States that no person charged with crime shall be extraditable from Portugal upon whom the death penalty can be inflicted for the offense charged by the laws of the jurisdiction in which the charge is pending.

This agreement on the part of the United States will be mentioned in the ratifications of the treaty and will in effect form part of the treaty.

ELIHU ROOT

VISCONDE DE ALTE,
Minister of Portugal.

¹ Portuguese text not printed.

NATURALIZATION TREATY BETWEEN THE UNITED STATES AND PORTUGAL.

Signed at Washington, May 7, 1908. Ratification advised by the Senate, May 14, 1908. Ratified by the President, November 6, 1908. Ratified by Portugal, September 21, 1908. Ratifications exchanged at Washington, November 14, 1908. Proclaimed, December 14, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the Kingdom of Portugal, regulating the citizenship of those persons who emigrate from the one country to the other, was concluded and signed by their respective Plenipotentiaries at Washington on the seventh day of May one thousand nine hundred and eight, the original of which Convention, being in the English and Portuguese languages, is word for word as follows:

The President of the United States of America and His Most Faithful Majesty the King of Portugal and of the Algarves, led by the wish to regulate the citizenship of those persons who emigrate from the United States of America to the territories of Portugal, and from the territories of Portugal to the United States of America, have resolved to treat on this subject, and have for that purpose appointed Plenipotentiaries to conclude a Convention, that is to say:

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

His Most Faithful Majesty the King of Portugal and of the Algarves, Viscount de Alte, His Envoy Extraordinary and Minister Plenipotentiary near the Government of the United States of America;

Who have agreed to and signed the following articles:

ARTICLE I.

Subjects of Portugal who become naturalized citizens of the United States of America and shall have resided uninterruptedly within the United States five years shall be held by Portugal to be American citizens and shall be treated as such. Reciprocally, citizens of the United States of America who become naturalized subjects of Portugal and shall have resided uninterruptedly within Portuguese territory five years shall be held by the United States to be Portuguese subjects and shall be treated as such.

ARTICLE II.

A recognized citizen of the one party on returning to the territory of the other remains liable to trial and punishment for an action punishable by the laws of his original country, and committed before his emigration, but not for the emigration itself, saving always the limitation established by the laws of his original country, and any other remission of liability to punishment.

The infraction of the legal provisions which in the country of origin regulate emigration shall not be held, for the purposes of this article, as pertaining to the emigration itself and, therefore, the transgressors of those provisions who return to the country of their origin are there liable to trial on account of any and whatever responsibility they may have incurred through such infraction.

ARTICLE III.

If a Portuguese subject naturalized in America, renews his residence in Portugal, without intent to return to America, he shall be held to have renounced his naturalization in the United States. Reciprocally, if an American naturalized in Portugal renews his residence in the United States, without intent to return to Portugal, he shall be held to have renounced his naturalization in Portugal.

The intent not to return may be held to exist when the person naturalized in one country resides more than two years in the other country.

ARTICLE IV.

The present Convention is concluded for a period of five years, dating from the day of the exchange of its ratifications, but if neither party shall have given to the other six months previous notice of its intention to terminate the same, it shall continue in force till six months after one of the contracting parties shall have notified the other of its intention to do so.

The ratifications of the present Convention shall be exchanged at Washington, as soon as possible.

In witness whereof, the respective Plenipotentiaries have signed the above articles and have hereunto affixed their seals.

Done in duplicate at Washington this seventh day of May one thousand nine hundred and eight.

ELIHU ROOT [SEAL]
ALTE [SEAL]

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the fourteenth day of November one thousand nine hundred and eight;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington this fourteenth day of December, in the year of our Lord one thousand nine hundred and eight, and of the Independence of the United States of America, the one hundred and thirty-third.

THEODORE ROOSEVELT

By the President:

ELIHU ROOT

Secretary of State.

ARBITRATION CONVENTION BETWEEN THE UNITED STATES AND PORTUGAL.

Signed at Washington, April 6, 1908. Ratification advised by the Senate, April 17, 1908. Ratified by the President, November 6, 1908. Ratified by Portugal, September 21, 1908. Ratifications exchanged at Washington, November 14, 1908. Proclaimed, December 14, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the Kingdom of Portugal, providing for the submission to arbitration of all questions of a legal nature or relating to the interpretation of treaties, which may arise between the two countries and which it may not have been possible to settle by diplomacy, was concluded and signed by their respective Plenipotentiaries at Washington on the sixth day of April, one thousand nine hundred and eight, the original of which Convention, being in the English and Portuguese languages, is word for word as follows:

The Government of the United States of America and the Government of Portugal, signatories of the Convention for the pacific settlement of international disputes, concluded at The Hague on the 29th July, 1899;

Taking into consideration that by Article XIX of that Convention the High Contracting Parties have reserved to themselves the right of concluding Agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment,

Have authorized the Undersigned to conclude the following arrangement:

ARTICLE I.

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two Contracting Parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of the 29th July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of either of the two Contracting States, and do not concern the interests of third Parties.

ARTICLE II.

In each individual case the High Contracting Parties, before appealing to the Permanent Court of Arbitration, shall conclude a special Agreement defining clearly the matter in dispute, the scope of the powers of the Arbitrators, and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the pro-

cedure. It is understood that on the part of the United States, such special agreements will be made by the President of the United States by and with the advice and consent of the Senate thereof.

ARTICLE III.

The present Convention is concluded for a period of five years, dating from the day of the exchange of its ratifications.

ARTICLE IV.

The present Convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by His Majesty the King of Portugal in accordance with the constitutional laws of the Kingdom.

The ratifications of this Convention shall be exchanged at Washington as soon as possible, and it shall take effect on the date of the exchange of its ratifications.

Done in duplicate in the English and Portuguese languages at Washington, this 6th day of April, one thousand nine hundred and eight.

ELIHU ROOT [SEAL]
ALTE [SEAL]

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the fourteenth day of November, one thousand nine hundred and eight;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States of America to be hereunto affixed.

Done at the City of Washington, this fourteenth day of December, in the year of our Lord one thousand nine hundred and eight, and of the Independence of the United States of America the one hundred and thirty-third.

THEODORE ROOSEVELT

By the President:

ELIHU ROOT

Secretary of State.

RUSSIA.

DECLARATION RE BALTIC SEA.

File No. 25818.

Secretary of Embassy Schuyler to the Secretary of State.

[Extract.]

No. 265.]

AMERICAN EMBASSY,
St. Petersburg, April 25, 1908.

SIR: I have the honor to inform you that the convention for the preservation of the status quo in the Baltic was signed at the ministry for foreign affairs on April 23 by Mr. Iswolsky, minister for foreign affairs, and by the representatives of Germany, Sweden, and Denmark.

I have, etc.,

MONTGOMERY SCHUYLER.

[Translation.]

His Majesty the Emperor of Germany, King of Prussia; His Majesty the King of Denmark; His Majesty the Emperor of Russia; His Majesty the King of Sweden:

Animated by the desire to strengthen the ties of neighborly friendship existing between their respective countries and to contribute thereby to the maintenance of universal peace, and recognizing that their policy with respect to the regions bordering on the Baltic Sea is directed to the maintenance of the existing territorial status quo, their Governments declare that they are firmly resolved to preserve intact the rights of the Emperor of Germany, King of Prussia; of the King of Denmark; of the Emperor of Russia; and of the King of Sweden in whatever concerns their continental or insular possessions in the regions mentioned. Should any events occur which threaten the existing territorial status quo in the regions bordering upon the Baltic Sea, the four signatory powers of the present declaration will communicate with each other in order to arrive at an understanding as to what measures they may consider it useful to take in the interest of the maintenance of the status quo. In witness whereof the plenipotentiaries duly authorized thereto have signed, etc.

Done at St. Petersburg, April 23, 1908.

Memorandum.

At the moment of signing the declaration of this day's date the undersigned, by order of their respective Governments, consider it necessary to state that the principle of the maintenance of the status quo as laid down by the said declaration applies solely to the territorial integrity of all the existing possessions of the high contracting parties in the regions bordering upon the Baltic Sea, and that consequently the declaration can in no case be invoked where the free exercise of the sovereign rights of the high contracting parties over their above-mentioned respective possessions is in question.

Done at St. Petersburg, April 23, 1908.

SALVADOR.

FLYING OF FOREIGN FLAGS IN SALVADOR.

File No. 4598/47-48.

Chargé Gregory to the Secretary of State.

No. 66, Salvadorean series.]

AMERICAN LEGATION,
San Salvador, April 7, 1908.

SIR: Referring to the department's serial No. 19, dated March 19, 1908,¹ in which the flying of foreign flags in Salvador is spoken of, I have the honor to forward herewith a copy and translation of the executive order of February 1, 1908, upon this matter.

There has not been, however, any question of the right of consuls or of foreign ships to display their national flag.

I have, etc.,

J. H. GREGORY, Jr.

[Inclosure.—Translation.]

EXECUTIVE POWER—MINISTRY FOR FOREIGN AFFAIRS, JUSTICE AND BENEFICENCE—
PORTFOLIO OF FOREIGN RELATIONS.

PALACE OF THE EXECUTIVE,
San Salvador, February 1, 1908.

Considering that some foreigners residing in this Republic have the custom of frequently flying the flag of their respective nationalities over their private residences and even on their landed property, pretending, no doubt, by this practice, which is contrary to the law of nations, to constitute an inviolable asylum of the building which flies a foreign flag; that international law only grants to diplomatic and consular agents the right to place over their residences the flag and the shield of their countries, in order to indicate to the public and to the authorities the international character with which they are invested; the executive power decrees: That foreigners residing in this Republic can only fly the flag of their nation by a special permit from the district governor; but this permit can in no way imply a privilege or immunity in favor of the person or the residence of the foreigner, as such immunity applies only to the agents of the foreign Governments accredited to this Republic. Let this be communicated.

(Approved by the President.)

The secretary for foreign affairs,

RODRIGUEZ G.

DECREE RELATING TO TREATIES, STATUS OF FOREIGNERS, ETC.

File No. 13468/-1.

Chargé Gregory to the Secretary of State.

No. 77, Salvadorean series.]

AMERICAN LEGATION,
San Salvador, April 21, 1908.

SIR: I have the honor to forward herewith the original and translation of an executive decree recently issued in Salvador relating to treaties, status of foreigners, etc., for the department's information.

I have, etc.,

J. H. GREGORY, Jr.

¹ Not printed.

[Inclosure.—Translation.]

The national sovereignty and the treaties and conventions—Decree of the executive power.

Taking into consideration that according to the provisions of article 91, section 3 of the constitution, foreign relations are exclusively directed through the executive power and that rules should be established regulating said faculty, it has been decreed as follows:

ARTICLE 1. The minister for foreign affairs will proceed to denounce the treaties and conventions now in force, whereby the national sovereignty is in any way diminished and whereby there is conferred on the agents of foreign nations the exercise of judicial functions within the national territory, referring to nations and foreigners, be these functions of voluntary or contentious jurisdiction, and which according to our legislation should be exercised by Salvadorean officials.

ART. 2. Notarial acts executed in El Salvador before the agents referred to in the foregoing article will only have before our tribunals the probatory value as is given them by the Salvadorean laws.

ART. 3. It is prohibited to stipulate in treaties or international agreements the national treatment accorded in matters where our laws do not put the natives on an equal footing with foreigners.

ART. 4. In the treaties of commerce, navigation, and consular privileges, the favored-nation treatment can be granted, when the importance of the commercial, maritime, and other relations which it is the custom to stipulate in treaties of this kind, would reciprocally be beneficial to El Salvador and the other contracting party; the opinion of the secretary of finance should be previously sought on the matter.

ART. 5. In the consular conventions which will be hereafter concluded, there can not be granted to foreign consuls functions, privileges, or immunities which will be contrary to the principles set forth in the law on foreign consular missions now in force.

ART. 6. The negotiators of our international treaties will endeavor to introduce in the arguments referred to in article 4 a special clause which will determine the cases in which the official action of diplomatic agents in civil, criminal, or administrative cases of their fellow citizens is admissible under international law; by denial of justice; for lack of the execution of a final judgment or by express violation of the treaties in force, or the rules of the public or private international law generally recognized by civilized nations, whenever in either one or the other case all the means that the respective legislation grants to the plaintiff have been exhausted.

ART. 7. There will also be endeavored to introduce in said treaties the principle of the irresponsibility of the Governments for damages, libel, or exactions caused to persons or properties of foreigners in times of insurrection or civil war within the national territory by rebels or revolutionists.

ART. 8. None of the benefits or special favors which are granted in Central American treaties, according to the constitution, can be claimed by a foreign country by reason of a favored-nation clause, unless said benefit or favor has also been granted to another foreign nation.

ART. 9. The minister for foreign affairs will suspend any negotiation pending on international agreements which are in any way contrary to the foregoing provisions.

ART. 10. This decree will be submitted during the present sessions of the assembly for its approval.

Executed in the executive palace, San Salvador, April 13, 1908.

F. FIGUEROA.

The minister for foreign affairs,

SALVADOR RODRIGUEZ G.

File No. 13468/2-3.

Minister Dodge to the Secretary of State.

No. 90, Salvadorean series.]

AMERICAN LEGATION,
San Salvador, May 23, 1908.

SIR: I have the honor to inclose to you herewith a copy of an act of the National Legislative Assembly of El Salvador, promulgated by the executive of El Salvador on May 8, last, as well as an English translation of the same, approving in all its parts the executive decree, limiting the powers of representatives of foreign nations in El Salvador and the cases in which their intervention in judicial matters will be considered, et cetera, a copy and translation of which accompanied Mr. Gregory's dispatch No. 77, Salvadorean series, of April 21, last.

I have, etc.,

H. PERCIVAL DODGE.

[Inclosure.—Translation.]

The National Legislative Assembly of the Republic of El Salvador, in the exercise of the powers conferred on it by the constitution, decrees:

Sole article. To approve in all its parts the decree of April 13 last, issued by the executive power, establishing the obligation on the part of the ministry for foreign affairs to denounce the treaties and conventions now in force by which the national sovereignty is in any way impaired, by conceding to the agents of foreign nations the exercise of judicial functions of a voluntary or contentious nature, within the territory of the Republic; to determine the force of notarial acts executed before them in this Republic and to establish other procedures in their acts in accordance with our laws and modern principles.

Given in the Hall of Sessions of the legislative power, San Salvador, May 7, 1908.

ANTONIO J. MATINEZ,
*President.*MANUEL RECINOS,
*First Secretary.*SALVADOR FUENTES REYES,
*Second Secretary.*PALACE OF THE EXECUTIVE,
San Salvador, May 8, 1908.

Therefore let this be complied with.

F. FIGUEROA.

The minister for foreign affairs.

SALVADOR RODRIGUEZ G.

**NATURALIZATION CONVENTION BETWEEN THE UNITED STATES
AND SALVADOR.**

Signed at San Salvador, March 14, 1908. Ratification advised by the Senate, April 13, 1908. Ratified by the President, May 26, 1908. Ratified by Salvador, April 23, 1908. Ratifications exchanged at San Salvador, July 20, 1908. Proclaimed July 23, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Naturalization Convention between the United States of America and the Republic of Salvador, was concluded and signed

by their respective Plenipotentiaries at San Salvador on the fourteenth day of March, one thousand nine hundred and eight, the original of which Convention, being in the English and Spanish languages, is word for word as follows:

Convention to fix the condition of naturalized citizens who renew their residence in the country of their origin.

The President of the United States of America and the President of the Republic of Salvador, desiring to regulate the citizenship of those persons who emigrate from the United States of America to Salvador, and from Salvador to the United States of America, have resolved to conclude a convention on this subject and for that purpose have appointed their plenipotentiaries to conclude a convention, that is to say: the President of the United States of America, John Hanaford Gregory, Jr., Chargé d'Affaires ad interim of the United States at Salvador; and the President of Salvador, señor doctor don Salvador Rodríguez González, Minister for Foreign Affairs, who have agreed to and signed the following Articles:

ARTICLE I.

Citizens of the United States who may or shall have been naturalized in Salvador, upon their own application or by their own consent, will be considered by the United States as citizens of the Republic of Salvador. Reciprocally, Salvadoreans who may or shall have been naturalized in the United States upon their own application or with their own consent, will be considered by the Republic of Salvador as citizens of the United States:

ARTICLE II.

If a Salvadorean, naturalized in the United States of America, renews his residence in Salvador, without intent to return to the United States, he may be held to have renounced his naturalization in the United States. Reciprocally, if a citizen of the United States, naturalized in Salvador, renews his residence in the United States, without intent to return to Salvador, he may be presumed to have renounced his naturalization in Salvador.

The intent not to return may be held to exist when the person naturalized in the one country, resides more than two years in the other country, but this presumption may be destroyed by evidence to the contrary.

ARTICLE III.

It is mutually agreed that the definition of the word "citizen," as used in this convention, shall be held to mean a person to whom nationality of the United States or Salvador attaches.

ARTICLE IV.

A recognized citizen of the one party, returning to the territory of the other, remains liable to trial and legal punishment for an action

punishable by the laws of his original country and committed before his emigration; but not for the emigration itself, saving always the limitation established by the laws of his original country, and any other remission of liability to punishment.

ARTICLE V.

The declaration of intention to become a citizen of the one or the other country has not for either party the effect of naturalization.

ARTICLE VI.

The present convention shall go into effect immediately on the exchange of ratifications, and in the event of either party giving the other notice of its intention to terminate the convention it shall continue to be in effect for one year more, to count from the date of such notice.

The present convention shall be submitted to the approval and ratification of the respective appropriate authorities of each of the contracting parties, and the ratifications shall be exchanged at San Salvador or Washington within twenty-four months of the date hereof.

Signed at the city of San Salvador, on the fourteenth day of March, one thousand nine hundred and eight.

JOHN HANAFORD GREGORY JR. [SEAL.]
SALVADOR RODRIGUEZ G [SEAL.]

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of San Salvador, on the twentieth day of July, one thousand nine hundred and eight;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, having caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be hereunto affixed.

Done at the City of Washington this twenty-third day of July, in the year of our Lord one thousand nine hundred and eight, and of the Independence of the United States of America, the one hundred and thirty-third.

THEODORE ROOSEVELT

[SEAL]

By the President:

ALVEY A. ADEE

Acting Secretary of State.

SAN MARINO.

EXTRADITION TREATY BETWEEN THE UNITED STATES AND THE REPUBLIC OF SAN MARINO.

Signed at Rome, January 10, 1906. Ratification advised by the Senate, April 17, 1908. Ratified by the President, May 7, 1908. Ratified by Republic of San Marino, February 19, 1906. Ratifications exchanged at Rome, June 8, 1908. Proclaimed, June 12, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Treaty between the United States of America and the Republic of San Marino, providing for the mutual extradition of fugitives from justice, was concluded and signed by their respective Plenipotentiaries at Rome, Italy, on the tenth day of January, one thousand nine hundred and six, the original of which Treaty, being in the English and Italian languages, is word for word as follows:

Treaty between the United States of America and the Republic of San Marino for the Mutual Extradition of Fugitive Criminals.

The United States of America and the Republic of San Marino having judged it expedient with a view to the better administration of justice and the prevention of crime within their respective territories and jurisdictions, that persons charged with or convicted of the crimes and offences hereinafter enumerated, and being fugitive from justice, should, under certain circumstances, be reciprocally delivered up, have resolved to conclude a Convention for that purpose and have appointed as their Plenipotentiaries:

The President of the United States of America, His Excellency, Henry White, Ambassador Extraordinary and Plenipotentiary to the Kingdom of Italy;

The Captains-Regent of the Republic of San Marino, His Excellency, Senator Cavaliere Gaspare Finali, Cavaliere of the Supreme Order of the S. S. Annunziata, etc. etc. Political Counsellor of the Republic of San Marino:

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

ARTICLE I.

The Government of the United States and the Government of San Marino mutually agree to deliver up persons who, having been charged, as principals or accessories, with or convicted of any of the crimes and offenses specified in the following article committed

within the jurisdiction of one of the contracting parties, shall seek an asylum or be found within the territories of the other: Provided, that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his or her apprehension and commitment for trial if the crime had been there committed.

ARTICLE II.

Persons shall be delivered up who shall have been convicted of or be charged according to the provisions of this convention, with any of the following crimes:

1. Murder, comprehending the crime of parricide, assassination, poisoning and infanticide.

2. The attempt to commit murder.

3. Rape, or attempt to commit rape. Bigamy. Abortion.

4. Arson.

5. Piracy, or mutiny on shipboard whenever the crew, or part thereof, shall have taken possession of the vessel by fraud or by violence against the commander.

6. Larceny; the crime of burglary, defined to be the act of breaking and entering by night into the house of another with the intent to commit felony; and the crime of robbery, defined to be the act of feloniously and forcibly taking from the person of another money or goods by violence or putting him in fear; and the corresponding crimes punished by the penal code of San Marino under the description of thefts committed in an inhabited house by night, and by breaking in by climbing or forcibly, and thefts committed with violence or by means of threats.

7. The crime of forgery, by which is understood the utterance of forged papers, and also the counterfeiting of public, sovereign, or governmental acts.

8. The fabrication or circulation of counterfeit money either coin or paper, or of counterfeit public bonds, coupons of the public debt, bank notes, obligations, or in general anything being a title or instrument of credit; the counterfeiting of seals and dies, impressions, stamps, and marks of State and public administrations, and the utterance thereof.

9. The embezzlement of public moneys committed within the jurisdiction of either party by public officers or depositaries.

10. Embezzlement by any person or persons hired or salaried to the detriment of their employers, when the crime is subject to punishment by the laws of the place where it was committed, and the amount of money or the value of the property embezzled is not less than two hundred dollars or one thousand francs.

11. Wilful and unlawful destruction or obstruction of railroads which endangers human life.

12. Obtaining money, valuable securities or other property by false pretences, when such act is made criminal by the laws of both countries and the amount of money or the value of the property fraudulently obtained is not less than two hundred dollars or one thousand francs.

13. Kidnapping of minors.

14. Reception of articles obtained by means of one of the crimes or offences provided for by the present Convention.

Extradition may also be granted for the attempt to commit any of the crimes above enumerated when such attempt is punishable by the laws of both contracting parties.

ARTICLE III.

A person surrendered under this Convention shall not be tried or punished in the country to which his extradition has been granted, nor given up to a third power for a crime or offence not provided for by the present Convention and committed previously to his extradition, until he shall have been allowed one month to leave the country after having been discharged; and, if he shall have been tried and condemned to punishment, he shall be allowed one month after having suffered his penalty or having been pardoned.

He shall moreover not be tried or punished for any crime or offence provided for by this Convention committed previous to his extradition, other than that which gave rise to the extradition, without the consent of the government which surrendered him, which may, if it think proper, require the production of one of the documents mentioned in Article VII, of this convention.

The consent of that government shall likewise be required for the extradition of the accused to a third country; nevertheless, such consent shall not be necessary when the accused shall have asked of his own accord to be tried or to undergo his punishment, or when he shall not have left within the space of one month above specified the territory of the country to which he has been surrendered.

ARTICLE IV.

The provisions of this convention shall not be applicable to persons guilty of any political crime or offence or of one connected with such a crime or offence. A person who has been surrendered on account of one of the common crimes or offences mentioned in Article II, shall consequently in no case be prosecuted and punished in the state to which his extradition has been granted on account of a political crime or offence committed by him previously to his extradition or on account of an act connected with such a political crime or offence, unless he has been at liberty to leave the country for one month after having been tried and, in case of condemnation, for one month after having suffered his punishment or having been pardoned.

ARTICLE V.

Neither of the contracting parties shall be bound to deliver up its own citizens or subjects under the stipulations of this convention.

ARTICLE VI.

If the person whose surrender may be claimed pursuant to the stipulations of the present treaty shall have been arrested for the commission of offences in the country where he has sought an asylum, or shall have been convicted thereof, his extradition may be deferred until he

shall have been acquitted or have served the term of imprisonment, to which he may have been sentenced.

ARTICLE VII.

Requisitions for the surrender of fugitives from justice shall be made by the respective diplomatic agents of the contracting parties, or, in the event of the absence of these, from the country or its seat of government, they may be made by superior consular officers.

If the person, whose extradition may be asked for, shall have been convicted of a crime or offence, a copy of the sentence of the judicial authority, by whom he may have been convicted, authenticated under its seal, and attestation of the official character of the judge by the proper executive authority, and of the latter by the minister or consul of the United States or of San Marino respectively, shall accompany the requisition. When, however, the fugitive shall have been merely charged with crime, a duly authenticated copy of the warrant for his arrest in the country where the crime may have been committed, and of the depositions upon which such warrant may have been issued, must accompany the requisition as aforesaid.

It shall be lawful for any competent judicial authority of the United States, upon production of a certificate issued by the Secretary of State stating that a request has been made by the Government of San Marino for the provisional arrest of a person convicted or accused of the commission therein of a crime or offence extraditable under the provisions of this convention, and upon complaint duly made that such crime or offence has been so committed, to issue his warrant for the apprehension of such person. But if the demand for surrender, with the formal proofs hereinbefore mentioned, be not made as aforesaid by the diplomatic agent of the demanding government, or, in his absence, by the competent consular officer, within forty days from the date of the commitment of the fugitive, the prisoner shall be discharged from custody.

And the Government of San Marino will, upon request of the Government of the United States, transmitted through the diplomatic agent of the United States, or, in his absence, through the competent consular officer, secure in conformity with law the provisional arrest of persons convicted or accused of the commission therein of crimes or offences extraditable under this Convention. But if the demand for surrender, with the formal proofs hereinbefore mentioned, be not made as aforesaid by the diplomatic agent of the demanding government, or, in his absence, by the competent consular officer, within forty days from the date of the commitment of the fugitive, the prisoner shall be discharged from custody.

ARTICLE VIII.

The expenses of the arrest, detention, examination and delivery of fugitives under this convention shall be borne by the State, in whose name the extradition is sought; Provided, that the demanding Government shall not be compelled to bear any expense for the services of such officers of the government from which extradition is sought as receive a fixed salary; and provided that the charge for the services of such public official as receive only fees shall not exceed

the fees to which such officials are entitled under the laws of the country for services rendered in ordinary criminal proceedings.

ARTICLE IX.

Extradition shall not be granted, in pursuance of the provisions of this convention, if legal proceedings or the enforcement of the penalty for the act committed by the person claimed has become barred by limitation, according to the laws of the country to which the requisition is addressed.

ARTICLE X.

All articles found in the possession of the accused party and obtained through the commission of the act with which he is charged, or that may be used as evidence of the crime for which his extradition is demanded, shall be seized if the competent authority shall so order, and shall be surrendered with his person.

The rights of third parties to the articles so found shall nevertheless be respected.

ARTICLE XI.

The present convention shall take effect thirty days after the exchange of ratifications and shall continue to have binding force for six months after a desire for its termination shall have been expressed in due form by one of the two governments to the other.

It shall be ratified and its ratification shall be exchanged at Rome as soon as possible.

In witness whereof, the respective plenipotentiaries have signed the above articles both in the English and Italian languages, and they have hereunto affixed their seals.

Done, in duplicate, at Rome, Italy, this 10th day of January, 1906.

[L. S.] HENRY WHITE
[L. S.] GASPARE FINALI

And whereas the said Treaty has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the City of Rome, on the eighth day of June, one thousand nine hundred and eight;

Now, therefore, be it known that I, THEODORE ROOSEVELT, President of the United States of America, have caused the said Treaty to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this twelfth day of June in the year of our Lord one thousand nine hundred and eight, and of the Independence of the United States of America the one hundred and thirty-second.

THEODORE ROOSEVELT

By the President:

ELIHU ROOT
Secretary of State.

SIAM.

RULES FOR INTERNATIONAL COURTS AS ESTABLISHED BY THE TREATY OF MARCH 23, 1907, BETWEEN SIAM AND FRANCE.

[See Foreign Relations, 1907, p. 1003.]

File No. 5359/7-8.

Minister King to the Secretary of State.

[Extract.]

No. 370.]

AMERICAN LEGATION,
Bangkok, January 8, 1908.

SIR: I have the honor of inclosing a copy in the English language of the "Rules for international courts as established by the treaty between Siam and France, dated the 23d March, 1907."

These rules will probably largely enter into whatever treaty negotiations may pass between Great Britain and Siam, and as such are apt to prove of interest to the department in the event of anything growing out of such negotiations pertaining to the relations between America and Siam.

I have, etc.,

HAMILTON KING.

[Inclosure.]

Rules for international courts as established by the treaty between Siam and France, dated the 23d March, 1907.

CHAPTER I.

GENERAL PROVISIONS.

ARTICLE 1. Throughout the Kingdom of Siam all actions, whether civil or criminal, in which French Asiatic subjects or protégés as mentioned in article 5, paragraph 2, of the treaty of 23d March, 1907, and Clause III of the protocol of jurisdiction of the same date are concerned shall be tried:

- (1) In the first instance by the international courts.
- (2) On appeal by the court of appeal at Bangkok.
- (3) On further appeal by the supreme or dika court.

ART. 2. The sitting of these various courts shall be public whether the cause under consideration be civil or criminal.

ART. 3. Provided always, that if the publicity of any cause or matter would appear to be harmful to the public welfare or morality the court may of its own accord or at the request of the parties or any one of them make an order at any stage of the proceedings that further proceedings shall take place in private.

ART. 4. Judgments shall in any event be pronounced publicly in open court. The reasons for the decision shall be stated therein.

ART. 5. Pursuant to the provisions of Section II of the protocol of jurisdiction of the 23d March, 1907, the jurisdiction of the courts mentioned in article 1 shall extend:

- (1) In civil matters: To all civil and commercial matters to which French Asiatic subjects or protégés shall be parties.

(2) In penal matters: To breaches of law of every kind whatever committed by French Asiatic subjects or protégés or to their injury.

ART. 6. Pursuant to the provisions of article 5 the jurisdiction of the courts mentioned in article 1 and the special rules governing them shall extend to:

(1) All persons under the jurisdiction of the Siamese courts who are parties to or interveners in any civil or commercial action to which French Asiatic subjects or protégés are parties.

(2) All persons under the jurisdiction of the Siamese courts who are implicated in offenses committed by French Asiatic subjects or protégés or to their injury.

ART. 7. The plea of want of jurisdiction based on the above rules must be made before any defense on the main issue is offered.

Thus it can not be made for the first time either on appeal or further appeal. Whenever an objection to the jurisdiction is made the court shall decide on it by interlocutory order stating the grounds of the decision of the court.

ART. 8. French Asiatic subjects or protégés are obliged to comply with summonses and subpoenas addressed to them by the ordinary competent Siamese authorities as well as by international courts.

In the event of a summons or subpoena not being complied with the court or authority issuing the summons or subpoena may bring the person summoned or subpoenaed before it, but no punishment prescribed by law shall be inflicted unless by an international court.

ART. 9. A French Asiatic subject or protégé who is confined in gaol or under arrest, whether after sentence has been passed on him or otherwise, shall at any time have the right to correspond with the French consul or vice consul of the district, and no correspondence of his addressed to the French representative shall be opened by the Siamese authorities.

ART. 10. The French consul or vice shall at any reasonable time have the right to enter Siamese prisons in which French Asiatic subjects or protégés convicted or otherwise are confined and to converse with them privately with-out witnesses.

CHAPTER II.

ORGANIZATION AND POWERS OF INTERNATIONAL COURTS.

ART. 11. The following are recognized as international courts:

(1) In Bangkok: The court now known as the Court of Foreign Causes, hereafter to be called the Bangkok International Court, and also the court now known as Borispah Court I, which shall be a branch of the Bangkok International Court.

(2) In Chantaboon, Korat, Ubon, and Chiengmai: The monthon courts sitting in these towns.

(3) In Nan: The Muang Court of Nan.

ART. 12. The Borispah Court I, sitting as an international court, shall have the same jurisdiction as the three Siamese courts called Borispah Court I, Borispah Court II, and Borispah Court III.

The International Court of Chantaboon shall have jurisdiction over the monthon of Chantaboon.

The International Court of Korat shall have jurisdiction over the monthon of Korat.

The International Court of Ubon shall have jurisdiction over the monthons of Isarn and Udon.

The International Court of Chiengmai shall have jurisdiction over the monthon of Payab, with the exception of the muangs of Nan and Preh.

The International Court of Nan shall have jurisdiction over the muangs of Nan and Preh.

The International Court of Bangkok shall have jurisdiction over the monthon of Bangkok and those parts of the Kingdom not specifically mentioned above.

ART. 13. Within the limits of their respective jurisdictions international courts have jurisdiction as follows:

(1) The Borispah Court I has jurisdiction over all civil actions of whatever nature where the property or matter in dispute is of a value not exceeding 160 ticals and over all criminal actions involving not more than six months' imprisonment for the offender.

(2) The International Courts of Chantaboon, Korat, Ubon, Chiengmai, and Nan have jurisdiction over all civil and criminal cases.

(3) The Bangkok International Court has in the monthon of Bangkok jurisdiction over all civil and criminal actions exceeding the jurisdiction of the Borispah Court I and in other parts of the Kingdom to which its jurisdiction extends full jurisdiction over all civil and criminal actions.

ART. 14. Subject to the provisions of the present rules, the ordinary rules for procedure, bail, and fees in use in the Siamese courts shall be applied in international courts. The fees shall be paid according to the rules of the court where the case is entered.

ART. 15. In every case falling within the jurisdiction of an international court the French consul shall have the right of being present at the trial or of being represented by an European official of the consulate duly authorized and of making all observations which may appear to him to be required in the interests of justice.

ART. 16. In any case in which the defendant is a French Asiatic subject or protégé the French consul may at any time during the proceedings, if he thinks fit and upon a written requisition, claim to hear the case. The case shall then be transferred to the French consular court, which from this moment shall alone be competent and to which the Siamese authorities are bound to give their assistance and good offices.

ART. 17. Transfer, as mentioned in the preceding article, may only be exercised in the court of first instance and before judgment. It may be exercised as a matter of right, provided these conditions and those of article 16 are satisfied.

Nevertheless this right shall cease to be exercised in all matters which shall be the subject of codes of laws regularly promulgated as soon as the communication of such codes or laws shall have been made to the Legation of France and they have been put into force.

ART. 18. Before coming to a final decision in cases pending before them international courts shall bring their intended decision to the notice of the French consul.

ART. 19. When a judgment has been agreed upon or read by an international court in the presence of the French consul, he shall indorse the original judgment as evidence that he was present.

CHAPTER III.

CASES ARISING IN THE MUANG IN WHICH AN INTERNATIONAL COURT SITS.

ART. 20. Civil or commercial claims shall be entered and notified to the opposite party in the usual way.

International courts shall notify the consul of their district of all claims and defenses entered with them and the date of the hearing of the case.

ART. 21. In criminal matters offenses may be prosecuted:

(1) By the injured party or by any person deriving from him a legal right to prosecute.

(2) By the representative of the Crown.

(3) By the consul resident in the district of the court.

ART. 22. In prosecutions before the Borispah Court I notice of the nature of the offense, the names and nationalities of the parties, and the date of hearing shall be given to the consul either by the police or by the court.

ART. 23. In prosecutions before other international courts a similar notice shall be given to the consul by the court.

ART. 24. The consul shall be informed without delay whenever a warrant for the arrest of or a search warrant affecting a French Asiatic subject or protégé is granted by an international court.

ART. 25. The hearing and judgment of a case shall take place in the presence of the consul, or in his absence, provided he has been duly notified as mentioned in articles 20, 22, and 23 and does not attend.

ART. 26. The consul may at any time inspect the files. Copies of the proceedings will be furnished to him by the court whenever desired.

CHAPTER IV.

CASES ARISING OUTSIDE THE MUANG IN WHICH AN INTERNATIONAL COURT SITS.

ART. 27. Cases which arise outside the muang in which an international court sits may, at the option of the claimant or of the Crown, be entered:

- (1) Direct at the international court, or
- (2) At the muang or monthon court in the jurisdiction of which the cases have arisen, having regard to the difference of the power of these courts as prescribed by Siamese procedure.

ART. 28. When a case is entered direct at an international court that court shall, in conjunction with the consul (or in his absence, provided he has been duly notified), decide according to the circumstances what course shall be taken in each case; that is to say, the court may—

- (1) Retain the case.
- (2) Send the case to the muang or monthon court for trial only.
- (3) Send the case to the muang or monthon court for trial and judgment.

ART. 29. When an international court retains the case it shall be tried and adjusted as if it had arisen in the muang where the international court sits.

ART. 30. When an international court sends a case to a muang or monthon court for trial only, the trial shall take place according to the ordinary rules of Siamese procedure as altered by these rules, and the consul may exercise in respect of the muang or monthon court all the powers which he possesses in the international court.

When the trial has been completed, the file shall be returned to the international court, which shall notify the consul, and place the file at his disposal for a reasonable time before giving judgment.

Judgment may be read at the option of the international court or by the muang or monthon court where the case was tried.

ART. 31. When an international court sends a case to a muang or monthon court for trial and judgment that court may exercise all the powers of an international court.

The muang and monthon court shall try the case and give judgment according to the ordinary rules of Siamese procedure as altered by these rules, and the consul may exercise in respect of the muang or monthon court all the powers which he possesses in the international court.

ART. 32. When a civil or criminal case is entered at a muang or monthon court as mentioned in article 27, paragraph 2, the court shall proceed as follows:

(1) If a civil case, the court shall receive the claim, notify the defendant and receive the answer, and then send the whole file up to the international court of its district.

(2) If a criminal case, the court shall at once notify the international court of the names, occupations, and nationalities of the accused and of the injured party, the nature of the offense, and any other circumstances necessary to put the international court in possession of the facts.

Whenever communication by post to the international court will take longer than 48 hours, the notification as above shall be telegraphed.

ART. 33. The international court being then cognizant of the case shall, in conjunction with the consul or in his absence, provided he has been duly notified, decide what course it will adopt, that is, whether it will retain the case or return it for trial only or for trial and judgment, as mentioned in articles 28 to 31 above.

ART. 34. Whenever an international court has sent a case to another court for trial or for trial and judgment, it may at any time make an order transferring further proceedings to itself, either at the request of the consul or of its own accord.

ART. 35. The provisions of articles 21, 23, 24, 25, and 26 apply to muang and monthon courts when acting in matters within the jurisdiction of an international court.

ART. 36. In any event, even in connection with cases arising in the muang in which an international court sits, international courts may by commission or otherwise require other Siamese courts to make inquiries, inspections, take answers to interrogatories, or to take any other steps which may be of use in the trial of the case or for the purpose of eliciting the truth.

CHAPTER V.

THE COURT OF APPEAL.

ART. 37. Judgments of international courts of first instance may be appealed against to the court of appeal at Bangkok.

Interlocutory orders can only be appealed after judgment and together with an appeal from the judgment.

ART. 38. Appeals shall be filed at the court which read the judgment.

ART. 39. The petition on appeal shall be filed within the limits of time provided by Siamese procedure.

ART. 40. The appellant shall, within the same limits of time, pay all fees due and payable, otherwise the appeal shall be null and void.

ART. 41. When an appeal is filed with an international court, the latter shall give the ordinary notice of appeal to the opposite party, and receive the reply. It shall then notify the consul, and shall place the file at the disposal of the consul, in order that the consul may take advantage of the power conferred on him by Clause V of the protocol of the 23d March, 1907, of giving a written opinion on the case. The international court shall annex any opinion to the file and send the whole to the court of appeal.

ART. 42. When an appeal is filed with a muang or monthon court the latter shall give the ordinary notice of appeal to the opposite party, receive the reply, and send the file to the international court, which shall then proceed as mentioned in article 41.

ART. 43. The judgment of appeal shall bear the signature of two European judges.

CHAPTER VI.

THE SUPREME COURT OF APPEAL.

ART. 44. An appeal on a question of law may be made against judgments of the appeal court to the supreme, or dika, court.

The grounds of this appeal may be want of jurisdiction or abuse of power, or in general for every violation of the law.

ART. 45. The appeal to the dika court shall be filed before the court in which the judgment on appeal was read within the limits of time provided by Siamese procedure.

ART. 46. The petition on dika shall set out the grounds of the dika, and all fees due and payable shall be paid therewith, otherwise the dika shall be null and void.

ART. 47. The dika court may itself pronounce judgment on the merits of the case.

SPAIN.

ADHESION OF SPAIN TO THE DECLARATION OF PARIS OF 1856.

File No. 11854.

Minister Collier to the Secretary of State.

No. 474.]

AMERICAN LEGATION,
Madrid, February 4, 1908.

SIR: I have the honor to transmit herewith the text and translation of the royal decree of the 20th ultimo, ratifying the declaration made by Spain at the recent international peace conference, whereby she accepts all the rules, including that for the abolition of privateering, laid down in the declaration of Paris of 1856.

I have, etc.,

WM. MILLER COLLIER.

[Inclosure.—Translation.]

Decree.

[From Gaceta of January 22, 1908.]

Ministry of State.

Preamble.

SIR: The plenipotentiaries of the Governments of Austria, Sardinia, France, Great Britain, Prussia, Russia, and Turkey, who, convened at the congress of Paris, had just signed the treaty of March 30, 1856, for the reestablishment of peace, on April 16 of that year drew up a declaration relating to maritime law in time of war to the effect that:

First. Privateering was and should remain abolished.

Second. The neutral flag covers enemy goods excepting contraband of war.

Third. Neutral goods under the enemy's flag, excepting also contraband of war, can not be captured.

Fourth. Blockades to be binding must be effective—that is, must be maintained by forces capable of actually preventing access to the enemy's coast.

This declaration, according to one of its paragraphs, was to be submitted to the States not represented at the congress, which were to be invited to adhere thereto.

Such an invitation having been extended to Spain by the French ambassador in a note of May 19, 1856, the Government then in power had to take into account the circumstance, which had also been communicated to it, that adhesion to the rules above set forth could not be limited, but must embrace them all, according to the twenty-fourth protocol of the congress. The minister of state of his Catholic majesty, in his reply under date of May 16, 1857, stated that the Madrid cabinet highly appreciated the noble doctrines embodied in the declaration and had seen with satisfaction the resolutions adopted as to the liberty of enemy goods under a neutral flag and of neutral goods under the enemy's flag and as to the requirement, for the existence of a blockade, that access to the enemy's coast should be prevented; but that it could not at that time, owing to special considerations impossible to disregard, assent to the rule that privateering was and should remain abolished.

The right nevertheless to issue letters of marque, reserved by Spain in 1857, has not since then been exercised.

Upon the discussion recently at the Second International Peace Conference of various questions of international maritime law in time of war your Majesty's Government had to consider whether the change in circumstances

and the practically unanimous example of other powers did not render it advisable to give the adhesion which half a century ago was refused.

The result of our deliberations was that we authorized the first delegate of Spain at the said conference to announce that our country, inspired by the desire to contribute to the unification of international maritime law in time of war, was now prepared to accept the rule for the suppression of privateering and to adhere to the Declaration of Paris of 1856 in its entirety.

This adhesion having been thereupon communicated to the Government of the neighboring Republic, and having been accepted by it, in its name and in that of the other high contracting parties, the undersigned minister, in accord with the council of ministers, has the honor to submit to your Majesty's approval the following draft decree.

Madrid, January 20, 1908.

Sir, your Majesty's most obedient servant,

MANUEL ALLENDESALAZAR.

ROYAL DECREE.

Whereas my ambassador in London and first delegate at the Second International Peace Conference made, in pursuance of instructions, at the seventh plenary session of the said conference, on September 27, 1907, a declaration in the following terms: "The Spanish Government informed that of France by a note of May 16, 1857, addressed to the French ambassador in Madrid, that it highly appreciated the noble doctrines contained in the Declaration of Paris, and saw with satisfaction the international agreement adopted as to the liberty of enemy goods under the neutral flag and of neutral goods under the enemy's flag, as well as that respecting the effectiveness of blockades; but that it could not, at that time, assent to the abolition of privateering. His Majesty's Government, which has not since had occasion to avail itself of the right to issue letters of marque, expressly reserved in 1857, inspired now by the desire to contribute to the unification of international maritime law, has commissioned me to inform the conference that it accepts the rule for the abolition of privateering and adheres to all the provisions of the Declaration of Paris;"

And whereas my ambassador in Paris has notified the French Government of the said adhesion, and the said Government has accepted it in its own name, and in that of the other powers which signed the declaration as to maritime law, drawn up in that capital on April 16, 1856;

Therefore, taking into consideration the reasons submitted to me by my minister of state, and in accordance with the advice of the council of ministers, I hereby resolve that the declaration above recited, made in the name of the Spanish Government before the Second International Peace Conference by the first delegate of Spain, shall be strictly fulfilled and obeyed and shall be held to be in full force and effect for the purposes therein set forth.

Given in the palace this 20th of January, 1908.

ALFONSO.

The Minister of State:

MANUEL ALLENDESALAZAR.

ARBITRATION CONVENTION BETWEEN THE UNITED STATES
AND SPAIN.

Signed at Washington, April 20, 1908. Ratification advised by the Senate, April 22, 1908. Ratified by the President, May 28, 1908. Ratified by Spain, May 11, 1908. Ratifications exchanged at Washington, June 2, 1908. Proclaimed, June 3, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the Kingdom of Spain providing for the submission to arbitration of all questions of a legal nature or relating to the interpretation of treaties, which may arise between the two countries and which it may not

have been possible to settle by diplomacy, was concluded and signed by their respective Plenipotentiaries at Washington on the twentieth day of April, one thousand nine hundred and eight, the original of which Convention being in the English and Spanish languages is word for word as follows:

The Government of the United States of America and the Government of His Majesty the King of Spain, signatories of the Convention for the pacific settlement of international disputes, concluded at The Hague on the 29th July, 1899;

Taking into consideration that by Article XIX of that Convention the High Contracting Parties have reserved to themselves the right of concluding Agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment;

Have authorized the Undersigned to conclude the following Convention:

ARTICLE I.

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two Contracting Parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of the 29th July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two Contracting States, and do not concern the interests of third Parties.

ARTICLE II.

In each individual case the High Contracting Parties, before appealing to the Permanent Court of Arbitration, shall conclude a special Agreement defining clearly the matter in dispute, the scope of the powers of the arbitrators, and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure. It is understood that on the part of the United States such special agreements will be made by the President of the United States, by and with the advice and consent of the Senate thereof, and on the part of Spain shall be subject to the procedure required by her laws.

ARTICLE III.

The present Convention is concluded for a period of five years dating from the day of the exchange of the ratifications.

ARTICLE IV.

The present Convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by His Majesty the King of Spain. The ratifications shall be exchanged at Washington as soon as possible, and the Convention shall take effect on the date of the exchange of its ratifications.

Done in duplicate in the English and Spanish languages at Washington, this twentieth day of April in the year one thousand nine hundred and eight.

ELIHU ROOT
R. PIÑA Y MILLET

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the second day of June, one thousand nine hundred and eight;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this third day of June, in the year of our Lord one thousand nine hundred and eight, and of the Independence of the United States of America the one hundred and thirty-second.

[SEAL.]

By the President:

ELIHU ROOT

Secretary of State.

THEODORE ROOSEVELT.

EXTRADITION TREATY AND PROTOCOL BETWEEN THE UNITED STATES AND SPAIN.

Treaty signed at Madrid, June 15, 1904. Protocol signed at San Sebastian, August 13, 1907. Ratification advised by the Senate, January 16, 1908. Ratified by the President, February 5, 1908. Ratified by Spain, March 30, 1908. Ratifications exchanged at Madrid, April 6, 1908. Proclaimed, May 21, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Treaty between the United States of America and Spain providing for the mutual extradition of fugitives from justice was concluded and signed by their respective Plenipotentiaries at Madrid on the fifteenth day of June, one thousand nine hundred and four, the original of which Treaty, being in the English and Spanish languages is word for word as follows:

Treaty of extradition between the United States of America and Spain.

ARTICLE I.

It is agreed that the Government of the United States and the Government of Spain shall, upon mutual requisition duly made as herein provided deliver up to justice any person who may be charged with, or may have been convicted of any of the crimes specified in Article

II of this Convention committed within the jurisdiction of one of the Contracting Parties while said person was actually within such jurisdiction when the crime was committed, and who shall seek an asylum or shall be found within the territories of the other, provided that such surrender shall take place only upon such evidence of criminality, as according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offence had been there committed.

ARTICLE II.

Persons shall be delivered up according to the provisions of this Convention, who shall have been charged with or convicted of any of the following crimes:

1. Murder, comprehending the crimes designated by the terms of parricide, assassination, manslaughter, when voluntary; poisoning or infanticide.

2. The attempt to commit murder.

3. Rape, abortion, carnal knowledge of children under the age of twelve years.

4. Bigamy.

5. Arson.

6. Willful and unlawful destruction or obstruction of railroads, which endangers human life.

7. Crimes committed at sea:

(a) Piracy, as commonly known and defined by the laws of Nations, or by Statute;

(b) Wrongfully sinking or destroying a vessel at sea or attempting to do so;

(c) Mutiny or conspiracy by two or more members of the crew or others persons on board of a vessel on the high seas, for the purpose of rebelling against the authority of the Captain or Commander of such vessel, or by fraud or violence taking possession of such vessel;

(d) Assault on board ships upon the high seas with intent to do bodily harm.

8. Burglary, defined to be the act of breaking into and entering the house of another in the night time with intent to commit a felony therein;

9. The act of breaking into and entering into the offices of the Government and public authorities, or the offices of banks, banking houses, saving banks, trust companies, insurance companies, or other buildings not dwellings with intent to commit a felony therein.

10. Robbery, defined to be the act of feloniously and forcibly taking from the person of another, goods or money by violence or by putting him in fear.

11. Forgery or the utterance of forged papers.

12. The forgery or falsification of the official acts of the Government or public authority, including Courts of Justice, or the uttering or fraudulent use of any of the same.

13. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, created by National, State, Provincial, Territorial, Local or Municipal Governments, banknotes or other instruments of public credit, counterfeit seals,

stamps, dies and marks of State or public administrations, and the utterance, circulation or fraudulent use of the above mentioned objects.

14. Embezzlement or criminal malversation committed within the jurisdiction of one or the other party by public officers or depositaries, where the amount embezzled exceeds two hundred dollars (or Spanish equivalent.)

15. Embezzlement by any person or persons hired, salaried or employed, to the detriment of their employers or principals, when the crime or offence is punishable by imprisonment or other corporal punishment by the laws of both countries, and where the amount embezzled exceeds two hundred dollars (or Spanish equivalent.)

16. Kidnapping of minors or adults, defined to be the abduction or detention of a person or persons, in order to exact money from them or their families, or for any other unlawful end.

17. Larceny, defined to be the theft of effects, personal property, or money, of the value of twenty-five dollars or more.

18. Obtaining money, valuable securities or other property by false pretences or receiving any money, valuable securities or other property knowing the same to have been unlawfully obtained, where the amount of money or the value of the property so obtained or received exceeds two hundred dollars (or Spanish equivalent.)

19. Perjury or subornation of perjury.

20. Fraud or breach of trust by a bailee, banker, agent, factor trustee, executor, administrator, guardian, director or officer of any Company or Corporation, or by any one in any fiduciary position, where the amount of money or the value of the property misappropriated exceeds two hundred dollars (or Spanish equivalent.)

21. Crimes and offences against the laws of both countries for the suppression of slavery and slave trading.

22. The extradition is also to take place for participation in any of the aforesaid crimes as an accessory before or after the fact, provided such participation be punishable by imprisonment by the laws of both Contracting Parties.

ARTICLE III.

[See amended article in Protocol following Treaty.]

The provisions of this Convention shall not import claim of extradition for any crime or offence of a political character, nor for acts connected with such crimes or offences, except in so far as they shall constitute ordinary crimes or offences punishable by the laws of the two Countries; and no person surrendered by or to either of the Contracting Parties in virtue of this convention shall be tried or punished for a political crime or offence, except they be ordinary crimes as above stated, nor for any act connected therewith, committed previously to the extradition. An attempt, whether consummated or not, against the life of the Sovereign or of the Head of any State, or against that of any member of his family, when such attempt comprises the act either of murder or assassination or of poisoning, shall not be considered a political offense, or an act connected with such an offence.

ARTICLE IV.

[See amended article in Protocol following Treaty.]

No person shall be tried for any crime or offence other than that for which he was surrendered unless such crime be one of those enumerated in Article II.

ARTICLE V.

A fugitive criminal shall not be surrendered under the provisions hereof, when, from lapse of time or other lawful cause, according to the laws of the place within the jurisdiction of which the crime was committed, the criminal is exempt from prosecution or punishment for the offense for which the surrender is asked.

ARTICLE VI.

If a fugitive criminal whose surrender may be claimed pursuant to the stipulations hereof, be actually under prosecution out on bail or in custody, for a crime or offence committed in the country where he has sought asylum, or shall have been convicted thereof, his extradition may be deferred until such proceedings be determined, and, until he shall have been set at liberty in due course of law.

ARTICLE VII.

If a fugitive criminal claimed by one of the parties hereto, shall be also claimed by one or more powers pursuant to treaty provisions, on account of crimes committed within their jurisdiction, such criminal shall be delivered to that State whose demand is first received.

ARTICLE VIII.

Under the stipulations of this Convention, neither of the Contracting Parties shall be bound to deliver up its own citizens or subjects.

ARTICLE IX.

The expense of the arrest, detention, examination and transportation of the accused shall be paid by the Government which has preferred the demand for extradition.

ARTICLE X.

Everything found in the possession of the fugitive criminal at the time of his arrest, whether being the proceeds of the crime or offence, or which may be material as evidence in making proof of the crime, shall, so far as practicable, according to the laws of either of the Contracting Parties, be delivered up with his person at the time of the surrender. Nevertheless, the rights of a third party with regard to the articles aforesaid, shall be duly respected.

ARTICLE XI.

The stipulations of this Convention shall be applicable to all territory wherever situated, belonging to either of the contracting parties or in the occupancy and under the control of either of them, during such occupancy or control.

Requisitions for the surrender of fugitives from justice shall be made by the respective diplomatic agents of the Contracting Parties. In the event of the absence of such Agents from the country or its seat of Government, or where extradition is sought from a colonial possession of Spain or from territory, included in the preceding paragraph, other than the United States, requisition may be made by superior Consular officers.

It shall be competent for such Diplomatic or superior Consular officers to ask and obtain a mandate or preliminary warrant of arrest for the person whose surrender is sought, whereupon the judges and magistrates of the two Governments shall respectively have power and authority, upon complaint made under oath, to issue a warrant for the apprehension of the person charged, in order that he or she may be brought before such judge or magistrate, that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify the same to the proper executive authority, that a warrant may issue for the surrender of the fugitive.

If the fugitive criminal shall have been convicted of the crime for which his surrender is asked, a copy of the sentence of the Court before which such conviction took place, duly authenticated, shall be produced. If, however, the fugitive is merely charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime was committed, and of the depositions upon which such warrant may have been issued, shall be produced, with such other evidence or proof as may be deemed competent in the case.

ARTICLE XII.

If when a person accused shall have been arrested in virtue of the mandate or preliminary warrant of arrest, issued by the competent authority as provided in Article XI hereof, and been brought, before a judge or a magistrate to the end that the evidence of his or her guilt may be heard and examined as herein before provided, it shall appear that the mandate or preliminary warrant of arrest has been issued in pursuance of a request or declaration received by telegraph from the Government asking for the extradition, it shall be competent for the judge or magistrate at his discretion to hold the accused for a period not exceeding two months, so that the demanding Government may have opportunity to lay before such judge or magistrate legal evidence of the guilt of the accused, and if at the expiration of said period of two months, such legal evidence shall not have been produced before such judge or magistrate, the person arrested shall be released, provided that the examination of the charges preferred against such accused person shall not be actually going on.

ARTICLE XIII.

In every case of a request made by either of the two Contracting Parties for the arrest, detention or extradition of fugitive criminals, the legal officers or fiscal ministry of the country where the proceedings of extradition are had, shall assist the officers of the Government demanding the extradition before the respective judges and magistrates, by every legal means within their or its power; and no claim whatever for compensation for any of the services so rendered shall be made against the Government demanding the extradition, provided however, that any officer or officers of the surrendering Government so giving assistance, who shall, in the usual course of their duty, receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the Government demanding the extradition the customary fees for the acts or services performed by them, in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

ARTICLE XIV.

This Convention shall take effect from the day of the exchange of the ratifications thereof; but either Contracting Party may at any time terminate the same on giving to the other six months notice of its intention to do so.

The ratifications of the present Treaty shall be exchanged at Madrid as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the above articles, and have hereunto affixed their seals.

Done in duplicate, at the city of Madrid, this fifteenth day of June one thousand nine hundred and four.

[SEAL.]
[SEAL.]

ARTHUR S. HARDY.
¹ FAUSTINO RODRIGUES SAN PEDRO.

And whereas a Protocol amending Articles III and IV of the said Treaty was signed by the respective Plenipotentiaries of the United States and Spain at San Sebastian on August 13, 1907, the original of which Protocol, being in the English and Spanish languages, is word for word as follows:

PROTOCOL.

The Undersigned, His Excellency, William Miller Collier, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to His Catholic Majesty, and His Excellency Don Manuel Allendesalazar y Muñoz de Salazar, Minister of State of His Catholic Majesty, duly authorized for the purpose, have agreed upon the following:

Articles III and IV of the Treaty of extradition between the United States and Spain signed at Madrid on June 15th, 1904, are hereby amended so as to read as follows:

¹ Signed Spanish text.

"ARTICLE III. The provisions of this Convention shall not import claim of extradition for any crime or offence of a political character, nor for acts connected with such crimes or offences; and no person surrendered by or to either of the Contracting Parties in virtue of this Convention shall be tried or punished for a political crime or offence. When the offence charged comprises the act either of murder or assassination or of poisoning, either consummated or attempted, the fact that the offence was committed or attempted against the life of the Sovereign or Head of a foreign State or against the life of any member of his family, shall not be deemed sufficient to sustain that such a crime or offence was of a political character, or was an act connected with crimes or offences of a political character."

"ARTICLE IV. No person shall be tried for any crime or offence other than that for which he was surrendered."

The above mentioned treaty, as amended by this protocol, is to be submitted for approval in the manner required by the laws of the two nations and the ratifications shall be exchanged at Madrid as soon as possible.

In faith whereof this protocol is signed in two originals, each one in the two languages, in San Sebastian on the 13th of August 1907.

WM. MILLER COLLIER.

¹ MANUEL ALLENDESALAZAR.

And whereas the said Treaty and the said Protocol were duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Madrid, on the sixth day of April, one thousand nine hundred and eight;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Treaty, as amended by the said Protocol, to be made public to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington, this twenty-first day of May, in the year of our Lord one thousand nine hundred and eight, and of the Independence of the United States of America the one hundred and thirty-second.

[SEAL.]

THEODORE ROOSEVELT

By the President:

ELIHU ROOT

Secretary of State.

¹ Signed Spanish text.

SWEDEN.

SPEECH OF KING GUSTAV V AT THE OPENING OF THE RIKSDAG.

File No. 4359/4-5.

Minister Graves to the Secretary of State.

No. 150.]

AMERICAN LEGATION,
Stockholm, January 16, 1908.

SIR: I have the honor to report that the annual opening of the Riksdag (session of Parliament) of Sweden occurred to-day.

King Gustav V for the first time received the members of both houses, and in the presence of the officers of the court and the diplomatic corps and a large assembly read his address to the Riksdag, which, with a translation thereof, is attached hereto.

The speech was received with great interest and is regarded as an important pronouncement of the views and intentions of the new King. In the opening paragraphs due reference was made to the severe affliction sustained by the nation in the death of the beloved King, Oscar II, who is mentioned as "carefully observing his duties as constitutional King."

It is noticeable that the ceremony was conducted with great simplicity, the King and princes appearing in military uniforms instead of the royal robes hitherto worn on like occasions; and the King has also evidenced his desire for simple proceedings and economy by recently declaring that there will be no formal coronation.

I have, etc.,

CHARLES H. GRAVES.

[Inclosure.—Translation.]

Good Gentlemen and Swedish Men:

For the first time as King I greet you, the representatives of the Swedish people, and bid you welcome to the fulfillment of your responsible and momentous task.

Hardly a month has passed since my highly beloved father, King Oscar II, after a peaceful reign of 35 years, ended his days. Severe was the blow which by his death was dealt to the royal family and the people, but in my sorrow I have found consolation and strength in the public sympathy in the loss suffered by the fatherland through the death of the revered monarch.

Great was the interior development which during his long reign appeared in all branches, and to which he always strongly contributed, carefully observing his duties as constitutional King.

Heavily I feel the responsibility which has been laid upon me when I succeeded him on the throne of Sweden. But with honest zeal for the welfare of the fatherland and for its development I will ever endeavor to fulfill my calling. In so doing may it be my fortune, both in good and evil days, to be met and supported by my Swedish people in joint work for the true welfare of our fatherland.

During the past year the succession to the throne has been still more insured by the birth of my grandson, the Duke of Uppland.

Our relations to foreign powers is good, and of this fact I received many proofs at the death of King Oscar.

For arranging the administrative jurisdiction in the highest instance, and also in order to facilitate a quicker decision of the cases to be tried by the supreme court, I propose the instituting of a cabinet court and of a judicial council, the latter causing an increase in the number of members of the supreme court. These propositions imply an amendment of the constitution, and other amendments of the constitution will be proposed, with a view of facilitating the work of the Riksdag, and to introduce proportional elections to the committees of the Riksdag.

The constitutional proposition on the suffrage question accepted by the last Riksdag as resting till this session, I think ought now to be finally decided before the question of political suffrage for women is taken up by me for treatment. Therefore the present Riksdag may not expect to receive any proposition from me in regard to the latter question.

As to general legislation, I am disposed to present to you propositions; among others, one for a new penal code for the martial power and one for contracting marriage, besides which a proposition for rental law for Norrland will again be submitted for your consideration. The proposition for new legislation in regard to registry of deeds and mortgages and probate of wills which is being elaborated by the law-revising commission presupposes, as fundamental for real estate records, a real estate register, which will, in several other respects, be of use, and I request that you grant necessary means for the establishing of such a register.

The questions of determining the relation between employers and workmen, as well as regarding old-age and invalidity insurance have long been subjects for the attention of the State authorities. But these weighty and difficultly solved questions demand thorough investigation and deliberate consideration, and therefore they have been intrusted to specially appointed committees, and it is my sincere hope that, after they have completed their work, these questions may have a satisfactory solution.

Since the elaboration of a plan for the defense of the Kingdom, in common for the army and navy, as ordained by His Majesty in 1906, has been completed by the chiefs of the general staff and the staff of the navy, and further investigations in certain parts of this question have been made, His Majesty has appointed a committee to examine and make a report on the aforesaid plan of defense, with special consideration of the economical strength of the Kingdom.

The period for conscript drills, which during the present year will be less extensive, will, in accordance with decision in regard to the new army organization, next year be given their full extent, and this will necessitate a very essential increase of the appropriations for this purpose.

In order to promote the development and betterment of agriculture, commerce, and industry, I will present to you several propositions. Among these may be mentioned the instituting of ferry communications with Prussia, for which a project, which will be submitted to your consideration, has been drawn up after proper negotiations.

In order to obtain a more just foundation for forest taxation and at the same time remedy the so-long-deplored evil that forest communities do not receive sufficient share in the taxation of forests, I intend to present to you a proposition for communal forest excise duties.

ARBITRATION CONVENTION BETWEEN THE UNITED STATES AND SWEDEN.

Signed at Washington, May 2, 1908. Ratification advised by the Senate, May 6, 1908. Ratified by the President, July 6, 1908. Ratified by Sweden, June 13, 1908. Ratifications exchanged at Washington, August 18, 1908. Proclaimed, September 1, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the Kingdom of Sweden providing for the submission to arbitration

of all questions of a legal nature or relating to the interpretation of treaties, which may arise between the two countries and which it many not have been possible to settle by diplomacy, was concluded and signed by their respective Plenipotentiaries at Washington on the second day of May, one thousand nine hundred and eight, the original of which Convention, being in the English and French languages is word for word as follows:

The President of the United States of America and His Majesty the King of Sweden desiring in pursuance of the principles set forth in articles 15-19 of the Convention for the pacific settlement of international disputes, signed at The Hague July 29, 1899, to enter into negotiations for the conclusion of an Arbitration Convention, have named as their Plenipotentiaries, to wit:

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

His Majesty the King of Sweden, W. A. F. Ekengren, His Chargé d'Affaires ad interim at Washington;

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

ARTICLE I.

Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the two Contracting Parties and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of the 29th July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two Contracting States, and do not concern the interests of third Parties.

ARTICLE II.

In each individual case the High Contracting Parties, before appealing to the Permanent Court of Arbitration, shall conclude a special Agreement defining clearly the matter in dispute, the scope of the powers of the Arbitrators, and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure. It is understood that on the part of the United States such special agreements will be made by the President of the United States, by and with the advice and consent of the Senate thereof, and on the part of Sweden by the King in such forms and conditions as He may find requisite or appropriate.

ARTICLE III.

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 Majesty the King of Sweden. The ratifications shall be exchanged at Washington as soon as possible, and the Convention shall take effect on the date of the exchange of its ratifications.

ARTICLE IV.

The present Convention is concluded for a period of five years, dating from the day of the exchange of its ratifications.

Done in duplicate at the City of Washington, in the English and French languages, this second day of May, 1908.

ELIHU ROOT [SEAL.]
W. A. F. EKENGREN [SEAL.]

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the eighteenth day of August, one thousand nine hundred and eight;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this first day of September in the year of our Lord one thousand nine hundred and eight and of the Independence of the United States of America the one hundred and thirty-third.

THEODORE ROOSEVELT

By the President:

ALVEY A. ADEE

Acting Secretary of State.

SWITZERLAND.

PROTECTION AFFORDED SWISS CITIZENS IN COLOMBIA BY THE AMERICAN LEGATION.

File No. 11960/1.

The Acting Secretary of State to the Swiss Minister.

No. 65.]

DEPARTMENT OF STATE,
Washington, March 5, 1908.

SIR: I have the honor to inclose for your information a copy of a correspondence¹ between the American Legation at Bogota and the department on the subject of the use of the legation's good offices in behalf of Swiss citizens in Colombia.

Accept, etc.,

ROBERT BACON.

ARBITRATION CONVENTION BETWEEN THE UNITED STATES AND THE SWISS CONFEDERATION.

Signed at Washington, February 29, 1908. Ratification advised by the Senate, March 6, 1908. Ratified by the President, May 29, 1908. Ratified by Swiss Confederation, October 13, 1908. Ratifications exchanged at Washington, December 23, 1908. Proclaimed, December 23, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the Swiss Confederation providing for the submission to arbitration of all questions of a legal nature, or relating to the interpretation of treaties, which may arise between the two countries and which it may not have been possible to settle by diplomacy, was concluded and signed by their respective Plenipotentiaries at Washington, on the twenty-ninth day of February, one thousand nine hundred and eight, the original of which Convention, being in the English and French languages is word for word as follows:

The Government of the United States of America and the Government of the Swiss Confederation, signatories of the Convention for the pacific settlement of international disputes, concluded at The Hague on the 29th July, 1899;

¹ See under Colombia, p. 210 et seq.

Taking into consideration that by Article XIX of that Convention the High Contracting Parties have reserved to themselves the right of concluding Agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment;

Have authorized the Undersigned to conclude the following arrangement:

ARTICLE I.

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two Contracting Parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of the 29th July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two Contracting States, and do not concern the interests of third Parties.

ARTICLE II.

In each individual case the High Contracting Parties, before appealing to the Permanent Court of Arbitration, shall conclude a special Agreement defining clearly the matter in dispute, the scope of the powers of the Arbitrators, and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure. It is understood that such special agreements on the part of the United States will be made by the President of the United States, by and with the advice and consent of the Senate thereof, and on the part of Switzerland, by the Federal Council of the Swiss Confederation, with the advice and consent of the Federal Assembly.

ARTICLE III.

The present Convention is concluded for a period of five years, dating from the day of the exchange of the ratifications.

ARTICLE IV.

The present Convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the Government of the Swiss Confederation in accordance with its constitution and laws.

The ratifications of this Convention shall be exchanged at Washington as soon as possible, and it shall take effect on the date of the exchange of its ratifications.

Done in duplicate in the English and French languages, at Washington, this twenty-ninth day of February, in the year 1908.

ELIHU ROOT [L. s.]
L. VOGEL [L. s.]

And whereas, the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in

the City of Washington, on the twenty-third day of December, one thousand nine hundred and eight;

Now, therefore, be it known that I, THEODORE ROOSEVELT, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this twenty-third day of December in the year of our Lord one thousand nine hundred and eight, [SEAL] and of the Independence of the United States of America the one hundred and thirty-third.

THEODORE ROOSEVELT

By the President:

ELIHU ROOT

Secretary of State.

TURKEY.

RIGHT OF AMERICAN CITIZENS TO PROSECUTE CLAIMS AGAINST THE GOVERNMENT OF TURKEY IN THE COURTS OF THAT COUNTRY.

File No. 14776/2.

The Acting Secretary of State to Ambassador Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 30, 1908.

(Mr. Bacon, acknowledging the telegram of July 25,¹ informs Mr. Leishman that section 1068 of the Revised Statutes permits aliens, citizens of a country which grants reciprocal privileges, to sue the United States in the Court of Claims, and that certain Turkish subjects have brought suit against the United States in the Court of Claims to recover for alleged excessive customs duties paid.

Mr. Leishman is instructed to reply by dispatch whether an American citizen could sue the Turkish Government in a like case in Turkish courts, and whether the remedy accorded is as practicable, efficient, and absolute as remedy in the Court of Claims. Also to explain as far as possible the nature of the cases in which an American citizen can sue the Turkish Government in Turkish courts.)

File No. 14776/3.

Ambassador Leishman to the Secretary of State.

No. 795.]

AMERICAN EMBASSY,
Constantinople, October 6, 1908.

SIR: In reply to the department's telegraphic instructions of July 30 last, inquiring concerning the right of an American citizen to sue the Turkish Government for the recovery of excessive customs duties, I have the honor to report that I have caused inquiries to be made at the Sublime Porte and from the legal advisers of the Porte and of the customs administration and am informed that an American citizen, as well as an Ottoman subject or other foreign subject, may sue the Ottoman Government in the Ottoman courts to recover excessive customs duties. The form of procedure and admittance of evidence, as well as the law applied, will naturally be those fixed by Ottoman law.

With regard to the nature of the cases in which an American citizen can sue the Ottoman Government in the Ottoman courts, I beg to state that the law does not limit such cases. It can be said in a

¹ Not printed.

general way that in all matters wherein a foreign subject enters into relations with the Ottoman Government he can sue the same in the Ottoman courts. Such action, when brought by a foreign subject or citizen enjoying capitulatory rights in Turkey, comes within the jurisdiction of the "mixed courts," which is presided over by an Ottoman judge, and comprises, besides the president, two Ottoman associate judges, called members of the court, and two foreign assessors, appointed by the diplomatic or consular authorities of the nation to which the foreigner belongs. Such action is not heard unless the dragoman of such foreign mission or consulate be present.

As to the question whether the remedy accorded is as practicable, efficient, and absolute as that furnished by the American Court of Claims, I beg to state that an action in an Ottoman court, and an irrevocable judgment sanctioning the claims of the foreigner, are the only remedies which a foreigner has in Turkey. It is true that under the old régime foreigners who obtained judgments against the Ottoman Government experienced delays in the execution of these judgments, but this does not change the point of law, which recognizes the jurisdiction of the Ottoman courts against the customs administration in claims for the recovery of excessive customs duties.

The delay in writing this reply to the department's inquiry was caused by the wish of the embassy to ascertain, from the office of the legal advisers of the general customs administration, whether there have ever been cases of this nature against the department. All their old records were searched, but no such case was found; yet they recognize that there is no doubt whatever about the jurisdiction of the courts, and that they would not for a moment think of raising an exception of want of competency, in case such action were brought against their administration. Their present legal adviser states that, whenever such claims have been presented during his tenure of office, he has caused them to be settled out of court.

I have, etc.,

JOHN G. A. LEISHMAN.

STATUS OF RESIDENTS OF TURKEY WHO CLAIM TO BE NATURALIZED AMERICAN CITIZENS.

File No. 4050/104-105.

The Acting Secretary of State to Ambassador Leishman.

DEPARTMENT OF STATE,
Washington, June 30, 1908.

SIR: Referring to the department's circular instruction of April 19, 1907, I inclose for your information and for the files of your embassy a copy of a remonstrance which Mr. E. C. Tambaky and others, claiming to be naturalized American citizens resident in Turkey, have addressed to the President, in which they criticise the department's interpretation of the act of Congress approved March 2, 1907, in reference to the expatriation of citizens and their protection abroad. I also inclose a copy of the department's reply to the remonstrance mentioned.

I am, sir,

ROBERT BACON.

[Inclosure 1.]

Petition signed by E. C. Tambaky and others addressed to President Roosevelt.

HONORABLE SIR: The undersigned naturalized American citizens, at present residing in Turkey, respectfully call your attention to their situation, as apparently regarded by the State Department in its interpretation of chapter 2534, of the United States Statutes at Large, and entitled "An act in reference to the expatriation of citizens, and their protection abroad," and approved March 2, 1907.

The undersigned, with two exceptions, have never been Turkish subjects.

The two exceptions are first, a citizen who has obtained an imperial decree, or iradé, permitting him to adopt American citizenship, and second, one who is an American citizen by birth, whose father was naturalized when a resident of the United States.

A circular has been issued and is, we believe, now posted in every American consulate in Turkey, which professes to be based on section 2 of the said act of March 2, 1907, and also upon paragraph 144 of the Diplomatic Instructions and Consular Regulations as amended by the Executive order of April 6, 1907. This circular declares that the above-mentioned act and the regulations in question are applicable to American citizens who reside in the Turkish dominions.

The circular states that the following classes of persons will be presumed to have ceased to be American citizens:

1. Naturalized American citizens, formerly Turkish subjects, who return to Turkey and reside there for a period of two years.

2. Naturalized American citizens, not formerly Turkish subjects, who reside in the Turkish dominions for five years.

Your memorialists with the exceptions above referred to all belong to this second category.

While not presuming to doubt for an instant the power of our Government to make acts of Congress that shall be binding upon all American citizens, wherever residing, the undersigned feel confident that the act of Congress in question would never have been declared applicable to American citizens residing in Turkey if the peculiar and altogether exceptional character of the legal situation and relations of American citizens residing in Turkey had been remembered.

As such relations result from the treaties and from the rights acquired by the United States Government in Turkey we have considered it desirable to obtain an opinion from Mr. Edwin Pears, an English barrister at law, whose historical works are known in America, and who has examined the position of foreign subjects residing in the Ottoman dominions more fully than any other writer in the English language.

We refer to his opinion annexed herewith.

The conclusions arrived at by him are the following:

1. That the citizens of the United States residing in Turkey are in an entirely different position from that of such citizens residing in the United States, England, Germany, or other foreign country.

2. That from a legal and largely also from a practical point of view such citizens are legally considered as residing in the United States themselves, Mr. Pears speaks with confidence on this question and adds the significant paragraph that the position which he takes up is not seriously disputed so far as he is aware by any person who has written on the subject.

3. That as no conflict of law has arisen or is likely to arise between our Government and that of the Sublime Porte in reference to the nationality of citizens in the category to which we belong, there is no necessity, nor is it desirable to apply the act, as the circular proposes, to the undersigned.

Your memorialists, while unable of course to give an opinion with the authority of a specialist like Mr. Pears upon this question, unhesitatingly assert that their respective advocates and their acquaintances belonging to the British, German, Austrian, Italian, and other European communities invariably hold the same language, that the citizens of such countries residing in Turkey are always regarded as legally domiciled in the countries from which they have come, and that each non-Ottoman subject of origin is regarded as living in a foreign colony. In other words, the position set out in Mr. Pears's opinion is, as far as we can learn, one which is universally held by those who have studied such question in Turkey.

But while such is the legal position the undersigned ventures to suggest that the United States department, and yourself in particular, as its respected head,

will recognize that an act of injustice will be done if the provisions alluded to in the above-mentioned circular are made applicable to this country. They came here as naturalized American citizens, knowing they were coming under American jurisdiction and under the protection of its laws; that legally they were coming to an American colony; and when duly admitted by decision of the American court they considered themselves assured, under the Constitution, as entitled to equal rights with those enjoyed by native-born Americans. They have entered into business relations with citizens in America and with other persons, under the belief on both sides, that they were Americans and that in any legal disputes American law would be the one applicable.

They respectfully submit that to make the provision applicable to the undersigned will be to give the statute a retroactive effect, which is unjust. It will change the status which they acquired legally in America. Under the laws of the United States the undersigned became American citizens by the decision of a competent court, and they respectfully submit that the State Department in making the circular applicable in their case is taking a step which is not only unfair to them, but unconstitutional—unconstitutional because it discriminates between the rights of natural-born American citizens and a naturalized one.

The undersigned also submit that it could not have been the intention of the American legislators to hand over naturalized citizens to an Asiatic power which is hardly the superior of China, where also consular jurisdiction is in full force. If the undersigned were thus cast off they would become, by virtue of the Turkish law, Turkish subjects, which they have never been and which they do not desire to become.

An act of injustice would be done not only to them but to all who have entered in such contractual relations with them. It need hardly be said that American citizens and others belonging to civilized States would have in many cases refused to enter in such contractual relations had they thought that the law courts to which, in case of dispute, they would have had to appeal were those of Turkey.

The undersigned also call attention to the fact that there are many anomalies which would result from the application of the law. If they were cast off by America and became Turkish subjects the children of any of the undersigned who are resident in America would by Turkish law be unable to take any portion of the succession of their father.

But the undersigned do not wish to base their appeal merely upon technicalities. They rather submit the proposition that if the law is made applicable to them and the class of persons to whom they belong, a great act of injustice will be done. They put the matter in its simplest form, namely, that each one of them having gone to the United States and fulfilled the requirements by which he was able to become naturalized, subsequently, for the purpose of his business found it desirable to leave the United States and establish himself not in the country of which he was a subject but in Turkey. By industry and under the protection of the laws of their newly acquired country they have obtained possession of a right of which they are proud, and they respectfully request that they may be permitted to retain such possession, and urge that it would be a manifest injustice that they should lose the legal status which they have obtained on their naturalization, and that without any fault of their own they should be compelled to become Turkish subjects or to leave the country in which they have made business connections.

The undersigned submit these considerations to your careful attention in the fullest confidence that the question so important to them in their private and family relations, as well as in their capacity of citizens of the great country you represent, will receive the sympathetic examination which your distinguished career has shown that you invariably give to matters regarding the rights of individual citizens.

The undersigned have the honor to remain, honorable sir, your most obedient servants,

E. C. Tambaky, T. S. Baltassi, Panay N. Magnatidis, Polycarp Speropulos, H. Seferiade, Denis G. Canale, Angelis Feros, Dimitrios Y. Karayiannopoulos, A. C. Adamupoulos, George Coureiyios, Nicolas D. Nicolaidis, George S. Tricoglu, W. E. Zhulu, Elen P. Haggitiris, Calliope Canale, Anthony J. Prossen, C. F. Missir, Yani Zervoudaki, Emilie A. Calléya, Olga Demitroff, Anna Demitroff, A. Melloni.

SMYRNA, April 21, 1908.

[Sub-enclosure 1.]

Opinion of Edwin Pears, barrister at law, and late president of the European bar at Constantinople.

I am asked to give an opinion on the following question:

"What is the legal status of naturalized American citizens residing in Turkey who have never been Turkish subjects in reference (1) to the Turkish Government and (2) to the American Government?"

I have written regarding the status of all subjects of various European States, including American citizens, residing in Turkey on various occasions. My last contribution on the subject appeared in the London Law Quarterly Review of October, 1905 (Turkish capitulations and the status of British and other foreign subjects residing in Turkey). The article in question will furnish full information on the general questions submitted.

The legal position of foreigners in Turkey is a survival of a conception of law which has disappeared from the jurisprudence of western States. Each community of foreign subjects in Turkey constitutes a legal colony under the jurisdiction of the sovereign State to which the members of such colony belong. The members of such colony, both individually and collectively, are clothed with extritoriality.

This result, though somewhat anomalous so far as civilized countries are concerned, is yet well established and undoubted, and is easily understood when examined historically. When the Turks took possession of Constantinople in 1453, they found a colony of Genoese occupying Galata and other places in Turkey under a treaty or capitulation which had been granted to them by the Byzantine Emperors. They had their own governor and their own law courts, and they were not to have the advantage of the Byzantine courts.

Mahomet the Conqueror confirmed the treaty or capitulation which he found in existence. In 1535 the King of France made capitulations with the Sultan of Turkey, giving to France similar rights to French subjects throughout the Empire. The English obtained similar privileges contained in a treaty or capitulation a few years afterwards. Without attempting to give the precise dates it is sufficient to say that the sovereigns of other European States followed the example of France. All these treaties or capitulations were based upon the idea of extritoriality and upon the model of the concession given to the Genoese. It is still more remarkable that these old treaties have been continued to the present day. Certain modifications in reference to details inserted to make the stipulation more precise have been added, but in reference to the principles which obtain they remain unchanged.

Among the latest countries to obtain capitulations was the United States. But the capitulations with the United States, as is indeed the case with those of other countries, contain "The most-favored-nation clause," by which America is to have the advantage of any clause which figures in the capitulations of the other powers.

The result is a striking one, and I prefer to sum it up in the words of a judgment given in the British Privy Council 22 years ago in the case of *Abd-ul-Messih v. Farra* (13 Appeal Cases, 440). Lord Watson, in giving the judgment, says:

"The legal condition of foreigners resident in Turkey, who are exempted by treaty from the jurisdiction of its local courts, is very well described by Feraud-Giraud (*Jurisdiction Française*, Vol. II, p. 58), one of the authorities referred to by the appellant's counsel. They form, according to the view of that learned writer, an anomalous extritorial colony of persons of different nationalities, having unity in relation to the Turkish Government, but altogether devoid of such unity when examined by itself; the consequence being that its members continue to preserve their nationality and their civil and political rights just as if they had never ceased to have their residence and domicile in their own country."

To this statement of Lord Watson it may be added, as that distinguished judge would have been ready to add had it been necessary, that the members of the territorial colony, American, English, or other and their descendants, preserve their nationality and civil and political rights just as if they had never ceased to have their residence in their own country. Such a statement would not of course be applicable to a country where similar capitulations do not exist.

The above statements are in my opinion quite correct, and I add that I know of no writer who contradicts them, while I can produce, as indeed I do in the article referred to, many authorities who agree with them.

It follows therefore that American citizens residing in Turkey are legally to be considered as domiciled in America; that, in the words of Lord Watson, "they preserve their nationality and their civil and political rights just as if they had never ceased to have their residence and domicile in their own country."

It is undoubted that Americans, British, Germans, and Italians, etc., residing in the exterritorial colonies in Turkey are regarded by the Turkish Government itself as being clothed with exterritoriality. The children belong to the colony to which the fathers belong. There are, for example, Italians and Austrians who are the descendants of ancestors who have been settled in Turkey upward of two or three centuries, and their right to be considered Italians, Austrians, etc., has never been called in question by the Turkish Government.

The young men of such nationalities are called upon, as they would in the country of their ancestors' origin and to which they still belong, to render military services and to conform to the laws of their country applied to the exterritorial colony of which they are members.

My answer therefore to the first portion of your question is that the legal status of naturalized American citizens residing in Turkey is, in reference to the Turkish Government, that they are regarded by such Government as continuing subjects of the United States over whom and over whose children the Turkish Government has no control. Their legal relations (with the exception of certain cases provided for in the capitulations themselves) are regulated by the laws of the State to which they belong and not by the law of Turkey, which admits them to the status of exterritoriality and regards them as living in a legal American colony.

In consequence, the Porte, provided such citizens are not of Turkish origin, or if they be, have obtained its permission to adopt American nationality, has no more right over them than over American citizens born in the United States. As a matter of fact neither in regard to American, nor British, French, German, and other foreign subjects has the Porte ever put forward a claim to their subjection or that of their children.

The second question regarding the legal status of naturalized American citizens residing in Turkey, with reference to the American Government, raises other considerations.

The United States as a sovereign State has an absolute right to make such laws in reference to its citizens as it thinks proper within the limits of the American Constitution. The United States Government desires to avoid the conflict of laws and such conflict constantly arises when a citizen of one State, without the permission of the State to which he has belonged, becomes naturalized in another and returns to that of which he was a member previous to naturalization.

The English Government avoids the difficulty by providing under the naturalization act of 1870, and indeed stamping upon the passport a notification that naturalization entitles the person to protection in every State except that of which the person was a subject when he became naturalized in Great Britain.

There are Turkish subjects of origin who are naturalized in England. When they return to Turkey they cease to have protection by the British Government. This aspect, however, of the case is provided for by Turkish law itself, which enacts in its "Loi sur la Nationalité" that naturalization in a foreign state will not be recognized, unless the person desiring it should obtain the permission of the Sublime Porte. Many persons have obtained this permission, and when they return to Turkey they are entitled to be protected by the British authorities as if they were British-born subjects. In other words they enter and form part of the quasi British colony.

America, under section 2534 of the United States Statutes at Large, provides that when any naturalized citizen shall have resided for two years in the foreign state from which he came, or for five years in any foreign state, it shall be presumed that he has ceased to be an American citizen, etc., and it is upon this act, as I understand, that a circular has been issued this year stating that this provision is applicable to American citizens who reside in the Turkish dominions. I am of opinion that if it is so applicable it has become so under a legal misapprehension of the status of American citizens residing in Turkey.

In my opinion there is a legal presumption, *juris et de jure*, that American citizens resident in Turkey have not lost their civil and political rights, but on the contrary, in the words of the English privy council, already quoted, they "continue to preserve their nationality and their civil and political rights just as if they had never ceased to have their residence in their own country."

The framers of the circular have overlooked the fact that a country under capitulations forms an exception to the general rule.

For the purpose of argument I assume that the circular is issued by the executive authority of the State Department upon the basis of the act of Congress. I say as a jurist, without hesitation, that if the act is held to be applicable to Turkey it has been so held in forgetfulness of the peculiar legal position of American citizens residing in Turkey. To show what I mean let me try to realize what was the object of the legislator in framing the law. Many countries, e. g., Germany and France, refuse to allow their citizens to evade their military duties by expatriation. When such citizens have acquired foreign nationality, and return to their country of origin, conflicts arise between the two sets of law, by one of which the person is claimed as a subject in virtue of his naturalization, while by the other he is claimed by virtue of his not having received permission *exuere patria*. But in Turkey no such conflict ever has arisen in the case of naturalized American citizens who have been subjects of a State other than Turkey before their naturalization. Of course if there were a dispute as to the fact of the previous subjection of the subject, this would not be a legal question. I may add as a matter of fact that after upward of 30 years of legal practice in Constantinople I have never known or heard of such a case as a British, American, or other naturalized subject having his claim disputed by the Ottoman authorities where the claimant was not an Ottoman subject when he became naturalized.

The same exemption from possibility of dispute exists where an Ottoman subject of origin has become naturalized in America having obtained the permission of the Sublime Porte.

All such subjects resident in Turkey are recognized as belonging to the foreign community. As such they are legally and in practice clothed with extritoriality; for at the risk of repeating myself I say that all authors who have written on the subject are agreed that the legal position of a member of a foreign community in Turkey is that of a person so clothed. This extritoriality is not of the same extent as that which clothes an ambassador, though it is of the same quality. The right to be so clothed has been guarded carefully by all the powers. Once it is recognized that American citizens residing in Turkey are clothed with extritoriality, and once it is admitted (as it must be in regard to citizens who were not Turkish subjects before acquiring American nationality, or being Turkish subjects have obtained Turkish consent to their naturalization) that there is no precedent to show that there can arise any conflict of law between the American and Turkish Governments in regard to the nationality of the naturalized American, there is no reason known to me why the statute in question should be made applicable to Americans residing in Turkey and a presumption arises which it appears to me ought to be sufficient to rule out the applicability of the law to Americans residing in Turkey. It is for these reasons that I conclude that the circular which has made it so applicable is drawn up under a mistake as to the legal position of such American citizens. Had such legal position been regarded there would have been no necessity to make a provision which, however useful in other countries, has no *raison d'être* in Turkey.

To resume my argument on this second part of the question it is as follows:

The United States as a sovereign State has the power of expatriating its own citizens, and the framers of the act of Congress in question have contemplated the exercise of such power in all those countries where conflict of jurisdiction has arisen or was likely to arise. No such conflict of jurisdiction has ever arisen or in my opinion could ever arise between the Government of the United States and that of Turkey. The reason, therefore, for the passing of the act does not apply to the American extritorial colony in Turkey. *Cessante ratione cessat lex ipsa*.

There is another legal point which is worth serious consideration.

When an act of the English Parliament is passed the rights acquired under treaties are always reserved. We express this by saying that in such cases *salvo regis jure*.

I am not an expert upon American treaty law, but I venture to suggest that it is worth examining, whether a treaty giving rights to American citizens is legally set aside by an act of Congress. A treaty is, so to say, a bilateral contract between two sovereigns represented, as I believe in the United States, by the President and the Senate, and, of course, in Turkey by the Sultan.

While I suggest that this point should be examined, I regard that which I have already taken as more important, namely, that it can hardly have been the intention of the American Legislature to limit the rights acquired in the American extritorial colony in Turkey.

While the above is my estimate of the legal position, I may be permitted to add a general consideration which appears to me of importance. It is that it would be impossible for non-Turkish subjects to do business in Turkey unless they had the protection which the capitulations give them. I add that such a step would do injury to American commerce, and that as the Sublime Porte itself makes no objection to its own subjects, once they have obtained its permission, becoming American or British subjects, there could be no occasion for conflict of laws between the American Government and the Porte except in the case of an Ottoman subject who had obtained American naturalization without the Porte's consent. As the question submitted to me, however, relates to naturalized American citizens who have never been subjects of the Porte, I need not enter further upon this point. Once they are American citizens and, as in the case submitted to me, are not residing in the country of which they were citizens before becoming naturalized, it is difficult to see how there could be any conflict between the law of America and that of Turkey.

EDWIN PEARS.

[Inclosure 2.]

The Acting Secretary of State to E. C. Tambaky and others signing a petition to the President, dated April 21, 1908.

DEPARTMENT OF STATE,
Washington, June 18, 1908.

GENTLEMEN: The department has received, by reference from the President of the United States, to whom it was addressed, your communication of April 21, 1908, in which you present reasons why the act of March 2, 1907, entitled "An act in reference to expatriation of citizens and their protection abroad," should not be construed as being applicable to American citizens residing in Turkey. You present an opinion from Mr. Edwin Pears, a barrister at law practicing in Constantinople, to the same effect.

The act referred to provides in the second section as follows:

"When any naturalized citizen shall have resided for two years in the foreign state from which he came, or for five years in any other foreign state, it shall be presumed that he has ceased to be an American citizen, and the place of his general abode shall be deemed his place of residence during said years: *Provided, however,* That such presumption may be overcome on the presentation of satisfactory evidence to a diplomatic or consular officer of the United States, under such rules and regulations as the Department of State may prescribe."

The department has construed the provisions quoted above as being fully applicable to American citizens resident in Turkey, especially in view of the stipulation made that rules and regulations may be prescribed for overcoming the presumption of expatriation, and the department has, accordingly, made rules which take into consideration the peculiar status of Americans resident in Turkey. The act and the rules made in accordance therewith have for their object the protection of American citizenship from imposition and fraud by people of alien birth who have obtained naturalization without intent to incorporate themselves into American society, but with the manifest purpose of making their domicile outside of the United States and of using their naturalization merely as a means of obtaining the protection of this Government while they perform none of a citizen's duties toward it. The rules are also intended to afford a convenient means for all who acquired American naturalization in good faith, with intent to assume the responsibilities of citizenship, to make the conservation of their citizenship and their right to the protection of this Government a matter of official record.

At the time the rules which are embodied in the circular instruction of December 11, 1907, were prescribed, the department had fully considered the proposition embodied in your letter and in Mr. Pears's opinion, and it sees no reason for reconsidering the conclusions it has reached.

I am, etc.,

ROBERT BACON.

Circular.

EXPATRIATION AND PROTECTION OF AMERICANS IN TURKISH DOMINIONS.

DEPARTMENT OF STATE,
Washington, December 11, 1907.

To the diplomatic and consular officers
of the United States in Turkish dominions.

GENTLEMEN: Section 2 of the act of March 2, 1907, and paragraph 144 of the Diplomatic Instructions and Consular Regulations as amended by the Executive order of April 6, 1907, relative to expatriation and the protection of Americans abroad, are applicable to American citizens who reside in Turkish dominions.

Therefore a naturalized American citizen, formerly a Turkish subject, who returns to Turkish dominions and there resides for a period of two years will be presumed to have ceased to be an American citizen, and a naturalized American citizen not formerly a Turkish subject who resides in Turkish dominions for five years will be presumed to have ceased to be an American citizen.

The presumption may be overcome in either case by his presenting to a diplomatic or consular officer of the United States proof establishing the following facts:

(a) That his residence in Turkey is solely as a representative of American trade and commerce and that he intends eventually to return to United States to reside or

(b) That some unforeseen and controlling exigency beyond his power to foresee has prevented his carrying out a bona fide intention to return to the United States within the time limited by law and that it is his intention to return and reside permanently in the United States immediately upon the removal of the preventing cause; or

(c) That he resides in a distinctively American community recognized as such by the Turkish Government; or

(d) That he resides in Turkish dominions as a regularly appointed missionary of a recognized American church organization.

The evidence required to overcome the presumption of expatriation must be of the specific facts and circumstances which bring the alleged citizen under one of the foregoing heads, and mere assertions, even under oath, of any of the enumerated reasons existing will not be accepted as sufficient.

Whenever evidence shall be produced to overcome the presumption of expatriation as indicated in this instruction the depositions and other proofs must be made in duplicate, one copy thereof being sent forthwith to this department, and if the proofs have been presented to a consular officer he shall notify the embassy at Constantinople of the name of the person and of the facts concerning his residence abroad.

This instruction, in so far as it relates to the presumption of expatriation from residence in Turkey, supersedes the corresponding parts of the department's circular instruction of April 19, 1907, entitled "Expatriation."

I am, gentlemen, your obedient servant,

ELIHU ROOT.

POLITICAL REFORMS IN TURKEY—PROCLAMATION OF THE
CONSTITUTION.

File No. 10044/26.

Ambassador Leishman to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Constantinople, July 24, 1908.

The Sultan, yielding to the demand for reforms, has proclaimed the constitution, which had lapsed for 30 years, and imperial orders have been sent to all the governors throughout the Empire with a view to proceeding to the election of parliamentary representatives. Comparative tranquility prevails, but considerable anxiety exists regarding final outcome.

LEISHMAN.

File No. 10044/74.

Ambassador Leishman to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
Constantinople, July 28, 1908.

(Mr. Leishman reports that general amnesty for all political prisoners has been proclaimed, and those imprisoned are being released. Says that dissatisfaction with the old régime was so general that the change has been brought about with comparatively little bloodshed, but as the demands of the liberated masses increase daily, serious troubles are likely to ensue, as the constitution granted at the beginning of the present reign, which has once more been put in force, is quite limited in character, and leaves ample room for conflict of authority between the constitutional government and the sovereign. Mr. Leishman states that changes in the ministry are rapidly taking place, and pressure is being brought upon the Sultan to dismiss the palace clique, who are held responsible for the deplorable state of affairs which finally brought about the revolution, and failure to comply with these demands may precipitate trouble, as the people who have suffered so long at the hands of the unscrupulous palace camarilla are not apt to stick at either trifles or adhere strictly to constitutional lines.)

File No. 10044/26.

The Acting Secretary of State to Ambassador Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 3, 1908.

(Mr. Bacon informs Mr. Leishman that, His Majesty having announced his policy to the diplomatic corps, he may express the sympathetic interest with which the President has observed the confirmation of representative government in Turkish dominions, and his cordial hope that this important step will aid in enhancing the permanent peace and prosperity of the great Ottoman nation.)

File No. 10044/38.

Ambassador Leishman to the Secretary of State.

[Extract.]

No. 733.]

AMERICAN EMBASSY,
Constantinople, August 3, 1908.

SIR: With further reference to my several dispatches of recent date on the subject of the present crisis in Turkey, I have the honor to report the latest developments for the department's information.

Yesterday the announcement was made of the formation of a new cabinet. But, with hardly an exception, its members have all been officials of the old régime, and while certain of them are men

of integrity and ability, the majority do not differ enough from their predecessors to betoken any signal change. The situation at the present time may best be described as simmering, but any trifling event may cause it to break into violence. Demonstrations are of daily occurrence; and while hitherto fairly orderly, the crowd has now begun to handle roughly the objects of its dislike. Yesterday one of the adherents of Izzet Pasha died from the effects of injuries received by the mob, which was incensed by the flight of that individual on board an English vessel. Others of the palace camarilla have also escaped.

The chiefs of the Young Turkish Party have hitherto refrained from coming here, preferring to remain at Monastir, Salonica, and Adrianople, where they keep their hold on the army. While the Stamboul garrison is probably won over to the reform movement, the palace guard, a force variously estimated at between ten and twenty thousand men, remains an uncertain quantity, but, like the rabble of the city, probably sympathizes with the Sultan.

I have, etc.,

J. G. A. LEISHMAN.

File No. 10044/42.

Ambassador Leishman to the Secretary of State.

No. 738.]

AMERICAN EMBASSY,
Constantinople, August 8, 1908.

SIR: I have the honor to report further with regard to recent occurrences here. During the last week the power of the Young Turks has unquestionably received an enormous impetus, especially since the arrival of plenipotentiaries from the committee at Salonica, who have apparently been able to negotiate directly and successfully with the Palace, and whose partisans have administered the oath of fidelity to the constitution to the troops at Constantinople. The Sultan has been forced to dismiss his immediate advisers, several of whom now find themselves in prison along with prominent officials and even cabinet ministers of the late régime. He has been obliged to give further guaranties for the permanent enforcement of the constitution and to retire Said Pasha as grand vizier in favor of Kiamil Pasha, a statesman more liberal in his ideas and acceptable to the reformers. A new cabinet has been constituted which it is hoped will serve to bridge over the necessary transition until Parliament can convene. And it is also to be hoped that it may be able to enforce the semblance of authority which in the past fortnight has been almost nonexistent.

Demonstrations have of late been the order of the day, and the people, who are feeling their new power, have roughly handled several former officials on their way to prison. Even the Armenian patriarch was shamefully treated in the streets by a mob composed chiefly of his coreligionists. One notorious personality, Fehim Pasha, who had been chief of police, has been hacked to pieces by infuriated peasants near Broussa while attempting to escape.

If acts of violence have unfortunately not been absent in the capital, owing to the present lack of authority, the brightest feature

of the situation lies in Macedonia. The action of the Bulgarian, Greek, Servian, and Vlach bands, which for years had disturbed the calm of European diplomacy and elicited project after project of reform, has suddenly ceased, and their chiefs, declaring their readiness to abide by the constitution, have made their submission. What the concerted efforts of diplomacy and an international gendarmerie have been unable to accomplish the success of the Young Turks has apparently brought about.

I have, etc.,

JOHN G. A. LEISHMAN.

File No. 10044/52.

Ambassador Leishman to the Secretary of State.

No. 751.]

AMERICAN EMBASSY,
Constantinople, August 20, 1908.

SIR: With further reference to my several recent dispatches on the political situation here, I have the honor to report as follows:

The past 10 days have in many respects passed tranquilly, and the demonstrations which last week were still general have for the time being almost ceased. The constitutional government is busily occupied in an energetic process of house cleaning and ridding the different bureaus of the deadwood with which the former régime had encumbered them. The accumulation of useless posts had been the main reason why the salaries of officials were paid so irregularly, the less favored ones in fact receiving their pay for barely more than six or seven months in the year and then always in arrears. The recent sweeping reform has caused the dismissal in some of the governmental departments of nearly 90 per cent of the officials, while the council of state has similarly been reduced to about one-fifth of its former swollen proportions. However necessary have been these changes, unless they are gradually and tactfully carried out I fear lest they prove a cause of future embarrassment to the constitutional government.

The sudden death of the new minister of war, Redjeb Pasha, has been the most unfortunate incident of the last few days. Only two days before he had arrived from Tripoli, where for some years past he had been exiled as governor. He was regarded as an able administrator and was greatly beloved by the army and in Albania, of which he was a native. Much was expected of his tenure of office during the present critical time, and his death is regarded as the most serious blow suffered as yet by the cause of reform.

Other developments of recent days have been the breaking out of a number of strikes here and in Smyrna. These have been new occurrences in Turkey, where under the old régime they were never permitted. The "committee of union and progress," which is the working organization of the reformers, have succeeded, however, in settling the most important strikes and in keeping the others within the bounds of law abidance. They have given further proof of their utility in inducing the brigands, who for years had terrorized the Smyrna district, to lay down their arms, and have thus effectually suppressed for the time what had been the scourge of an otherwise prosperous region. In Macedonia, likewise, the bands have dis-

appeared, though it is perhaps questionable if the Bulgarians will be satisfied to abandon all hopes for a greater Bulgaria at the expense of Turkey, and already certain disquieting rumors pass current regarding their future activity.

I have, etc.,

JOHN G. A. LEISHMAN.

File No. 10044/75.

Ambassador Leishman to the Secretary of State.

[Extract.]

No. 775.]

AMERICAN EMBASSY,
Constantinople, September 28, 1908.

SIR: Although it could scarcely be said that the new constitutional Government in Turkey is as yet thoroughly established, the administration, which is simply a provisional government pending the assembly of Parliament, being largely directed by the chiefs of the so-called Young Turk Party—I am quite convinced that the new constitutional régime has come to stay, and that the reign of the absolute monarchy in Turkey is a thing of the past.

In making this statement I am not blind to the fact that Turkey is liable to undergo many of the troubles experienced by other countries which have gone through the throes of a revolution, and I fully realize that she is exposed to more than the usual dangers, owing to her heterogeneous population and the jealousies and ambitions of her neighbors; but I am strongly of the opinion that she will surmount all difficulties that can ordinarily be foreseen and finally emerge from all her troubles—perhaps somewhat battered and scarred, but thoroughly purified and ready to take her place among the progressive nations.

It is quite apparent that the decline of the Empire has been arrested; and if one may judge the future by the reforms that have already been instituted, it will not be many years before Turkey will become a highly civilized and progressive nation, and, with her great natural resources, one of the richest, as existing conditions warrant the opinion that the march of progress will be even more rapid than it has been in Japan.

What European diplomacy failed to accomplish Turkey has done for herself, and, as if by magic, the reforms which combined Europe sought for years to impose have been accomplished over night, and, wonderful as it may seem, revolutionary bands, brigands, and grafters of all grades have suddenly disappeared, let us hope for good, leaving the country for the moment in the most peaceful condition it has enjoyed for centuries, which is all the more remarkable when one stops to think that the country is temporarily being controlled by sheer moral force, as many of the districts are without organized government, the old officials having either been dismissed or chased away by the inhabitants and having not as yet been replaced.

Of course much remains to be done, as it is not an easy task to replace the machinery of the Government that has so suddenly been destroyed, as new men with modern ideas must be found to take the

places of the discarded officials of the old régime, necessitating as it does the installation of untried and inexperienced men. It would indeed be a miracle if trouble of a more or less serious character did not break forth from time to time, as the large number of dismissed employees of the Government, together with their interested following, forms a large army of malcontents ready for any reactionary movement, and the sectional and racial differences, particularly between the Christian races, are always apt to lead to trouble; but even admitting the realization of the very natural fear of disturbances of one kind or another, I am quite of the opinion that Turkey has taken on a new lease of life and will continue on its progressive march despite all the difficulties that may be encountered, both from without and from within.

The establishment of a constitutional government in Turkey, which means so much to our continental neighbors, tending as it does to remove the greatest menace to the peace of Europe, is not without particular and material interest to us, as it practically removes the fundamental causes of most of our troubles with Turkey—i. e., missionaries and naturalized citizens of Ottoman origin—and enhances the opportunity of extending our commerce many folds, as the development of the country, which was retarded and almost strangled by the methods of the old régime, will be encouraged to the greatest extent possible by the new Government, which is sure to result in a great wave of prosperity, while, on the other hand, the very sources of friction and unpopularity in the past are certain to redound to our credit, as the new Government is as interested in encouraging the general education of the masses as the old despotic régime was in opposing it, and the naturalized citizen, who was forbidden to return and who caused us so much trouble when he surreptitiously reentered Turkey, will now be welcomed, and no doubt a considerable percentage of the several hundred thousand emigrants who during the past 20 or 30 years have found refuge upon our hospitable shores will now return to their native land and further strengthen the bonds of friendship which bind the two countries.

It would be difficult to correctly forecast the immediate future, as much depends upon the composition of the new Parliament, which according to the constitution can not be assembled before the 1st of November, O. S.; for while the leaders of the progressive party have shown great moderation and unprecedented liberality and self-abnegation, the usual discordant elements are not wanting, and the ideas advanced by certain groups lead one to believe that a certain percentage of the deputies will be elected with impracticable and even socialistic ideas not at all suited to existing conditions, and that they will not all be inspired with the lofty and patriotic ideas which have induced the old leaders to lay aside all racial and religious prejudices and ambitions in order to conserve and strengthen what is still left of the once vast Empire; and it is sincerely to be hoped that men of this caliber will form the majority in the forthcoming Parliament, as otherwise the future peace and welfare of the Empire will be greatly menaced.

I have, etc.,

J. G. A. LEISHMAN.

File No. 10044/68.

The Acting Secretary of State to Ambassador Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, September 28, 1908.

(Mr. Bacon informs Mr. Leishman that the Secretary of the Navy has detailed the schooner *Scorpion*, converted steam yacht, 850 tons displacement, 200 feet in length, with light saluting battery. Says the vessel is ready for immediate departure as soon as the department can be assured informally that a request for permission to pass the Dardanelles will be granted with the understanding that she is to be stationed at Constantinople. Mr. Bacon states that in the absence of such prior intimation the department would hesitate to make request.)

File No. 10044/74.

Ambassador Leishman to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
Constantinople, October 9, 1908.

(Mr. Leishman reports that, although rumors of war continue to circulate and considerable uncertainty and anxiety prevail, he is still hopeful that recourse to arms will be avoided, as the leaders of the constitutional party continue to act in the most conservative manner and are evidently doing everything in their power to calm the bellicose spirit of the army, much to the discomfiture of the reactionaries.)

File No. 10044/88.

The Acting Secretary of State to Ambassador Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 21, 1908.

(Mr. Bacon says the courteous permission of the Ottoman Government is highly appreciated, and directs Mr. Leishman to convey to the Sultan the President's great satisfaction at the additional proof of the friendship existing between Turkey and the United States.

Mr. Leishman is informed that the *Scorpion*, under the command of Lieut. Commander George W. Logan, United States Navy, will sail on the 22d, and that her commander will telegraph from Malta or other convenient point and settle with Mr. Leishman the formalities for the passage of the Dardanelles.)

File No. 10044/87.

Ambassador Leishman to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Constantinople, October 21, 1908.

The following note from the Sublime Porte just received:

The ministry for foreign affairs has the honor of informing the Embassy of the United States of America that an imperial iradé authorizes the passage through the Dardanelles of the yacht *Scorpion*, which will arrive at the port of Constantinople to serve it as stationnaire.

LEISHMAN.

File No. 10044/87.

The Acting Secretary of State to Ambassador Leishman.

No. 440.]

DEPARTMENT OF STATE,
Washington, October 26, 1908.

SIR: Referring to the department's telegram of the 21st instant, in regard to the detail of the U. S. S. *Scorpion* as stationnaire at Constantinople, I inclose for your further information copy of a letter on the subject addressed by the Secretary of State to the Secretary of the Navy.

When you shall be in touch with Lieut. Commander Logan, you will advise him as to the formalities, salutes, etc., in passing the Dardanelles.

I am, etc.,

ROBERT BACON.

[Inclosure.]

*The Secretary of State to the Secretary of the Navy.*DEPARTMENT OF STATE,
Washington, October 20, 1908.

SIR: Acting upon the recommendation of the American ambassador at Constantinople, this Government has requested of the Turkish Government permission for an American naval vessel to pass the Dardanelles and remain at Constantinople at the disposal of the ambassador in the same manner as the so-called "stationnaires" of the other powers are maintained in those waters, as an adjunct to the representative character of their respective embassies.

At the time Mr. Leishman's suggestion was first taken under consideration informal conference was held on the subject with your department, and the expected favorable action of the Turkish Government was anticipated by the provisional detail of the United States converted yacht *Scorpion*, to be held in readiness to sail when the arrangement should be perfected.

A telegram dated yesterday has been received from Ambassador Leishman reporting that an imperial irade has been issued authorizing the entry of the designated American naval vessel.

I have now the honor to request that the *Scorpion* be detailed for the indicated service, and instructed to sail at as early a date as possible for Constantinople. Her commander should be instructed to telegraph from Malta, or such other Mediterranean port as may be convenient, to the American ambassador at Constantinople, with a view to settling formalities for the passage of the Dardanelles.

Upon reaching Constantinople the commanding officer of the *Scorpion* should, after the customary salute to the Ottoman flag, report to Ambassador Leishman and remain subject to his direction until further notice.

The station of the vessel at Constantinople is expected to be prolonged. Her commander will acquaint himself with the conditions under which the "stationnaires" of the other powers are maintained there and adapt himself thereto under the direction and control of the ambassador. The commander will be expected to keep up cordial relations with the commanders of the other "stationnaires" and with the Ottoman authorities for foreign missions on shore. He will not be called upon to discharge any diplomatic functions, although it is presumed that his position will be assimilated to that of a naval attaché to the American Embassy. As to this he will be governed by the advice of the ambassador.

I have, etc.,

ELIHU ROOT.

File No. 10044/101.

Ambassador Leishman to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Constantinople, December 4, 1908.

Scorpion arrived to-day.

LEISHMAN.

File No. 10044/105.

Ambassador Leishman to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Constantinople, December 16, 1908.

On the occasion of opening Turkish Parliament to-morrow congratulatory telegrams from European parliaments are being received.

Three fifty English members of Parliament have sent felicitation as coming from the oldest to the youngest of parliamentary bodies, and the president of the Austrian Chamber, on behalf of Austrian deputies, has likewise sent expression of sympathy.

It would be graceful act certain to be appreciated if we could take similar action.

While the English appear to have sent their felicitation through their foreign office and ambassador here, the Austrians have done so directly from their speaker to the president of Turkish Parliament.

LEISHMAN.

File No. 10044/105.

The Acting Secretary of State to Ambassador Leishman.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 17, 1908.

In the session of the Senate to-day, 17th, the following resolution was adopted:

Resolved, That the Department of State be requested to communicate to the newly convened Parliament of Turkey the congratulations and good wishes of the Senate of the United States.

In the House of Representatives a similar resolution was adopted to-day, as follows:

Resolved, That the House of Representatives respectfully request the Secretary of State to communicate to the newly convened Parliament of Turkey the congratulations and best wishes of the House of Representatives of the American Congress.

You will communicate this to the President of the Turkish Parliament through appropriate channel.

BACON.

File No. 10044/117.

Ambassador Leishman to the Secretary of State.

No. 846.]

AMERICAN EMBASSY,
Constantinople, December 17, 1908.

SIR: I have the honor to inform you of the opening of the Turkish Parliament to-day by the Sultan in person, in the presence of the diplomatic body. No incidents of consequence occurred, perhaps the most remarkable feature being the absence of general enthusiasm caused by His Majesty's personal appearance either in parliament itself or in the crowded streets through which he drove on his way there.

The representatives all took the oath of fidelity to the constitution and to the Sultan, so long as he respected the constitution.

I have, etc.,

J. G. A. LEISHMAN.

File No. 10044/118.

Ambassador Leishman to the Secretary of State.

No. 848.]

AMERICAN EMBASSY,
Constantinople, December 18, 1908.

SIR: I have the honor to acknowledge the receipt of your telegraphic instruction received to-day, containing the text of the resolutions adopted by the Senate and the House of Representatives on the 17th instant, conveying their congratulations to the new Ottoman Parliament and directing me to transmit the same to the president of the chamber through the customary channels.

I have, therefore, personally handed a copy thereof to the minister for foreign affairs, with the request that he cause the same to be conveyed to the official in question.

Action of a similar nature was taken by almost every European parliament, but I am certain that the felicitations of Congress will be equally appreciated.

I have, etc.,

J. G. A. LEISHMAN.

REMOVAL OF RESTRICTIONS ON THE SALE OF THE BIBLE AND OTHER BOOKS, TYPEWRITERS, ETC.

File No. 14102/20.

Ambassador Leishman to the Secretary of State.

No. 774.]

AMERICAN EMBASSY,
Constantinople, September 19, 1908.

SIR: I have the honor to state that among the immediate benefits arising from the establishment of constitutional government in Turkey is the settlement of the difficulty regarding Bible colportage, as the restrictions on the general sale of books and on the freedom of Ottoman subjects to travel have been removed, and, consequently, the American Bible Society will probably have no further cause for complaint.

Similar action in other departments has also had the result of ipso facto settling quite a number of small and petty cases, such as the embargo placed on typewriting machines in the Arabic and Turkish languages, importation of electrical goods and particularly motors, literature that was forbidden by the censor, small hand printing presses, etc., which, happily, disposes of a large number of irritating questions and relieves the department as well as the embassy of a great amount of annoying correspondence.

I have, etc.,

JOHN G. A. LEISHMAN.

File No. 15829.

The Secretary of State to Ambassador Leishman.

No. 434.]

DEPARTMENT OF STATE,
Washington, October 2, 1908.

SIR: The department incloses herewith a copy of a letter from the Remington Typewriter Co., of New York City, dated the 25th ultimo, inquiring concerning the removal of the restrictions in Turkey on the importation of typewriters.

You are instructed to make inquiry in regard to this matter and to report the result at your earliest convenience. Meanwhile the Remington Typewriter Co. has been informed of the receipt by the department of a report by Consul Jewett, Trebizond, Turkey, dated the 5th ultimo, containing the following pertinent statement:

The press is now free, and type, printing presses, and all materials for printing may be freely imported by anyone. Newspapers are starting up all over the land. Duplicating machines, mimeographs, etc., may enter freely. Typewriters, including machines which write the Arabic or Turkish characters, are no longer forbidden. There ought to be a demand soon for these machines.

I am, etc.,

E. Root.

[Inclosure.]

The Secretary of the Remington Typewriter Co. to the Secretary of State.

REMINGTON TYPEWRITER COMPANY,
New York, September 25, 1908.

DEAR SIR: We desire to address you upon the subject of the exportation of typewriters to the Turkish Empire.

Immediately after the Armenian massacres the importation of typewriters of all kinds was prohibited by the Government, which, notwithstanding the repeated efforts of the American and English embassies, continued for 18 months, when, under pressure, the restriction was removed to the extent that a limited importation was permitted, but there still remains a prohibition on the importation of typewriters writing in Arabic and Armenian, and we understand from our traveler who has recently made a thorough canvass of the situation there that the governmental espionage is such that the sale of such machines as are permitted to be imported is greatly restricted.

It has occurred to us that if a more liberal government for Turkey, about which there is so much in the newspapers at this time, becomes an established fact, some measures may be taken to remove the prohibition against the introduction of Arabic and Armenian machines into Turkey, and perhaps some relief afforded from the conditions which so greatly restrict the sale of machines fitted with Roman characters.

The purpose of this letter is to present these facts to your attention, and to ask for such cooperation on the part of our Government as can be obtained through its proper ambassadors and agents, to the end that the restriction upon the importation of Arabic and Armenian machines may be removed and conditions improved, with a view to increasing the sale of the machines referred to.

We will appreciate it very much if the matter can be taken up, and we shall be glad to be advised as to the results obtained.

Thanking you in advance, yours, very respectfully,

REMINGTON TYPEWRITER Co.,
F. E. VAN BUSKIRK, *Secretary.*

File No. 15829/1.

Ambassador Leishman to the Secretary of State.

No. 807.]

AMERICAN EMBASSY,
Constantinople, October 17, 1908.

SIR: I have the honor to acknowledge receipt of your instruction No. 434 of the 2d instant, directing the embassy to make inquiry and report to the department concerning the removal of restrictions on the importation of typewriters into the Ottoman Empire.

Shortly after mailing the above instruction the department doubtless received the embassy's dispatch No. 774 of the 19th ultimo, wherein typewriters are mentioned among the articles which can now be imported into Turkey without any of the former difficulties. In amplification of that statement I would say that under the present liberal form of government no restrictions whatever exist on the importation of printing machinery, typewriters, or duplicating and copying devices, irrespective of the form of type or the system used. This change in the customs regulations has been pointed out by the embassy to the consulates within its jurisdiction.

I have, etc.,

JOHN G. A. LEISHMAN.

REMOVAL OF RESTRICTIONS ON THE EMIGRATION OF THE WIVES AND MINOR CHILDREN OF NATURALIZED CITIZENS OF OTTOMAN ORIGIN.

File No. 3058/7-A.

The Acting Secretary of State to Ambassador Leishman.

No. 417.]

DEPARTMENT OF STATE,
Washington, August 31, 1908.

SIR: To enable the department to answer inquiries on the subject, you are requested to report, in view of the new political conditions existing in Turkey, whether there has been, or probably will be, any change in the attitude of the Turkish Government in the matters of assessment of personal taxes in Turkey against former Ottoman subjects, and the emigration of their relatives other than wives and minor children.

I am, etc.,

ALVEY A. ADEE.

File No. 3058/4-7.

Ambassador Leishman to the Secretary of State.

No. 784.]

AMERICAN EMBASSY,
Constantinople, September 28, 1908.

SIR: Referring to the question of emigration of the wives and minor children of naturalized citizens of Ottoman origin I have the honor to advise the department that henceforth no action upon the part of the Government will be necessary, as, according to the constitution, all Ottoman subjects enjoy the right of free travel.

This will relieve the department as well as the embassy of a large amount of detail work. It is safe to say that at least 75 per cent of the time of the consul at Harput has hitherto been taken up in looking after emigration cases.

This is another beneficial result of the establishment of constitutional government in Turkey.

I have, etc.,

J. G. A. LEISHMAN.

[Inclosure 1.]

Ambassador Leishman to Consul Young.

No. 785.]

AMERICAN EMBASSY,
Constantinople, August 3, 1908.

SIR: I will request you to inform the embassy if, as the result of the constitution, the former restrictions on the emigration of the wives and minor children of Armenians who have acquired American citizenship have actually been abolished, and whether they are at liberty to depart in freedom. I await such news in order to inform the department that the necessity is no longer incumbent of facilitating emigration cases.

I am, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 2.]

Consul Young to Ambassador Leishman.

No. 331.]

AMERICAN CONSULATE,
Harput, August 24, 1908.

SIR: In reply to your No. 785 of the 3d instant, in reference to the matter of the issuance of passports by the local administration to the wives and minor children of American naturalized citizens, I have the honor to report that in

accordance with an instruction from the minister of the interior, dated June 19, 1924 (July 2, 1908), passports are now freely granted to all people who desire to leave the country and against whom no suit is pending in the local courts.

As you no doubt are aware the passports as formerly granted contained a renunciation by the emigrant of allegiance to the Ottoman Government and the promise not to return to this country. The passports now granted correspond more to those issued by European countries, and the holder is not only not required to renounce allegiance to the Ottoman Government, but is permitted to return to this country at his pleasure.

These passports are now granted, as a general rule, to whoever applies. No distinction is made between those cases where the husband is a citizen of a foreign country and where not. In granting the new passports the Government does not require the payment of the road, personal, or other taxes of the husband in the foreign country, or security for his future taxes. I would state, however, that I am of the opinion that hereafter all back taxes of the husband must be paid before the passport is issued, but no security will be required for the payment of the future taxes.

In conclusion, I would beg to state that if the present policy continues there will be no need for any official action by our Government or its representatives looking toward the facilitating of emigration cases.

I should also inform you that these passports are now granted in two days from date of application, while formerly the cases lasted several weeks and sometimes months even with our best assistance.

I have, etc.,

EVAN E. YOUNG.

[Inclosure 3.—Translation.]

The Ministry for Foreign Affairs to the American Embassy.

SUBLIME PORTE, MINISTRY FOR FOREIGN AFFAIRS,
Constantinople, September 26, 1908.

Note verbale: In reply to the note verbale which the American Embassy kindly addressed to the ministry for foreign affairs, dated 13th of August last, numbered 1024, the ministry for foreign affairs has the honor to inform the embassy that, according to a communication of the imperial ministry of the interior, since the reestablishment of the constitution, all subjects of the Empire being free to travel abroad, there is no need to request the imperial authorities of Chemisguzek to permit Mrs. Marie Dirabian and her daughter to join their husband and father, residing in the United States.

File No. 3058/8.

Ambassador Leishman to the Secretary of State.

No. 785.]

AMERICAN EMBASSY,
Constantinople, September 28, 1908.

SIR: I have the honor to acknowledge receipt of the department instruction, No. 417, of the 31st ultimo, inquiring as to the probability of a change in the attitude of the Turkish Government in matters of the assessment of personal taxes in Turkey against former Ottoman subjects and the emigration of their relatives, other than wives and minor children.

In reply I beg to say that while the establishment of constitutional government in Turkey removes the restrictions against free travel and renders it possible for everyone to emigrate or immigrate at pleasure, no change has taken place regarding the question of nationality; and until such time as the Ottoman law of 1869 may be amended, persons of Ottoman origin who have secured foreign naturalization contrary to the provisions of said act continue to be

regarded as Ottoman subjects and liable for the personal taxes imposed by their parent government; these taxes, as the department is aware, being assessed through the Christian community to which the party belongs, and levied upon the non-Moslem population in lieu of military service.

It is quite within the range of possibilities, however, that the law under which the military tax (amounting to about \$1.60 per head per annum) is assessed may be changed in the near future, as the program of the progressive party contemplates admitting all classes, irrespective of race or creed, into both army and navy.

I have, etc.,

J. G. A. LEISHMAN.

URUGUAY AND PARAGUAY.

REVOLUTION IN PARAGUAY.

File No. 352/8.

Minister O'Brien to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Asuncion, July 7, 1908.

(Mr. O'Brien reports the beginning of the revolution in the streets of Asuncion early on July 2, when the minister of war was taken prisoner; the attacking of the barracks by line regiments of artillery, the police and marines supporting the Government; the continuous bombardment for two days; the occupation by the Government forces of the central police station and other quarters; and the complete destruction of communications. Mr. O'Brien informs Mr. Root that the diplomatic corps intervened, asking protection of the lives of the President and ministers, which were seriously threatened, and that the revolutionary committee gave the diplomatic corps a written guaranty of protection. States that President Ferreira has resigned, and that Vice President Navero, a sympathizer with the revolution, has assumed the Presidency. Says that the loss of life is estimated at 100 to 150, and wounded 400. Mr. O'Brien adds that, as dean, he took the initiative in all proceedings of the diplomatic corps, and that both sides expressed thanks for diplomatic intervention.)

File No. 352/9.

Minister O'Brien to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Asuncion, July 8, 1908.

(Mr. O'Brien reports that the new President of Paraguay has dissolved the Paraguayan Congress and declared 30 days' martial law. He also says the country continues tranquil.)

File No. 352/10.

Minister O'Brien to the Secretary of State.

[Telegram.—Abstract.—Paraphrase.]

AMERICAN LEGATION,
Asuncion, July 9, 1908.

(Mr. O'Brien reports that at 3 o'clock, on July 8, the reception day assigned the diplomatic body, the diplomatic representatives of the United States of America, Great Britain, France, Germany, and Italy together visited the minister for foreign affairs of the new Government.)

File No. 352/12-13.

Minister O'Brien to the Secretary of State.

No. 28, Paraguayan series.]

AMERICAN LEGATION,
Asuncion, July 16, 1908.

SIR: The inclosed report, drawn up by me as dean of the diplomatic corps, covers fully the proceedings taken by that body in connection with the revolution which broke out in Asuncion on July 2, 1908.

I am, etc.,

E. C. O'BRIEN.

[Inclosure 1.]

DIPLOMATIC CORPS,
Asuncion, Paraguay, July 2-8, 1908.

In response to a note addressed by the American minister, Edward C. O'Brien, as dean of the diplomatic corps, referring to the chaotic situation arising from the revolution that broke out at daybreak in the streets of Asuncion on July 2, and intrusted to a Red Cross messenger for delivery, there assembled in the afternoon of that day at half past 2 o'clock in the apartments of the American minister in the Hotel Hispano Americano, in a part of the city occupied by the revolutionary forces, his excellency, Mr. J. A. Fabre, the minister resident of France; Chevalier Hector Gazzaniga, the Italian chargé d'affaires; Dr. Felix Bocayuva, chargé d'affaires ad interim of Brazil; Mr. Alfredo Silva y Antuña, the Uruguayan chargé d'affaires ad interim; Mr. Cecil Gosling, the British chargé d'affaires ad interim; and Dr. Carlos Gutierrez, the Bolivian chargé d'affaires ad interim.

These, with Dr. Francisco Olshausen, the German chargé d'affaires, and Mr. Alfonso Laferrere, the Argentine chargé d'affaires, form the diplomatic corps actually in Paraguay. Dr. Olshausen was in the interior of the country, and it was surmised that the absence of Mr. Laferrere was accounted for by the fact that his legation was within the lines defended by the forces of Gen. Ferreira, and it was not possible for him to cross the firing line.

Mr. O'Brien stated that Dr. Eusebio Ayala, a member of the revolutionary committee, had that morning at 9 o'clock asked him, on the part of the revolutionary forces, to use his friendly offices to bring about a cessation of hostilities in order that the contending parties might confer with the object of coming to terms and thereby preventing a terrible and useless loss of life.

As from the hotel many dead and wounded could be seen, he had readily acceded, but had required that the revolutionary forces should cease firing, hoist a flag of truce, and furnish him with an escort to the headquarters of the revolutionary forces. Accompanied by Mr. Owsley, secretary of the American Legation, and a military escort, he had then gone to the revolutionary headquarters and been presented by Dr. Ayala to Mr. Adolfo Riquelme, chairman of the revolutionary committee, and to Maj. Jara, the commander of the revolutionary forces, and they had confirmed what Dr. Ayala had said.

That on his arrival a flag of truce had at once been hoisted over the building and an unarmed officer had proceeded with another white flag toward headquarters of Gen. Ferreira's forces under Commandant Garcia, chief of police, but the officer had unexpectedly and hastily returned, reporting that the police had furiously fired on him and that he found it too perilous to deliver the message.

That, at Mr. O'Brien's suggestion, one of the hospital corps carrying a Red Cross ensign had been sent on the same errand, but the bearer of this flag had also returned saying that he had been repeatedly fired upon.

As Mr. O'Brien had been in the barracks a little over an hour, during which time the Government forces had kept up a steady fire upon the headquarters of the revolutionary party, he had therefore determined to return to the hotel and consult his colleagues.

No sooner had he left the barracks than the revolutionary forces had begun, all along the line, a terrible onslaught upon their adversaries. While returning from the barracks and crossing the streets an officer, Capt. Miguel Acosta, and a soldier of the escort had been wounded.

That immediately upon arriving at the hotel he had dispatched the notes which the diplomatic corps had received, and he now desired to recognize the personal courage and high sense of duty which had brought them there under such perilous circumstances.

After this statement by the dean, Mr. Gosling, the British chargé d'affaires, informed those present that he had that morning tried to communicate personally with the President, who, with a handful of men, was in the Government palace, but that he was unable to break through the lines, and he believed that at any moment the President was liable to be overpowered and assassinated, and urged prompt action on the part of the diplomatic corps.

Mr. Alfredo Silva y Antuña, the Uruguayan chargé d'affaires reported a like experience and counseled similar action.

After due deliberation, the diplomatic corps, taking into account that President Ferreira was surrounded and the minister of war a prisoner, Messrs. Báez, Benitez, and Isasi, the minister of foreign affairs, interior, and justice, respectively, in the Government barracks, and the whereabouts of the minister of finance, Mr. Soler, unknown, resolved to send a note (No. 1 of the series) to Mr. Alfredo Riquelme, chairman of the revolutionary committee, and another of like tenor to Commandant Garcia of the Government forces, requesting a cessation of hostilities in order to allow the diplomatic body to use its friendly offices. These notes were dispatched by a Red Cross messenger carrying the ensign of the society.

In about an hour the messenger returned, reporting that he had been fired upon by the Government forces and had been unable to deliver the note to Commandant Garcia. In the meantime an officer from the revolutionary forces arrived communicating that he was instructed to advise the diplomatic corps that the revolutionary committee would comply with the request, providing the Government forces agreed to a suspension of hostilities.

The members of the diplomatic corps, after consideration, agreeing that nothing more could be done that day, though Mr. Gazzaniga suggested that, as the flag of truce and the Red Cross ensign had not been respected, as a last resource the American minister should be requested to send his flag along with a flag of truce; but in deference to the views of his colleagues he did not urge this. His excellency the French minister was of the same opinion as his Italian colleague, but also gave way to the opinion of the majority.

The American minister, whilst appreciating this pleasing deference, agreed with Mr. Alfredo Silva y Antuña, Mr. Gosling, Drs. Bocayuva and Gutierrez, that nothing further could be done that day by the diplomatic body, but reserved his individual right to take action should any emergency arise before another meeting.

The diplomatic body then retired. Those who left the hotel, especially the French, Italian, and Uruguayan representatives, all of them family men, were exposed to great danger while returning to their legations.

July 3. At 8 o'clock on the morning of Friday, July 3, Mr. O'Brien, the American minister, was joined by Mr. Silva y Antuña, the Uruguayan chargé d'affaires, Dr. Felix Bocayuva, the Brazilian chargé d'affaires, and Mr. Cecil Gosling, the British chargé d'affaires, who had all come to the hotel under heavy fire.

As it was evident to all that the revolutionary forces would triumph and in fear for the lives of the President and the ministers of state, a note (No. 2 of the series) was addressed to Mr. Adolfo Riquelme, the chairman of the revolutionary committee, requesting that in the event of the success of the revolutionary arms the lives of President Ferreira, his ministers, and other high officials should be protected. The revolutionary committee replied to this note (No. 3 of the series) recognizing the right of asylum and stating that in case of the surrender of the President or his ministers they would receive all proper consideration, at the same time advising that military operations would be vigorously pushed to a conclusion.

Whilst waiting for the arrival of their colleagues a terrific cannonading was begun against the Government palace and it was decided to dispatch a note (No. 4 of the series) to the revolutionary headquarters, requesting a cessation of hostilities for one hour to permit the members of the diplomatic corps to communicate with the President. A reply was shortly received advising them that hostilities against the palace had ceased, but that President Ferreira would not be allowed to leave the building. (No. 5 of the series.)

The American, Uruguayan, and British representatives at once set out for the Government palace, under a military escort, leaving Dr. Bocayuva, the

Brazilian chargé d'affaires, in the hotel to acquaint their colleagues, when they arrived, with what had been done.

On showing a flag of truce they were admitted to the palace by the western entrance, and there found the President in the basement, with some 50 men. Informed of their mission he manifested his wish to consult his ministers. The mediators at once communicated this personally to the revolutionary committee, who readily granted the President's request.

Under an escort the diplomats went to the railway station where Ministers Báez, Benítez, and Isasi had taken refuge with the forces of Commandant García, who had on the night previous abandoned the police headquarters. During the consultation of the ministers, Mr. Laferrere, the Argentine chargé d'affaires, joined his colleagues and all proceeded to the Government palace.

The journey was not unattended with danger, and on account of desultory firing whilst the mission was crossing the line, the minister for foreign affairs demurred to proceeding. He alleged the absence of articles of armistice and the grave responsibility the Republic of Paraguay would incur in the case of any accident to the diplomats.

Being reassured by the latter, the ministers continued to the Government palace, although a desultory fire was kept up all the way. The diplomats, leaving the ministers of state in consultation with the President, returned to the revolutionary headquarters and protested against the firing. The revolutionary committee stated that as they had given strict orders the firing must have come from the Government forces, and it was a fact that the war vessel *Liberlad*, still under control of the Government, was firing; that they would immediately repeat orders to their forces to maintain, to the utmost, a complete cessation, and would take additional precautions to protect the mission. On the return of the diplomatic corps to the palace the President announced to them that he should present a conditional resignation.

Owing to the late hour the mission decided to return to the railway station, with the understanding that the President's resignation would be ready at 8 o'clock the next morning, and advised the revolutionary committee to that effect, both sides in the meantime agreeing to a complete cessation of hostilities until 9 o'clock the next day.

July 4. At precisely 10 minutes to 8 in the morning, Messrs. O'Brien, Silva y Antuña, Bocayuva, and Gosling, left the hotel under escort for the Government palace. President Ferreira had not prepared his resignation and expressed a wish to be allowed to consult his ministers again. The revolutionary committee refused to allow any further conference between the President and his cabinet and required from President Ferreira written conditions for their consideration. These President Ferreira gave in an unsigned document containing seven articles (No. 6 of the series). After an examination of them the revolutionary committee, averring that their forces were successful all along the line and President Ferreira's troops were completely at their mercy, demanded his unconditional resignation.

Realizing the situation the members of the diplomatic corps present at the headquarters of the revolutionary committee addressed a note to Mr. Adolfo Requielme, the chairman of that body, in which they recognized the triumph of the revolutionary arms and requested a guaranty in writing for the protection of the lives of Gen. Ferreira, his ministers of state, and all Government functionaries. The note (No. 7 of the series) was signed by Edward C. O'Brien, the envoy extraordinary and minister plenipotentiary of the United States of America; Mr. Alfredo Silva y Antuña, chargé d'affaires of Uruguay; Dr. Felix Bocayuva, the Brazilian chargé d'affaires; Mr. Cecil Gosling, the British chargé d'affaires; and Mr. Alfonso Laferrere, the Argentine chargé d'affaires. The request contained in this note was agreed to by the revolutionary committee at the moment and according to their promise they sent their guarantee in writing to the dean of the diplomatic corps at the Hotel Hispano Americano that same evening (No. 8 of the series).

When these facts were made known to Gen. Ferreira by the intervening diplomats he handed the dean his resignation addressed to the Paraguayan Congress (No. 9 of the series) and a note thanking them for their mediation (No. 10 of the series), asking only that the soldiers and others who were then with him in the palace might go free.

The diplomats returned to the headquarters of the revolutionary party, delivered the President's resignation to the committee, and showed the note addressed by the President to the diplomatic corps. The dean mentioned to the committee that Gen. Ferreira had said, in reply to the offer of asylum made by

Mr. Laferrere, the Argentine chargé d'affaires, that, while appreciating his great kindness, he did not wish to go to any legation, having confidence in some members of the revolutionary party and preferring to go to his home.

Dr. Emiliano Gonzalez Navero, Vice President of the Republic, then addressed the members of the diplomatic corps collectively, stating that although he was completely foreign to the movement his assistance had been requested in the present difficulties and he felt he was called upon to give it. He thanked the diplomatic corps for their mediation and hoped that a prosperous era was now opening to the country, once harmony and tranquility were restored. Maj. Jara also spoke, saying that as the initiator of the revolution he felt bound to do everything in his power to restore quiet and order.

The dean replied that the diplomatic body had acted purely in the interests of humanity and out of good will for the land of Paraguay.

The diplomatic corps, accompanied by Maj. Jara, returned to the palace and all the persons who were with Gen. Ferreira were given passes allowing them to go to their homes unmolested.

When Gen. Ferreira was ready to leave the palace the Argentine chargé d'affaires offered his carriage, the first to arrive, to Gen. Ferreira. The latter thanked him, saying, "I wish the dean of the diplomatic corps to accompany me in my own carriage to my house." The dean, Mr. O'Brien, took a seat by his side, Dr. Bocayuva following. Maj. Jara also accompanied them, as it was believed, and indeed suggested to him, that his presence would be a guaranty of safety while Gen. Ferreira was going to his house. The Uruguayan chargé d'affaires, Mr. Silva y Antuna, with Mr. Laferrere, the Argentine representative, in one carriage, and Mr. Gosling, Mr. Poole, the American minister's private secretary, and Mr. Christian Heisecke, jr.: Gen. Ferreira's son-in-law, in another, followed.

The party took leave of Gen. Ferreira in the hall of his house, where he again expressed to the diplomatic corps his heartfelt appreciation of their intermediation. Every detail of this incident has been here recorded in case any question should arise hereafter as to whether Gen. Ferreira left the Government palace as a prisoner or as a free man.

July 5. The dean received a note from Dr. Eusebio Ayala communicating to the diplomatic corps that the Vice President, Mr. Emiliano Gonzalez Navero, had assumed the Presidency and formed his cabinet, and that he had been named minister of foreign affairs. (No. 11 of the series.) Copies of the communication were transmitted to each member of the diplomatic corps. (No. 12 of the series.)

July 6. The dean of the corps received another note advising that the minister of foreign relations, Dr. Eusebio Ayala, would receive the diplomatic corps on Wednesdays from 3 to 4 p. m. Copies of the note were delivered to each member of the corps. (No. 13 of the series.)

July 7. On the afternoon of July 7 all the members of the diplomatic corps informally assembled in the dean's apartments. Mr. Silva y Antuña, the Uruguayan chargé d'affaires, presented a note which he had received from ex-President Ferreira, protesting against the strict surveillance kept over his house and stating that on choosing to come to his house he had not done so as a prisoner, and requesting Mr. Silva to inform the diplomatic corps of this and to ask them to obtain for him a safe conduct out of the country. (No. 14 of the series.)

Mr. Laferrere, the Argentine chargé d'affaires, desired a safe conduct for President Ferreira or his removal to the Argentine Legation. The opinion prevailed, however, that further intervention on the part of the diplomatic corps was inadvisable.

It was agreed that Mr. Silva y Antuña in replying to Gen. Ferreira's note should say that it did not appear that the diplomatic corps had any grounds for further intervention. Copies of Mr. Silva's reply have been given to the diplomatic corps. (No. 15 of the series.)

July 8th. The American, French, Argentine, Italian, Uruguayan, German, British, and Bolivian representatives were present at an informal meeting called by the dean at the request of some of his colleagues. Its object was to consider the note of Dr. Ayala, minister of foreign affairs, notifying the days he would receive members of the diplomatic corps. The dean manifested his opinion that it did not seem a matter for collective action but one to be left to the judgment of each individual member, and this view prevailed.

Referring to the publication of the greater part of the correspondence exchanged between the diplomatic corps and the revolutionary party in "El

Diario" of Asuncion, July 7, a journal under the direction of Mr. Adolfo Riquelme, the chairman of the revolutionary committee, the dean said that he had called the attention of Dr. Ayala to the omission of any reference to the fact that the revolutionary committee had, on the morning of July 2, solicited intervention. Dr. Ayala had courteously and readily set this right in a note (No. 16 of the series) which was read, and of which copies will be given to each member of the diplomatic corps.

In this note Dr. Ayala had also manifested his intention to thank each individual member of that body.

EDWARD C. O'BRIEN..

[Subinclosure 1.—Translation.]

Note of the Diplomatic Corps to the Chairman of the Revolutionary Committee and to Commandant Garcia of the Government Forces.

The dean of the diplomatic corps in his own name and that of his colleagues presents his compliments to Mr. Adolfo Riquelme and begs him to obtain from those in arms against Gen. Ferreira the suspension, at least momentarily, of hostilities, in order that, during the truce, efforts may be made to put an end to the present perturbation, and to harmonize and clear up the situation of public tranquillity.

Asuncion, July 2, 1908.

[Subinclosure 2.]

Minister O'Brien to the Chairman of the Revolutionary Committee.

The American minister, dean of the diplomatic corps, in his own name and in the name of his colleagues, salutes Señor don Adolfo Riquelme, and has the honor to communicate to him that the representatives of nations friendly to Paraguay have resolved that under the supposition of the possible triumph of those who have risen against the Government, they will, for the honor of this nation, place under their protection the persons of the head of the State, his ministers, and other high functionaries.

Feeling certain that it is the intention of the revolutionary committee of which he is the head to act in the same spirit of humanity, he begs to suggest both privately and officially that all efforts may be made to bring about such a desideratum for the welfare and dignity of the country.

Hotel Hispano Americano, Asuncion, July 3, 1908.

EDWARD C. O'BRIEN.

[Subinclosure 3.—Translation.]

The Chairman of the Revolutionary Committee to Minister O'Brien.

The undersigned, in the name of the revolutionary committee, presents his compliments to the dean of the diplomatic corps, his excellency Gen. Edward C. O'Brien, and his distinguished colleagues, and acknowledges receipt of his note dated to-day, in which he suggests that the persons of the ex-President General Ferreira, his ministers, and the high State officials should be protected. In reply I must state to your excellency that we are disposed to recognize in all its amplitude the right of asylum as soon as the diplomatic corps shall communicate to us the buildings in which the said persons have taken refuge under the protection of a diplomat.

The revolutionary committee at the same time informs the diplomatic corps that it intends to carry on with the greatest vigor the military operations in order to terminate as soon as possible this state of things.

The persons of Mr. Ferreira, ministers, and employees will receive every consideration provided they surrender or take shelter in the legations and cease from every kind of hostility.

Asuncion, July 3, 1908.

ADOLFO RIQUÉLME.

(Seal of the general staff.)

[Subinclosure 4.]

Minister O'Brien to the Chairman of the Revolutionary Committee.

The American minister, dean of the diplomatic corps, presents his compliments to Mr. Adolfo Riquélme, and begs him to obtain a cessation for an hour, of hostilities against the Government palace in order that Gen. Ferreira may be informed of the conditions of the revolutionary committee, contained in their note dated to-day.

Hotel Hispano Americano, July 3, 1908.

EDWARD C. O'BRIEN.

[Subinclosure 5.—Translation.]

The Chairman of the Revolutionary Committee to Minister O'Brien.

GENERAL STAFF, ARMY OF PARAGUAY.

The undersigned, in the name of the revolutionary committee, presents his compliments to his excellency the dean of the diplomatic corps, Gen. E. O'Brien, and his worthy colleagues and acknowledges with pleasure his last note of to-day.

In reply he states that from this moment orders have been given to cease fire on the Government palace, though they will still continue to closely surround all the building.

I also beg to inform the diplomatic corps, through you, that the revolutionary committee will not permit Gen. Ferreira to leave the Government palace in any way, guaranteeing complete safety if he wishes to surrender with the forces that may be still under his orders.

Asuncion, July 3, 1908.

ADOLFO RIQUÉLME.

(Seal of the general staff.)

ADOLFO RIQUÉLME.

[Subinclosure 6.—Translation.]

1. The President of the Republic delivers up the command of the nation to the vice president, Mr. Gonzales Navero or to the person whom the revolutionary committee shall designate.

2. The chiefs, officers, and troops who have remained faithful to the Government may continue in the service of the nation if such is their wish. On the contrary, they shall be allowed complete liberty to withdraw to their houses.

3. The expenses and damages caused by the agents of the Government and the revolution shall be defrayed by the nation.

4. Ample amnesty. Common offenses shall be judged by the ordinary tribunals.

5. The officer and troop of the commandery of the port and some police garrisoning the Government palace shall return to their respective corps. The private people shall withdraw to their houses. The arms belonging to private persons shall be carried off by their owners.

6. Gen. Ferreira, trusting largely to the honor of the men of the revolution that they will not make him the object of any personal persecution or attack, shall withdraw to his house.

7. This agreement of peace shall be signed with the moral guaranty of the diplomatic corps.

Asuncion, July 4, 1908.

[Subinclosure 7.]

The Diplomatic Corps to the Chairman of the Revolutionary Committee.

(Seal of the ministry of war and marine.)

The diplomatic corps accredited to Paraguay, taking into account the actual political situation of this Republic and the latest developments, recognizes as evident the triumph of the revolutionary arms over the government of Gen.

Ferreira and hopes that the right feeling of the revolutionary committee will cause them to act in harmony with the interests and good name of the country, insomuch that they will preserve and assure the persons of Gen. Ferreira, the other members of his government, and the high officials, thus offering the nations whom the said diplomats represent a guaranty of these acts of civilization.

EDWARD C. O'BRIEN.
A. SILVA Y ANTUÑA.
FELIX BOCAUYVA.
CECIL GOSLING.
A. DE LAFERRERE.

[Subinclosure 8.—Translation.]

The Chairman of the Revolutionary Committee to the Diplomatic Corps.

(Seal of the ministry of war and marine.)

The undersigned, in the name of the revolutionary committee, answers the act signed by the diplomatic corps recognizing the triumph of the revolution, as follows: That the revolutionary committee fully guarantees the life and interests not only of Gen. Ferreira and his ministers but also of all the functionaries and private persons to be found within the country.

Once the revolutionary committee has organized definitely the government of the country, I shall have the honor of communicating its composition to the honorable diplomatic corps.

Given in the revolutionary headquarters of this capital this the 4th day of July, 1908.

For the revolutionary committee,

ADOLFO RIQUÉLME.

[Subinclosure 9.—Translation.]

President Ferreira to the Paraguayan Congress.

ASUNCION, July 4, 1908.

To the Honorable Congress of the Nation:

In view of present events I present to the honorable Congress my resignation of the office of President of the Republic.

Saluting the honorable Congress attentively,

B. FERREIRA.

[Subinclosure 10.—Translation.]

President Ferreira to the Dean of the Diplomatic Corps.

ASUNCION, July 4, 1908.

As the diplomatic corps has intervened in the negotiations arisen from the revolutionary movement, I beg to send him my resignation of the office of President of the Republic in order to bring about the end desired:

Whilst thanking the diplomatic corps for their mediation, I have to ask only for the safety of the soldiers and private individuals who have accompanied me in the defense of the Government palace.

I salute you attentively,

B. FERREIRA.

[Subinclosure 11.—Translation.]

The Minister for Foreign Affairs to Minister O'Brien.

MINISTRY OF FOREIGN AFFAIRS,
Asuncion, July 5, 1908.

MR. MINISTER: I beg to inform you, as dean of the diplomatic corps, that as Dr. Benigno Ferreira has resigned the Presidency, the Vice President, Don

Emiliano Gonzalez Navero, has assumed that charge, and has named the following ministry: Dr. Gualberto Cardus Huerta, finance; Don Manuel Gondra, interior; Dr. Manuel Franco, justice, religion, and public instruction; Maj. Albino Jara, war and marine.

The undersigned, having been appointed to the ministry of foreign affairs, avails himself of this the first opportunity to offer to your excellency the assurances of his high regard.

EUSEBIO AYALA.

[Subinclosure 12.]

Minister O'Brien to each member of the Diplomatic Corps.

AMERICAN LEGATION,
Asuncion, July 6, 1908.

SIR: I deliver into your hands a copy of the following note addressed to me by Mr. Eusebio Ayala, a member of the revolutionary committee, who signs as minister of foreign affairs.

Saluting you with the highest consideration, I am, etc.,

EDWARD C. O'BRIEN.

[Subinclosure 13.—Translation.]

The Minister of Foreign Affairs to Minister O'Brien.

MINISTRY OF FOREIGN AFFAIRS,
Asuncion, July 6, 1908.

Eusebio Ayala, minister of foreign affairs, presents his compliments to his excellency Gen. Edward C. O'Brien, envoy extraordinary and minister plenipotentiary of the United States of America and dean of the foreign diplomatic corps, and begs to inform him that he will be pleased to receive the diplomatic corps on Wednesdays from 3 to 4 p. m.

[Subinclosure 14.—Translation.]

Ex-President Ferreira to the Uruguayan Chargé d'Affaires.

Mr. ALFREDO SILVA Y ANTUÑA.

ESTEEMED FRIEND: The vigilance of my domicile is strict. It seems to me that this is not what was agreed upon. On electing to come to my house it has not been as a prisoner, but to remain at liberty; so at least I understood.

The incoming and outgoing of persons is subject to the will of the guardians, and even my correspondence is intercepted; nor do provisions for my table enter without supervision.

I beg of you to inform the dean of the diplomatic corps that he may use his good offices that this state of things may cease. I also beg you that if nothing is effected you will communicate it to me with all frankness, and in such case to arrange with your colleagues to obtain a safe conduct for me to withdraw from the country.

Saluting you affectionately,

B. FERREIRA.

JULY 6, 1908.

[Subinclosure 15.—Translation.]

The Uruguayan Chargé d'Affaires to ex-President Ferreira.

Gen. Dr. BENIGNO FERREIRA, *Present.*

ESTEEMED FRIEND: In reply to your letter of yesterday, I must tell you that the diplomatic corps met and after considering your letter asked me to reply to you, that after you were accompanied to your house no events have occurred

that should change what was agreed upon by the revolutionary committee, and that, therefore, the diplomatic corps believes that your complaints are unfounded (premature), since the measures now taken with regard to you are for the object of guarding your person and life; an obligation the revolutionary committee took upon itself.

I am, etc.,

ALFREDO SILVA Y ANTUÑA.

ASUNCION, July 7, 1908.

[Subinclosure 16.]

The Minister of Foreign Affairs to Minister O'Brien.

MINISTRY OF FOREIGN AFFAIRS,
Asuncion, July 8, 1908.

MR. MINISTER: I beg to state to your excellency that after receiving the communication directed to the revolutionary barracks giving notice that the Legation of the United States of America had moved to the Hotel Hispano Americano, the undersigned, in the name of the revolutionary committee, came in person to your excellency to solicit your good offices to bring about a cessation of hostilities and obtain a speedy reestablishment of peace. Your excellency asked for a guard for yourself to the barracks of the Second Infantry, and the committee sent it.

Your excellency in consequence and in a purely private character, as you yourself manifested, came to the barracks mentioned for the purpose of obtaining a truce that the diplomatic corps might take action.

I am fulfilling a duty in stating to your excellency that I shall shortly have the satisfaction of thanking each of the members of the diplomatic corps for the efficacious and generous intervention in putting an end to the armed conflict.

I avail myself of this occasion to offer your excellency the assurances of my highest esteem.

EUSEBIO AYALA.

EXTRADITION TREATY BETWEEN THE UNITED STATES AND URUGUAY.

Treaty signed at Washington, March 11, 1905. Ratification advised (with amendments) by the Senate March 18, 1905.—Ratified by the President, April 12, 1908. Ratified by Uruguay, May 27, 1908. Ratifications exchanged at Montevideo, June 4, 1908. Proclaimed, July 10, 1908.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the Oriental Republic of Uruguay providing for the mutual extradition of fugitives from justice, was concluded and signed by their respective Plenipotentiaries at Washington, on the eleventh day of March, one thousand nine hundred and five, the original of which Convention, being in the English and Spanish languages is, (as amended by the Senate of the United States) word for word as follows:

The President of the United States of America and the President of the Oriental Republic of Uruguay, being animated by the desire to secure and promote the well-being and tranquillity of their respective countries by facilitating the just, prompt, and efficacious administration of justice, by preventing crimes and offenses, and by regu-

lating the surrender of the authors thereof who may seek asylum within their respective territories, have agreed to conclude a treaty and for this purpose have appointed as their plenipotentiaries, to wit:

The President of the United States of America, John Hay, Secretary of State of the United States of America; and

The President of the Oriental Republic of Uruguay, Mr. Eduardo Acevedo Diaz, his Envoy Extraordinary and Minister Plenipotentiary accredited to the United States of America and to Mexico;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed on the following articles:

ARTICLE I.

The high contracting parties obligate themselves to deliver up mutually to each other, under the circumstances and conditions stipulated in the present treaty, all persons, except their own citizens, who, having been charged or sentenced for any of the crimes or offenses enumerated in Article II and committed within the territory of one of the parties, shall be found within the territory of the other.

ARTICLE II.

1. Murder, comprehending assassination, parricide, infanticide, poisoning, and manslaughter, when voluntary; or the attempt to commit any of these crimes.

2. Abortion.

3. Arson.

4. Piracy, or mutiny on shipboard whenever the crew, or part thereof, shall have taken possession of the vessel by fraud or violence against the commander.

5. Forgery, or the utterance of forged papers; the forgery of official acts of government, of public authorities, or of courts of justice, or the utterance of the thing forged or falsified.

The counterfeiting or falsifying of money, whether coin or paper, or of instruments of debt created by national, State, provincial, or municipal governments, or of coupons thereof, or of bank notes, or the utterance or circulation of these; the counterfeiting, falsifying, or altering of seals of state.

6. Embezzlement of public moneys by public functionaries or depositaries, embezzlement by persons hired or salaried, to the detriment of their employers or principals; larceny; where in either class of cases the amount embezzled or stolen exceeds the sum of two hundred dollars.

7. Burglary; housebreaking; shopbreaking.

8. Robbery, defined to be the act of feloniously and forcibly taking from the person of another money, or goods, by violence or putting him in fear.

9. Rape.

10. Bigamy.

11. Kidnapping; abduction.

12. Perjury and subordination of perjury.

13. Bribery, defined to be the giving, offering, or receiving of a reward to influence one in the discharge of a legal duty.

14. Willful and unlawful destruction or obstruction of railroads which endangers human life.

Extradition is also to take place for participation in any of the crimes and offenses mentioned in this treaty, provided such participation may be punished in the United States as a felony, and in Uruguay by imprisonment at hard labor.

ARTICLE III.

Political crimes and misdemeanors are expressly accepted from the present treaty.

A person whose surrender has been granted shall not in any case be either prosecuted or punished for any political crime or act connected therewith, committed previous to the extradition.

Neither shall he be prosecuted or punished for any crime committed previous to that on which the surrender is based, unless the nation of which the demand is made so grants.

If any question shall arise as to whether a case comes within the provisions of this article, the decision of the authorities of the Government on which the demand for surrender is made, or which may have granted the extradition, shall be final.

ARTICLE IV.

Where the arrest and detention of a fugitive are desired on telegraphic or other information in advance of the presentation of formal proofs, the proper course in the United States shall be for an agent of the Uruguayan Government to apply to a judge or other magistrate authorized to issue warrants of arrest in extradition cases, and present a complaint on oath as provided by the statutes of the United States.

When under the provisions of this article the arrest and detention of a fugitive are desired in Uruguay, the proper course shall be to apply to the Foreign office, which will immediately cause the necessary steps to be taken to secure the provisional arrest and detention of the fugitive.

The provisional detention of a fugitive shall cease and the prisoner be released if a formal requisition for his surrender, accompanied by the necessary evidence of his criminality, has not been produced under the stipulations of this treaty within a period of sixty days from the date of provisional arrest and detention.

ARTICLE V.

Requisitions for extradition must be presented by the diplomatic agent of the country of which the request is made, or in case of his absence of the superior consular officer thereof, to the Ministry of Foreign Relations, and shall be accompanied, in the case of persons charged or under trial, by an authenticated copy of the warrant of arrest and of the evidence upon which it is based, as well as of the penal law applicable to the offense giving rise to the request, and, whenever possible, by a description of the person claimed.

With regard to sentenced persons, duly authenticated evidence of the sentence convicting them should be presented.

In the Oriental Republic of Uruguay the procedure shall be as follows:

The Ministry of Foreign Relation shall transmit the above-mentioned documents to the Superior Court of Justice, which, in turn, if it deems that the request for extradition is sufficiently well founded, shall turn it over to the judge having jurisdiction of the crime for execution. The latter functionary shall have authority to order the detention of the criminal, to take his deposition, consider his defense, and weigh the facts presented in accordance with the laws of the country; and if it turns out that the evidence presented is sufficient to warrant his imprisonment, the conditions required by the treaty having been fulfilled, he shall issue the order for his surrender, notifying the fact to the Executive, who thereupon dictates the measures necessary in order that the fugitive may be placed at the disposal of the demanding Government.

The expenses incurred in the arrest, detention, examination, and delivery of fugitives under this treaty shall be borne by the State in whose name the extradition is sought.

ARTICLE VI.

All articles at the time of apprehension in the possession of the person demanded, whether being the proceeds of the crime or offense charged, or being material as evidence in making proof of the crime or offense, shall, so far as practicable in conformity with the laws of the respective countries, be given up when the extradition takes place. Nevertheless, the rights of third parties with respect to such articles shall be duly respected.

ARTICLE VII.

Extradition may be refused when the penalty or right of action for the crime imputed to the person claimed shall have become barred by limitation according to the laws of the country in which he is seeking refuge.

ARTICLE VIII.

If the accused or convicted party whose extradition is demanded by one of the high contracting parties in accordance with the present treaty should also be claimed by another or other governments as a result of crimes committed within their respective territories, he shall be delivered to the government of the country in which he shall have committed the gravest crime; provided that the government from which extradition is sought is not bound by treaty to give preference otherwise.

ARTICLE IX.

If the person claimed should be under trial for a crime or offense committed in the country in which he is seeking refuge, his extradition shall be deferred until the trial he is undergoing is concluded,

or until he suffers the penalty imposed upon him. The same shall happen if he is serving a previous sentence at the time his extradition is demanded.

ARTICLE X.

The obligation to grant extradition shall not in any case extend to the citizens of the two parties, but the executive authority of each shall have power to deliver them up, if, in its discretion, it is deemed proper to do so.

ARTICLE XI.

The Government of the United States and that of Uruguay agree to notify each other of the result of the trials of all persons surrendered under this treaty.

ARTICLE XII.

The provisions of the present treaty shall not apply to crimes or offenses committed prior to its date.

ARTICLE XIII.

The present treaty may be denounced by either of the high contracting parties by giving notice one year in advance.

ARTICLE XIV.

The present treaty shall be ratified and its ratifications exchanged at as early a day as possible.

In witness whereof, the respective Plenipotentiaries have signed the above articles, both in the English and Spanish languages, and hereunto affixed their seals.

Done in duplicate, at the City of Washington this 11th day of March, one thousand nine hundred and five.

JOHN HAY [SEAL]
ED° ACEVEDO DÍAZ. [SEAL]

And whereas the said Convention, (as amended by the Senate of the United States) has been duly ratified and the ratifications of the two governments were exchanged in the City of Montevideo, on the fourth day of June, one thousand nine hundred and eight;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof, (as amended) may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this tenth day of July in the year of our Lord one thousand nine hundred and eight, [SEAL.] and of the Independence of the United States of America the one hundred and thirty-third.

THEODORE ROOSEVELT

By the President:

ALVEY A. ADEE

Acting Secretary of State.

VENEZUELA.

SEVERING OF DIPLOMATIC RELATIONS BETWEEN THE UNITED STATES AND VENEZUELA.¹

The Secretary of State to Minister Russell.

DEPARTMENT OF STATE,
Washington, February 28, 1907.

SIR: The Department of State has made the most careful reexamination of the cases hereinafter mentioned, in which American citizens are claiming redress against injustice suffered at the hands of Venezuela.

You are instructed to bring these cases again to the attention of the Government of Venezuela and to urge upon that Government the reasons existing in each case for favorable action, as those reasons are now restated with more full and definite knowledge and with greater precision than has been possible heretofore.

You will call the attention of the Government of Venezuela to the fact that notwithstanding the long and unbroken friendship manifested by the United States for Venezuela; notwithstanding the repeated occasions upon which the United States has intervened as a friend in need to relieve Venezuela from disagreeable and dangerous complications with other foreign powers; notwithstanding the patience and consideration which has always characterized the action of this Government toward Venezuela, the Government of Venezuela has within the past few years practically confiscated or destroyed all the substantial property interests of Americans in that country. This has been done sometimes in accordance with the forms of law and contrary to the spirit of the law; sometimes without even form of law, by one device or another, with the action of the Government apparently always hostile to American interests, until of the many millions of dollars invested by American citizens in that country practically nothing remains.

The first specific claim to be again presented to Venezuela arises from the arbitrary and, it would seem, unlawful expulsion of an American citizen, A. F. Jaurett, who was notified by the Venezuelan authorities on Saturday evening, November 12, 1904, after the closing hours of business, to leave Venezuelan territory.

The reason assigned by the authorities for the expulsion of Mr. Jaurett is that he was notoriously prejudicial to public order. On the following morning—that is to say, Sunday—the prefect of police waited upon Mr. Jaurett and formally ordered him to withdraw

¹ In this connection reference is made to S. Doc. No. 413, 60th Cong., 1st sess., which is a report of the Secretary of State submitting the correspondence with the Government of Venezuela in relation to pending controversies with that Government concerning wrongs done to American citizens and corporations in that country by the Venezuelan Government.

from the territory of Venezuela in 24 hours. Although Mr. Jaurett attempted to obtain a modification of the order, so that he might be able to arrange his affairs, and although the representative of the Government of the United States accompanied and seconded him in this reasonable request, the Venezuelan Government refused to grant such permission. Mr. Jaurett was therefore obliged to quit the country on Monday morning in pursuance of the order of the governing authorities of Venezuela, leaving behind him his property and without being given the opportunity to arrange and set in order his business affairs.

The Government of the United States neither questions nor denies the existence of the sovereign right to expel an undesirable resident. It can not be overlooked, however, that such a right is of a very high nature and that the justification must be great and convincing. Otherwise residence in a foreign country would be neither safe nor profitable, for expulsion might at any moment deprive a resident of the legitimate rewards of a lifetime. While, therefore, the existence of the right is not denied, its exercise must be limited. The act is sufficiently harsh in itself. The manner and method of expulsion should not be humiliating, for it is not the purpose to humiliate and inconvenience the resident expelled, but to save the State from dangers resulting from the residence of the undesirable alien.

It is not too much to insist that the person to be expelled be given an opportunity to explain the misconduct whereof he is accused, and that he should be given an opportunity to arrange his business affairs in order that expulsion may not necessarily carry with it forfeiture of property. In no case should the expulsion be decreed and executed after closing hours on Saturday, unless the presence of the undesirable resident is so dangerous to the community as to threaten serious consequences to the State by the mere delay over Sunday.

It is not too much to require that a government exercising the sovereign right of expulsion should state the reasons of such expulsion to the government of the country whereof the expelled is a subject or citizen, because a nation is injured by an injury to a citizen and an unprovoked assault upon him or insult to him necessarily affects the home government. While this would seem to be the requirement of international courtesy it is likewise the standard prescribed by international law. A citation for these views is needless. However, attention is called to the report made by the late M. Rolin-Jacquemyns to the Institute of International Law on the right of the expulsion of foreigners. If it be borne in mind that this report was presented in answer to a call by the Institute of International Law for an examination of the question in what manner and within what limits governments may exercise the right of expulsion of foreigners, and if it be further remembered that Rolin-Jacquemyns was not only an authority in international law but was himself a minister of state, accustomed to handling intricate questions of international law, it will be at once obvious that the report states not only the theory but the usages and customs of international law on this subject.

The right to prohibit the admission into a territory or to exclude from it every individual who is an alien to the political community is a direct consequence of territorial sovereignty. * * * But in regard to the principle of territorial sovereignty there are other principles which tend, not to nullify it but to restrict

its exercise, and upon which principles it is desirable that a body of positive rules be established. The first of these principles is that every State forms a part of the community of nations of which the whole makes up humanity. As such, it is not permitted to isolate itself nor to isolate its territory from all contact with the rest of the world. In acting thus it would place itself outside the law and outside the community of nations, and would expose itself to an expropriation in the cause of humanitarian interests. The consequence of this principle is that a State can not interdict in an absolute manner to all strangers access to its territory, nor expel indiscriminately or en masse all those who are found there. * * * Besides these general duties toward humanity and toward the community of States, there are some particular duties which are applicable to the exercise of the right of expulsion and which are founded upon the fact that the individual expelled has the double character of a man and of a citizen. In his character as a man he has the right not to be the object of undue severity nor to be injured unjustly in his interests. In his character as a citizen of another State he can claim the protection of his sovereign against these severities of these spoliations. The State which expels, acting thus in virtue of its own sovereignty, is the sole judge of the motives which determine the measure. It does not follow that these motives may be indifferent nor that the right of expulsion can be the pretext of arbitrary violence. (*Revue de Droit International*, vol. 20, p. 498.)

In concluding his report he states:

From the point of view of international law every government of a sovereign State has, as a general rule, if it judges it necessary in the interest of this State the right to admit or not to admit, to expel or not to expel, foreigners who wish to enter or who are found upon its territory, as well as to subject their admission or their residence to the conditions which it judges necessary in the interest of its tranquillity or of its security. The exercise of these different rights is, however, subject to restrictions.

Among which he states the following:

1. No State can, without placing itself outside the pale of international law, interdict in an absolute manner the access of all strangers to its territory nor expel indiscriminately or en masse all those who are found there.

* * * * *

4. The right of expulsion and the mode of exercise of this right may be regulated by international treaties.

5. But in the absence of treaties the State to which the expelled individual belongs has the right to know the motives of the expulsion, and the communication of these motives can not be refused to it. Moreover, the expulsion ought to take place with all the considerations which are demanded by humanity and the respect for acquired rights. Save in urgent cases, a reasonable time ought to be allowed to the expelled individual to settle his interests. Finally, except in cases of extradition, he ought to be left to choose the point of the frontier from which he prefers to depart the country.

The right of a government to protect its citizens in foreign parts against a harsh and unjustified expulsion must be regarded as a settled and fundamental principle of international law. It is no less settled and fundamental that a government may demand satisfaction and indemnity for an expulsion in violation of the requirements of international law. The cases announcing this right are so numerous that their enumeration would be wearisome. It may be permitted, however, to call the attention of the Venezuelan Government to one case, so similar to the case of Mr. Jaurett that it would require a high degree of casuistry to distinguish them. The case in question is that of *Boffolo v. Venezuela*, and was tried before the Italian and Venezuelan Commission in 1903. The decision of the umpire may be summarized as follows:

A State possesses the general right of expulsion; but expulsion should only be resorted to in extreme instances, and must be accomplished in the manner least injurious to the person affected.

The State exercising the power must, when occasion demands, state the reason of such expulsion before an international tribunal, and an insufficient reason or none being advanced accepts the consequences.

The only reasons advanced in the present case being contrary to the Venezuelan constitution, and Venezuela being a country not of despotic power, but of fixed laws, the umpire can not accept them as sufficient.

It therefore appears that not only are writers of theory in accord, but that carefully considered and matured judgments of courts of international arbitration approve and apply the theory of international law to the question of expulsion.

While, therefore, international law fails to justify the expulsion of Mr. Jaurett, and while the method and manner of his expulsion were harsh and inconsiderate, if not inhuman, there is another reason why Mr. Jaurett should not have been summarily and ignominiously expelled, namely, that the constitution of Venezuela prevented such expulsion, and that the actual expulsion was in contravention of the constitutional law of Venezuela.

The decree of the Federal executive expelling Mr. Jaurett was based upon article 80, section 22, of the constitution of Venezuela, by virtue of which the President is authorized to prohibit, according to his discretion, the entry of foreigners into Venezuelan territory, or to expel from Venezuelan territory foreigners who do not possess an established domicile in the country. A residence of two years is sufficient to establish a domicile in Venezuela, and Mr. Jaurett had resided for a period of eight years; he had established himself permanently; he was engaged in commercial pursuits, and he had complied fully with the requirements of the law. The provision invoked by the executive did not apply to him, because he was a domiciled foreigner, not a foreigner in transit.

To justify, by constitutional law, the expulsion of Mr. Jaurett, the Venezuelan Government has referred to article 80, section 8, which gives to the President the right, "in cases of foreign war, or domestic disturbances, or rebellion in arms against the institutions, upon previous declaration that public order is disturbed, and only for the time of the disturbance, * * * to arrest, confine, or expel from the territory of the Republic citizens or foreigners interfering with the reestablishment of peace." It is at once apparent that these clauses are restricted in their operation to cases of foreign war, domestic disturbance, rebellion in arms, or to interference with the reestablishment of peace. As none of these grounds for executive action existed in the case of Mr. Jaurett, they are inapplicable.

The expulsion of Mr. Jaurett is, therefore, as unjustifiable upon the principles of constitutional law of Venezuela as it is without defense according to the enlightened theory and practice of international law.

In view of authority and precedent the claim of Mr. Jaurett commended itself to the department and the attention of the Venezuelan Government has been called to all the circumstances of the case and an indemnity requested.

Mr. Jaurett has been domiciled in Venezuela for many years; had acquired property which was lost to him wholly or in part by the unwarrantable action of the Venezuelan authorities in expelling him from Venezuela without giving him an opportunity to close up his affairs and prevent financial ruin. Mr. Jaurett states his losses at \$25,000, and the Government of the United States, finding this sum

reasonable, has requested its payment by Venezuela. Hitherto the Venezuelan Government has not given to this claim the care and attention which the Department of State feels it deserves. Delay has taken the place of argument, and the department feels that the time has come for the settlement of the indemnity.

You are therefore directed courteously but firmly to present the claim of Mr. Jaurett to Venezuela and to insist that the payment of a claim so just in the light of international law should not be longer deferred.

2. The claim of the Orinoco Corporation is one with which the Venezuelan Government has been familiar for the past 20 years and more. For many years conflicting claimants appeared before the Venezuelan authorities to make good their claim to different portions of the territory, under conflicting and inconsistent grants. The Venezuelan Government has at various times, by executive decree, annulled claims of concession; the courts of Venezuela have held that such executive action was unable to divest rights conferred upon claimants by acts of the Federal Congress, and upon a recent and solemn occasion, namely, by judgment of the American and Venezuelan Mixed Claims Commission, under the protocol of February 17, 1903, the various acts of the Venezuelan executive in contravention of the title of claimants, were declared null, void, and of no legal effect whatever.

In view of these circumstances, therefore, an extended examination of the bases of the claim is unnecessary; but for the purpose of calling the attention of the Venezuelan Government to the justness of the claim and the long-suffering of the claimants patiently borne, certain facts are set forth:

On September 22, 1883, the Government of Venezuela granted to Cyrenius C. Fitzgerald, his associates, assigns, and successors, for the term of 99 years, a concession of a certain portion of the delta of the Orinoco, with the exclusive right to develop the resources of the territory granted, which was national property. This concession was approved by Congress May 27, 1884, and on the 14th day of June, 1884, Fitzgerald conveyed to the Manoa Co. (Ltd.) the entire concession, with all his rights thereunder.

On the 1st day of January, 1886, Gen. Guzman-Blanco, envoy extraordinary and minister plenipotentiary of Venezuela to various courts of Europe, entered into a contract with one George Turnbull, an American citizen, for the region previously granted to Fitzgerald, but such contract was to "enter into vigor in case of the becoming void through failure of compliance within the term fixed for this purpose of the contract celebrated with Mr. Cyrenius C. Fitzgerald the 22d of September, 1883, for the exploitation of the same territory."

By resolution of the executive and the Federal council, dated September 9, 1886, the Fitzgerald contract was declared insubsistent and no longer in force, and on the following day the contract with Turnbull was ratified by the executive and the Federal council and was approved by Congress on April 28, 1887.

Leaving out minor transactions, it would appear that on May 28, 1895, the Manoa Co., the successor to Fitzgerald's rights, petitioned the Government to acknowledge and reaffirm by decree its rights and ownership of the entire Fitzgerald concession, and the President of the Republic, on the 18th of June, 1895, declared the annulment of

the contract for the concession granted to Turnbull; on the same day the Government issuing a decree ratifying and reaffirming the original Fitzgerald grant, as vested in the Manoa Co., and authorizing said company to renew its work of exploitation and development.

On October 17, 1895, the Manoa Co. conveyed its entire grant to the Orinoco Co., and the President of Venezuela, on November 20, 1895, recognized as valid this transfer made by the Manoa Co.

Passing from immaterial transactions, it appears that on the 10th day of October, 1900, the supreme chief of the Republic by resolution of that date, promulgated through the minister of the interior, declared the Fitzgerald contract of September 22, 1883, upon which the Orinoco Co. based its rights, insubsistent and annulled, and that the decree of June 18, 1895, ratifying the contract after it had been annulled by the decree of September 9, 1886, was ineffectual without the intervention of a new contract, which had not been made; and on May 14, 1901, the Government of Venezuela issued an abstract of certificate from the registry of the records, finding and certifying that the title to the property had been continuously, from the 13th of May, 1888, when the same was granted, until the 14th of May, 1901, vested solely in Turnbull.

Such was the state of affairs when the United States and Venezuelan Claims Commission was organized under the protocol of February 17, 1903. In view of the fact that the various claims and counterclaims based upon the transactions beginning on the 22d of September, 1883, to the date of the commission, were referred to the commission and passed upon by this commission, and inasmuch as the finding of the commission was as binding upon Venezuela as it was upon the claimants, and in view, furthermore, of the fact that the judgment of the international tribunal in favor of the Manoa Co. is a public record, it is unnecessary to do more than call the decision of the commission to the careful attention of the Venezuelan Government.

It should be stated, however, that the court held squarely that a right vested in the claimants by an act of the Federal Congress of Venezuela could not be vitiated or destroyed by the decree of the Venezuelan executive; that the cancellation of a concession so granted and safeguarded was a matter for judicial, not political, action. The effect of the decision of the court, therefore, was to reestablish the Fitzgerald concession and to vest in the Orinoco Corporation, as assignee of the Orinoco Co., the entire interest of the original concession of September, 1883.

The rights of the Orinoco Corporation, however, recognized and safeguarded by a decision of an international tribunal, do not depend solely upon the judgment of this tribunal, for on the 1st day of March, 1906, the Federal court of Venezuela held squarely, on a suit brought by one Juan Padron Ustariz to declare the Fitzgerald contract insubsistent, that a contract once properly granted could not be annulled by executive decree.

It thus appears that the Orinoco Corporation is in the enviable position of having its rights recognized by an international tribunal and by the highest constitutional court of Venezuela.

Notwithstanding these solemn adjudications and during the pendency of the action in the Venezuelan Federal court the Government of Venezuela granted and conceded, on the 2d of January, 1906, to

a Venezuelan citizen a part of the territory embraced within the Fitzgerald concession. And it may be said in passing that this grant of 1906, notwithstanding its utter illegality, was officially recognized by the Venezuelan Government as late as January 12, 1907. On the 5th day of January, 1906, a second grant was made conflicting with the rights of the Orinoco Corporation. On the 20th day of February a third grant was made of territory within the Fitzgerald concession, and on the 7th day of March, one week after the decision of the court, a further concession of property situated within the Fitzgerald grant was made by the Venezuelan Government.

In view of the circumstances of this case, the repeated favorable adjudications settling the question of title and vesting it securely in the claimants, it would seem that these acts of Venezuela are clearly unjustifiable. The repeated concessions of territory within the Fitzgerald concession evidence an intent either to hinder the company from exploiting the concession or to destroy the concession by grants inconsistent with its existence. It is needless to say that the Orinoco Corporation can not undertake the exploitation of its concession while its title is thus interfered with, and the constant and repeated granting away of its vested rights by the Venezuelan Government in contravention of international and national judgments offers little encouragement to the investment of labor and capital in the development of their property. The corporation has sought relief in the courts and overcome opposition. It can not enter into a conflict with the Venezuelan executive.

In view, therefore, of all the facts set forth, you are instructed to request from the Venezuelan Government its assent to an immediate reference to a tribunal of The Hague Permanent Court of Arbitration (unless some other tribunal shall be agreed upon), and on which no national of either country, or of any country interested in the controversy, shall sit, to consider and determine—

1. Whether by the wrongful acts of the Venezuelan Government, its officers and agents, the contract rights of the Orinoco Corporation have been destroyed and the value of its concession impaired or destroyed; and

2. Whether injuries have been inflicted upon the Manoa Co (Ltd.), the Orinoco Co. (Ltd.), and the Orinoco Corporation, or either of them, by wrongful interference with or trespasses upon them while in the partial or entire enjoyment of their contract rights in the Fitzgerald concession; and to award damages accordingly, payable in American gold and bearing interest from the date of the sentence until paid and with power in the tribunal to fix the time and manner of payment of said awards.

You are also instructed to request that, pending the arbitration, all proceedings in the suit which, it is said, has recently been begun by the Venezuelan Government against some of said companies to annul or cancel said Fitzgerald concession shall be stayed and that the status quo shall be preserved.

3. The third claim is that of the Orinoco Steamship Co., incorporated on January 31, 1902, under the laws of New Jersey for the purpose of acquiring and taking over "as a going concern the business now carried on by the Orinoco Shipping & Trading Co. (Ltd.), of London, England." This latter company was incorporated in

England on the 14th day of July, 1898, and the Orinoco Steamship Co. appears as the assignee to any and all rights which the Orinoco Shipping & Trading Co. (Ltd.) had acquired. The English company was itself organized to acquire properties in Venezuela, including concessions, and to carry on the business of steamship transportation. The capital stock of this company was \$100,000, and of this all except seven statutory shares was owned by American citizens. As the present Orinoco Steamship Co. is owned and controlled in its entirety by these American citizens, it will appear that the claim was largely American in its inception and that it is now wholly American.

On December 12, 1898, the Shipping & Trading Co. acquired by purchase the entire assets of two Venezuela corporations. Among these was a franchise of unquestioned validity known as the Grell concession, which provided for the establishment of a regular steamship line between Ciudad Bolivar and the ports of Curacao and Trinidad, British West Indies, and included permission to navigate the Macareo and Pedernales Channels of the Orinoco River, notwithstanding the general law of Venezuela prohibiting vessels engaged in foreign trade with Ciudad Bolivar from proceeding otherwise than by the Boca Grande (Great Mouth) of that river. This concession was to have a duration of 15 years. By executive decrees of October 18, 1898, and September 4, 1899, the transfer of this concession to the shipping company was recognized and approved by the Government of Venezuela.

It further appears that the Government of Venezuela was at that time indebted to the shipping company as the assignee of the Orinoco Red Star Line, one of the Venezuelan corporations above referred to, in the alleged sum of \$77,818.01, and in the further alleged amount of \$476,732.50 for services rendered the Government, for which bills had been duly submitted and not questioned or disputed, and that the Venezuelan Government entered into an agreement with the shipping company on May 10, 1900. According to the terms of this agreement the Government paid 100,000 bolivars (\$19,219.19) down and agreed to pay 100,000 bolivars (\$19,219.19) more, and granted an extension of the concession held by the shipping company for a further term of six years—that is, until 1915. In return the company acknowledged full satisfaction for the above claims held against the Venezuelan Government.

By executive decree of October 5, 1900, the law of July 1, 1893, which prohibited the free navigation of the Macareo, Pedernales, and other navigable waterways of the Orinoco River was repealed, thereby destroying the exclusive right to use these channels which the shipping company claimed was conferred by the concession and which, as a matter of fact, they had enjoyed up to that time.

By a later executive decree, dated December 14, 1901, the Venezuelan Government absolutely annulled the extension of the concession granted by the contract of May 10, 1900. At the time of this decree the company, owing to misfortunes which had befallen its other vessels in the troubled times of the revolution, possessed only one steamer available for its La Guaira service. It appealed to the Government of Venezuela for a promise for protection for this vessel, and received in return a note inclosing a copy of the executive decree annulling the extension of the concession. The company, which had

hitherto endeavored to carry out its part of the contract irrespective of the decree of October 5, 1900; destroying the exclusive character of the concession which it claimed as of right, seems to have given up in despair and abandoned any further effort to continue navigation between La Guaira and the Orinoco (although it maintained its service between Ciudad Bolivar and Trinidad until interdicted by the Venezuelan Government, May 31, 1902, on account of the disturbed state of the country), and to have turned first to England and then to the United States for diplomatic relief.

On April 1, 1902, the Orinoco Shipping & Trading Co. (Ltd.), for value received, duly assigned and transferred to the Orinoco Steamship Co., hereafter referred to as the steamship company or the claimant, all its assets, of every sort and kind, including its Venezuelan franchises and properties and all claims and demands in its favor against the Republic of Venezuela. Thereafter, from time to time, the claim of the Orinoco Steamship Co. formed the subject of correspondence between the United States and the Government of Venezuela.

As a result of these negotiations, on February 17, 1903, a protocol of agreement for arbitration was entered into between the United States and Venezuela, covering "all claims owned by citizens of the United States of America against the Republic of Venezuela which have not been settled by diplomatic agreement or by arbitration between the two Governments, and which shall have been presented to the commission hereinafter named by the Department of State of the United States, or its legation at Caracas." The terms of the protocol provided that "before assuming the functions of their office the commissioners and the umpire shall take solemn oath carefully to examine and impartially decide, according to justice and the provisions of this convention, all claims submitted to them, and such oaths shall be entered on the record of their proceedings. The commissioners, or, in case of their disagreement, the umpire, shall decide all claims upon a basis of absolute equity, without regard to objections of a technical nature or of the provisions of local legislation."

The claim of the steamship company was duly submitted to the arbitral tribunal so constituted. The claim consisted of four items: (1) For \$1,209,701.05, which sum the claimant company reckoned as due for damages and losses caused by the executive decree of October 5, 1900, said decree having, as the company affirmed, annulled its exclusive concessionary right; (2) for 100,000 bolivars, or \$19,219.19, overdue on account of the settlement contract of May 10, 1900; (3) for \$147,638.79, at which the claimant company estimated its damages and losses sustained during the revolution and the value of services rendered by the company to the Government of Venezuela; (4) for \$25,000 for counsel fees and expenses incurred in protecting and pursuing its rights.

The commissioners appointed by the United States and Venezuela having disagreed, the claim was referred to the umpire, Dr. Barge, who awarded \$28,224.93 United States gold to the claimant company, this being the amount which he found due for services, etc., rendered the Venezuelan Government by the claimant company subsequent to the transfer to the claimant of all the rights of the shipping company. Dr. Barge rejected all the other contentions of the

claimant, especially refusing to allow damages for the annulment of the alleged exclusive concession held by the shipping company.

After holding that he had jurisdiction over the case, the umpire rejected the first item in the claim of the company—the claim for damages caused by the annulment of its exclusive franchise—on three grounds: (1) Because in the opinion of the umpire the concession did not confer the exclusive right claimed by the company; (2) because Article XIV of the concession bars recovery before an international tribunal, even although the exclusive right claimed by the company existed, and even although Article XIV did not prevent the umpire from taking jurisdiction of the case, for by Article XIV the concessionary pledged himself not to submit any dispute or controversy which might arise with regard to the interpretation or execution of the contract to any but a Venezuelan tribunal; (3) because the transfer from the Orinoco Shipping & Trading Co. to the claimant had never been notified to the Government of Venezuela in accordance with the terms of Article XIII of the concession.

The second item in the claim of the company for 100,000 bolivars was rejected by the umpire, first upon the suggestion that it had not been satisfactorily proved that the sum claimed was then due, but principally upon two of the grounds already given for rejecting the company's principal claim in regard to the exclusive franchise, namely, on account of the provision of the contract binding the company to seek redress only in the local courts, and because the Venezuelan Government had not been notified of the transfer of the claim from the Orinoco Shipping & Trading Co. to the present claimant.

Of the various sums, amounting in all to \$147,638.79, which, grouped together, constitute the third item in the company's claim, the umpire allowed \$28,224.93 and disallowed the remainder. Of this amount about \$60,000 appear to have been disallowed for reasons going to the merits of the claim, and \$49,978.76, practically all the remainder, were disallowed upon the ground that the transactions upon which the claim for this sum was founded took place prior to the transfer from the Orinoco Shipping & Trading Co. to the claimant, and the transfer had never been properly notified to the Venezuelan Government.

The item of \$25,000 for counsel fees and expenses shared the fate of the greater portion of the company's claim and was disallowed.

It is a reexamination of this award before an impartial and competent tribunal that the claimant now asks.

To this reasonable request that the case of the Orinoco Steamship Co. be reopened and that the case be submitted in its entirety to an impartial and international reexamination, the Venezuelan Government sets up as a bar the fact that this decision of the American-Venezuelan Mixed Claims Commission is final, and that to reopen a decision of a court of arbitration would be to disregard the finality of such decision.

To this there is an obvious and very reasonable reply, namely, that a decree of a court of arbitration is only final provided the court acts within the terms of the protocol establishing the jurisdiction of the court, and that a disregard of such terms necessarily deprives the decision of any claim to finality. In this individual case the protocol specifically stated that "the commissioners, or, in case of their disagreement, the umpire, shall decide all claims upon a basis of absolute

equity, without regard to objections of a technical nature or of the provisions of local legislation."

The equity meant is clearly not local equity, that is, not necessarily the equity of the United States or the equity of Venezuela, but the spirit of justice applied to a concrete question irrespective of local statute, ordinance, or interpretation.

Attention has already been called to the expressed terms of the protocol defining the jurisdiction of the commission to be established thereunder, and it will be recalled that all claims owned by citizens of the United States against the Republic of Venezuela were to be submitted which had not been settled by diplomatic agreement or arbitration between the two Governments. It was, furthermore, stated in express terms that these claims so owned, unsettled, and outstanding should be "examined and decided" by the mixed commission to be appointed. Nevertheless, in express violation of the terms of the protocol, claims amounting in the aggregate to about \$70,000, partially for money loaned and admittedly due to the claimant company, partially for services rendered by the claimant's vessel to the Venezuelan Government and for damages for the detention of such vessel, were disallowed by the umpire.

To say that these claims should be rejected for lack of jurisdiction would be as was said by Ralston, umpire, in the Martini case (Ralston's Report, p. 841), "equivalent to claiming that not all * * * claims were referred to (the commission), but only such * * * claims as have been contracted about previously, and in this manner and to this extent only the protocol could be maintained," and it is equally vicious in law and equally disastrous in fact to the claimant to assume technical jurisdiction over the claim and then disallow it, evidently on its merits, because of the clause in question, as the umpire did. For this Government can never admit that a claim unpassed upon by a Venezuelan court is not a claim which it has a right to protect and enforce, and by protocol to submit to an international convention to the end that such claim in its entirety be passed upon, or to quote the exact language of the protocol, be "examined and decided" upon its merits irrespective of any contract or waiver which the holder of the claim may, in his private capacity, have made with the contracting Government.

And not only did the umpire, in disallowing these claims upon the ground of the Calvo clause, do violence to the terms of the protocol in the manner already stated, namely, by refusing to examine them on their merits, but also by disallowing these claims he violated the express provisions of the protocol that all claims submitted should be examined in the light of absolute equity "without regard to objections of a technical nature, or of the provisions of local legislation."

It is difficult to see how the umpire could more clearly have disregarded the plainest principles of justice and equity than to disallow the claims of the claimant upon the ground that it had violated the Calvo clause in seeking redress by international reclamation, when, admittedly, the defendant Government violated every provision of the contract by totally annulling it. To quote the language of the umpire, "in the face of absolute equity, the trick of making the same contract a chain for one party and a screw press for the other never can have success." (Ralston's Report, p. 21.) And it is doubly difficult to understand the reasoning by which one party to a contract

may violate all its terms by annulling it and yet refer to those very terms as existent and measuring the rights of the claimant seeking redress.

Again the umpire disregarded the express terms of the protocol above quoted when he gave as another reason for disallowing these same claims, amounting to about \$70,000, that either by the terms of the contract with the company or by provision of Venezuelan law it was necessary for the claimant to notify the Venezuelan Government, the other party to the contract and the debtor of the transfer of the claims in question from the Orinoco Shipping & Trading Co. to the Orinoco Steamship Co., for a clearer illustration could hardly be found of a stickling for technicalities and disregard of general equity than this ruling. Absolute equity in Anglo-Saxon countries does not require the creditor to notify the debtor of the transfer of a debt provided said transfer does not injuriously affect the rights of the debtor, and absolute equity does not mean the technical provision of the Venezuelan law or the technical requirements of the contract between the parties. Absolute equity assimilates knowledge to specific notice according to the requirements of local legislation. Of the transfer in question the Government had actual knowledge.

While this Government believes that such a disregard of the express terms of the protocol justifies a reopening and a resubmission of the entire case to an impartial tribunal there are other reasons which tend to discredit the judgment in its entirety.

The claimant always contended that the franchise granted by the Grell contract was an exclusive franchise to ply between a foreign port and Trinidad and to use at the same time the channels which were exclusively reserved to coastal trade. In other words, the company was to engage in foreign commerce, but was to possess at one and the same time the right to use certain channels which it would not have had the right to use but for the concession. While this would in itself have been a considerable advantage, the benefit of the contract, according to the claimant, consisted in the fact that the company was to possess the exclusive right to navigate, to trade with foreign ports, and yet to use the channels reserved to coastal trade, and that during the continuance of the concession to the company no like privilege would be extended to any competing company.

In the opinion of the umpire the exclusiveness was not a matter of law, but he overlooked the important and fundamental point that the company was to exercise exclusively the right and privilege specified in the concession until such time as the Venezuelan Government should fix certain points of transshipment and make the necessary installation. Supposing that the umpire was right in his construction of the contract, which is not admitted, that the exclusiveness claimed by the company did not exist in law, it necessarily follows that the exclusiveness existed in fact, and the company was therefore entitled to the exclusive right claimed until the Venezuelan Government divested that right by establishing points of transshipment and making the necessary installations. In other words, the fixing of these various points of transshipment and the establishing of the necessary installations were made a condition precedent to the

deprivation of any exclusive right which the company, as a matter of law or as a matter of fact, enjoyed.

The judgment of the umpire, therefore, disregarding these simple yet essential considerations is wholly unacceptable. He did, indeed, take jurisdiction, but the error committed was so gross and so palpable that this Government can not ask its citizens to accept this judgment as a finality.

Although these contentions have been called at various times to the attention of Venezuela and the request made courteously and with confidence that the claimant's case in its entirety be submitted to a reexamination before a competent and impartial tribunal, the Venezuelan Government has interposed curtly that "the decisions of the commissioners, and in the event of their disagreement, those of the umpire, shall be final and conclusive." At the very moment and almost in the same breath that Venezuela declared the finality of the judgments of the commission she has been busy protesting Belgian and Mexican awards, although the protocols under which these two commissions were established provided "the decisions of the commission, and in the event of their disagreement, those of the umpire, shall be final and conclusive." It would appear, therefore, to a disinterested person that judgments in favor of Venezuela are final and conclusive, but that judgments adverse to Venezuela are not final nor at all conclusive.

In this conflict between theory and practice this Government not unnaturally looks to the practice of Venezuela.

It is, however, apposite to call the attention of the Venezuelan Government to the fact that the United States has granted on various occasions the request that it now confidently makes; that the United States at the request of Mexico set aside an unjust arbitral award, and that as Venezuela may doubtless recall, at its express and distinct request the United States set aside the findings of the United States and Venezuela Commission of 1866 and appointed a new commission under a convention signed in 1888, whereby a saving resulted to Venezuela amounting in the aggregate, including interest, to nearly a million and a half dollars, as compared with the findings of the first commission.

In view, therefore, of the circumstances of the case and the express violations of the terms of the protocol, or errors in the final award, arising through gross errors of law and fact, and in the light of the history of both nations in the matter of arbitral awards, this Government insists upon and confidently expects a reopening and a resubmission of the entire case of the Orinoco Steamship Co. to an impartial and a competent tribunal.

4. The claim of the New York & Bermudez Co. against Venezuela is one of long standing in the department, and the details of the wrongs suffered by the unfortunate claimants are familiar alike to the diplomatic and judicial authorities of Venezuela. In order, however, that the facts of this case may be presented and the attitude of this Government justified, the origin, history, and present status of this case are set forth briefly and pointedly.

The company claims the ownership of an asphalt lake situated in the State of Bermudez by three separate and distinct titles, each one of which was lawfully acquired from the Venezuelan Government.

Venezuela has by judicial process canceled the first of these titles, and, as an incident to the cancellation of this one title, has taken possession, which it now retains, of the properties obtained under the second and third titles.

On September 15, 1883, one Horatio R. Hamilton, an American citizen, obtained from Guzman Blanco, President of Venezuela, for the period of 25 years, a concession or contract for the exclusive exploitation of asphalt and of the uncultivated lands in the State of Bermudez. The concession gave "the right to explore and exploit the natural products of the forests," consisting principally of woods and resins, "existing in the uncultivated lands of the State of Bermudez." Article 2 granted "the right to exploit the asphalt in the said State of Bermudez;" article 8 provided that during the period of 25 years "the Government will not grant any similar concession in the State of Bermudez to any other person;" article 10 provided that the contract could be transferred upon notice, and the contract specifically provided in article 9 that "in case of nonfulfillment of any of the stipulations expressed, this will annul the present contract ipso facto." In other words, the contract was a grant of the right to explore and exploit within the State of Bermudez during a period of 25 years, and that in case of failure to exercise this right, or to perform the conditions expressed in the concession, the contract was to be null and void.

To this contract there was afterwards, on October 19, 1883, appended an additional article, known as the "first additional article," which imposed duties upon dyewoods or building woods which the concessionary, Hamilton, may exploit or export.

On June 5, 1884, the Hamilton contract and the additional article were approved by the Federal Congress, and the concession and its supplement were published in the Official Gazette July 21, 1884, thereby acquiring the force and effect of law.

On May 30, 1884, a so-called "second additional article" was entered into between Hamilton and the minister of fomento, by which the concessionary "bound himself to channel for exportation and importation one or more of the rivers of the State of Bermudez." In case Hamilton canalized according to the terms of the article he was to enjoy the exclusive right of navigation on the rivers that he may channel, and was to collect a tax for navigation thereof. It appears that the parties had in contemplation the construction of a railroad, and the last clause of this second additional article provides that "he will have the same rights in case of his constructing a railroad," from which it will appear that Hamilton did not bind himself to construct a railroad, but that should he do so he was to enjoy certain rights and privileges which otherwise would not be his.

It is important to note that this second additional article was not attached to the contract when the latter received the approval of Congress, and that the second additional article has never been approved by the Congress of Venezuela. In other words, the second additional article was a separate and distinct contract; that it had no connection with the first contract or the first additional article; that it was merely a contract between the same Hamilton and the Venezuelan authorities; separate and distinct in its origin, it has remained separate and distinct; it was based upon a separate and distinct con-

sideration; it therefore rose and fell by itself. It is difficult to see how a performance of this second additional article could affect favorably the Hamilton concession. It is also difficult to understand how a failure to comply with the conditions of the article could in any way invalidate or concern a previously existing contract, separate and distinct in its origin, and which had no necessary relation to or connection with the original concession.

On October 24, 1885, the New York & Bermudez Co. was incorporated under the laws of New York, and on November 6, 1885, Hamilton assigned his contract to them, including the additional articles.

This assignment was approved by the Venezuelan Government December 9, 1885. By these various transactions the New York & Bermudez Co. succeeded to all the rights in the Hamilton concession and its supplements. The New York & Bermudez Co., however, was unwilling to rest its right to exploit asphalt under the Hamilton concession. Its secretary made application, in 1888, to obtain a mining title to the asphalt deposit, and in conformity with the law of mines then existing, the secretary obtained a title from the President of the Republic and the Federal council on December 5, 1888. Two days later a definitive deed was executed to the property involved in the concession, which was to run for a period of 99 years, and on August 1, 1893, the secretary of the company and his wife made an assignment to the company of the title, which had been acquired originally and solely for the company's benefit.

But the company did not rest here in its endeavors to obtain a perfect title to the property in question. On October 8, 1888, the secretary, in the name of the company, applied for a title to the "wild lands that comprise the mines already mentioned for the use of exploitation work." On December 14, 1888, a final deed was granted to the lands "in favor of the New York & Bermudez Co."

It is evident, therefore, that the company asserts its right to the asphalt lake by three separate and distinct titles: First, the Hamilton concession, giving it the exclusive right to exploit asphalt in the State of Bermudez for 25 years from September 15, 1883; secondly, the right to exploit the asphalt lake for 99 years from December 14, 1888, under the mining title; and, thirdly, under the wild-lands title the fee simple to the land surrounding and covered by the lake.

It is unnecessary to state in detail the various interruptions to which this company was subjected. Suffice it to say that on January 4, 1898, without any notice to the company or any judicial proceeding, President Crespo annulled, by executive decree, the Hamilton concession. As national (Aug. 23, 1898) and international courts (the American-Venezuelan Mixed Commission under the protocol of Feb. 17, 1903) have decided that a validly granted concession can not be annulled by executive decree, it is unnecessary to discuss the various attempts to carve out from the company's property the mines known, respectively, as the "Venezuela" and the "Felicidad," because if title was in the Bermudez Co., it could not be in the claimants of the "Venezuela" and the "Felicidad" at one and the same time. This was also the view of the high Federal court which decided in January, 1904, that a suit brought by the claimants of the alleged Felicidad mine possessed no title to the property in question

because it was wholly included within the Hamilton concession, which concession, notwithstanding executive interference, was still valid and subsisting.

It thereupon occurred, it would seem, to the Venezuelan authorities, that no act of unquestioned validity could be taken against the New York & Bermudez Co. while the Hamilton title was outstanding and valid. On July 20, 1904, the attorney general of Venezuela therefore instituted proceedings in the high Federal court for the cancellation of the Hamilton contract and the sequestration of the property. The grounds for this cancellation, simply expressed, was nonuser, for, although the concession had been in existence for 21 years, the company had restricted itself, according to the attorney general, solely and exclusively to the exploitation of the Bermudez asphalt lake, thereby neglecting to fulfill the other obligations of the contract, in consequence whereof the exploitation of the natural products of the State of Bermudez, other than asphalt, had remained stationary for upward of 20 years. The exploitation of asphalt had been conducted, it was said, upon so small a scale that the returns to the Government had been ludicrously small. It may be said, in passing, that the company received little or no encouragement to mine asphalt when Venezuela had parceled out portions of its property to other claimants. And finally it was alleged that the company had not canalized any of the rivers in the State, which was a breach of the contract. The attorney general therefore brought suit for the dissolution of the contract and for the recovery of damages incurred by reason of the company's failure to execute the contract "according to the just findings of appraisers and calculated in accordance with the basis established by the first additional article."

It can not well escape notice that the first additional article laid a duty upon dyewoods and building woods which the company might export, and that asphalt found no place in the first additional article. It is also a matter of record that the right or duty to canalize arose by the second additional article which never was an integral part of the contract, and which never received the approval or ratification of the Venezuelan Congress. Asphalt is not mentioned. It also will be borne in mind that the second additional article gave an exclusive right of navigation on the rivers that Hamilton might channel. As the Venezuelan Government disregarded the exclusiveness of the article, it is difficult to see how the breach of this condition, subsequent to the breach of its express terms by the Venezuelan Government, could give the Government any right of action against the Hamilton concession, even supposing that the second additional article was, as it was not, a constituent part of the Hamilton concession.

While it would serve no useful purpose to detail these proceedings at length, it is necessary to consider the sequestration proceedings and the main suit by which the Hamilton concession was annulled. It seems to have been a matter of great importance to the Venezuelan Government to obtain possession of the asphalt lake before the Hamilton concession could have been canceled by decree of a court of justice. Why the possession of the lake was so urgent pending proceedings does not appear, but the Government decided that its possession was essential. Therefore the Hamilton possession was considered by the attorney general as a lease, although there was

no rental of any kind reserved, and although the characteristics of the concession point to a grant rather than to the relation of landlord and tenant. However that may be, the court construed the concession to be a lease, and under article 373 of the code of civil procedure sequestration of the property was decreed. Reliance was placed on section 7 of article 373, which would seem to the disinterested to apply solely to the case of a lease, not a grant. The exact wording of this section follows:

Sequestration may be decreed:

7th. Of the property leased, if the defendant is sued for default in payment of rental; on account of the property becoming deteriorated; or on account of having failed to make improvements to which he is bound by the contract; provided any of the circumstances be proved in the manner indicated in article 368.

It is not easy to understand how this section could be made the basis of sequestration proceedings, because, supposing, which is not admitted, that the grant was a lease, the defendant was not sued for default in the payment of rental, because no rental was reserved. The property was not deteriorated, because the property was in its natural state, and it is not the nature of trees and rivers to deteriorate. The company did not fail to make improvements to which it was bound by the contract, because no improvements are specified in the original concession, and canalization appears solely in the second additional article, which was not a part of the Hamilton concession. If it be supposed, which can not be admitted, that the additional article, unratified by the Congress, was a part of the original Hamilton concession, a sufficient answer to the claim of the Government is found in the fact that Venezuela disregarded the terms of the additional article in granting to others what was exclusively reserved to Hamilton by the exact terms of the second additional article. The attorney general placed great reliance upon the failure to make improvements as a basis for the sequestration proceedings, the only basis which would seem to support such proceedings in law, although in fact, as is shown, no cause existed.

Article 368 of the code of civil procedure is referred to as giving the court the right, upon request of any of the parties, to appoint a sequestrator pending the trial of the cause of action. There are three conditions mentioned when such sequestrator may be appointed: First, when necessary to prevent the alienation of the subject-matter of the suit, and it does not appear that the Bermudez Co. sought to alienate, but rather to retain, the subject-matter. Second, the judge may grant sequestration of determinate properties. It is true that the properties here were determinate, but they were not leased properties; they were properties held under a grant of land and mining titles, not under the Hamilton concession, for under the Hamilton concession the rights of enjoyment were indeterminate, not determinate. No importance, however, is attached to this section, because the right of sequestration would seem to exist, if at all, under article 373 previously quoted. Third, the judge may require deposit of security, and, in default thereof, order the attachment of sufficient property. The court never demanded security from the company before issuing an order. Indeed, the motion for the appointment of a sequestrator in alleged accordance with articles 373 and 368 was made in the absence of the company's agent without his knowledge, and the order appointing the sequestrator was made and sought to

be executed before the company knew of the pendency of the motion. Comment upon *ex parte* proceedings of this nature involving all the property of the New York & Bermudez Co. is unnecessary; and no comment is necessary or required upon the appointment, without opportunity to object and without bond, of the bitterest enemy and business rival of the company, Mr. A. H. Carner, as sequestrator. It should not be omitted, however, to mention that the sequestrator was placed in possession of the property sequestered by a show of force. From which it will appear that the Government asserted a right to which it was not entitled, that it made the order without notice to the defendant, and executed the writ with armed force. It is a matter of common knowledge that the sequestrator is still in possession of the property sequestered, that he works the mines of the New York & Bermudez Co. without responsibility to them, and without the duty to account.

However important the sequestration proceedings were, and however unjustified they may be in law or in fact, they were but an incident in the case. The purpose of the suit as originally instituted by the attorney general was to obtain the cancellation of the Hamilton concession, and damages for the breach of the concession. It would serve no useful purpose to relate in detail the proceedings in the court, because such proceedings are a matter of record and the original documents are in the possession of the Venezuelan Government. It is sufficient to note that the Hamilton concession was canceled August 7, 1905, by the decision of the federal and cassation court, the court of last resort of Venezuela.

An examination of the proceedings shows that the Hamilton concession was canceled for nonuser. It was not and could not be canceled for nonexploitation of the asphalt, because the gravamen of the charge was that the New York & Bermudez Co. had restricted itself solely to the exploitation of asphalt. The reason for the cancellation is to be found elsewhere, namely, the failure during a period of 20 years to exploit the natural products of the territory included within the concession. It will be observed that the grounds relied upon appear in the first and the second additional articles. The first additional article gave the company the right to cut and exploit or export dyewoods and building woods upon payment to the Government of certain specified sums. It is admitted that the company did not continuously devote itself to cutting dyewoods or building woods. The chief grievance, however, of the Venezuelan Government consisted in the fact that the rivers were not canalized, as they might have been under the second additional article.

It is stated without hesitation and with great insistence that the second additional article was neither in law nor fact a part of the original Hamilton concession, and it is a matter of fact that it was never ratified by the Congress as a part of the concession. If it were a subsisting and valid agreement, it was an independent agreement subject to be annulled or set aside in a separate and proper proceeding. But it further appears that the Venezuelan Government disregarded the terms of this second additional article in violating the exclusive rights of navigation granted to Hamilton by granting to one Pinelli, in 1887, a concession of certain navigating privileges included within the territory set aside to Hamilton by the second additional article. This was an express repudiation of the second additional article, and

it is difficult to see how a government can repudiate a contract and at the same time make its repudiation a basis for assessing damages upon the concessionary. It is impossible to comprehend how the failure to improve or to canalize a river when the right to do so was expressly annulled by the Government could be made the basis of sequestration proceedings as previously stated, when Hamilton's original concession was not a lease, when the second additional article was not a part of that instrument even supposing it to be a lease, and when the repudiation of the second additional article by the Venezuelan Government destroyed the life of that article.

Supposing that the Hamilton concession was properly canceled, the Government seeks damages for its breach, and finds the measure of damages contained in the first additional article. A careful reading of that article shows that it related merely to the exploitation and exportation of dyewoods and building woods. It did not refer to the right to enjoy and exploit the other natural resources specified in the concession. It is difficult to see how a clause which specified the duties which the concessionary was to pay to the Government for cutting and exporting certain woods can be made the basis of damages for not doing so; for it is evident that the company would have to pay the Government the sum specified upon cutting and exploiting; if the company did not cut the woods in question there was nothing to pay. There was clearly no damage to the Government and there was no damage to the wood, for it still continued standing and might be made the subject of subsequent grant. But if a measure of damages is necessary where no damage has been suffered, it is found in article 9 of the concession rather than in the first additional article. Article 9 specifically provides that "in case of nonfulfillment of any of the stipulations herein expressed this will annul the present contract ipso facto." In other words, the violation of the contract carried its own penalty with it, namely, forfeiture. In view of these circumstances it is unnecessary to discuss further the question of damages.

Again, supposing that the Hamilton concession was properly canceled, it follows that only the interest was or could be affected by the decree of cancellation which Hamilton and the company and his assignee held in the asphalt lake by virtue of the Hamilton concession of September 15, 1883. As, however, the company held the lake by a separate and distinct mining title, the validity of which has never been questioned, and inasmuch as the company held the lands surrounding and covered by the lake in fee by virtue of a wild-lands title, which likewise has never been questioned, it would seem that the company possesses at this very moment the right in law to exploit, manufacture, and export asphalt from its property by virtue of these two unimpeached, unquestioned, validly existing titles.

This fact was admitted by the attorney general in argument before the court. The court was aware of the existence of these titles, for they are a matter of public record and they are published in the Official Gazette. The attorney for the defendant company stated in open court the existence of these titles and that the very existence of them was and must of necessity be a bar to the forfeiture of the property granted by these titles. The attorney general stated that these titles were not then in litigation, because he was proceeding against the Hamilton concession, not against the land and mining titles.

It would appear, therefore, that the cancellation of the Hamilton concession, improperly called a lease, has been made the pretext to obtain possession of the asphalt lake, the title to which is in the company not by virtue of the Hamilton concession, because that was a right of enjoyment for the limited period of 25 years, but by virtue of the mining title and the title in fee to the lands covered by the lake.

In view, therefore, of these facts and circumstances, set forth briefly, but in sufficient detail, the seizure of the property belonging to the company by unquestioned and subsisting titles is a harsh and unjust deprivation of property, and the continued possession and exploitation of these mines by a sequestrator or by any person other than the lawfully authorized agent of the company is a daily and growing grievance. As the company has failed to obtain the protection of courts of justice, and as the company continues to be deprived of its property, this Government feels itself constrained to protest firmly but courteously through diplomatic channels against the continuance of a wrong perpetrated by the abuse of judicial process. This is not the first time that this matter has been called diplomatically to the attention of the Venezuelan Government; but inasmuch as the repeated requests of this Government have failed to restore the company to its just rights, the Government again calls attention to a state of affairs which should not and can not be permitted to exist.

While this Government is sure of its position and states that a grave injustice has been done the company, still this Government is willing to submit the entire case upon its merits to an impartial and competent tribunal in order that the rights of the company may be ascertained and its wrongs redressed by the judgment of others than parties to the issue. This Government, therefore, requests an international arbitration of the case of the New York & Bermudez Co. against Venezuela.

5. The Government of Venezuela is also familiar with the claim of the United States & Venezuela Co., commonly known as the Crichfield claim, and, being familiar with the case, the Venezuelan Government will not need to be informed that the actions of the Government have so seriously interfered with the peaceable and profitable operation of the mine and the railroad that the company has for some time past abandoned all work.

The essential facts of the case, briefly stated, are, that Gen. Castro, on June 18, 1900, granted to one Guzman a concession and definitive title to the asphalt mine called Inciarte, located some 70 miles west of the city of Maracaibo; that Dr. Guzman, on February 5, 1901, sold the mine for \$25,000 to one George W. Crichfield, a citizen of the United States, who was acting as the agent of a syndicate composed of American citizens, afterwards incorporated, June 12, 1901, in New Jersey, under the name of the United States & Venezuela Co., for the express purpose of operating the concession. All formalities required by the law were complied with; the sale was recorded on the date thereof in the public registry at Maracaibo; later, on March 22, 1901, the sale was also placed on record in the ministry of fomento, and on February 25, 1902, the concession was validated by the Congress of the United States of Venezuela. It will be remembered that at the period of the concession Gen. Castro was provisional president of the Republic; that Congress was not in session, and that upon the

assembling of Congress the provisional president presented to it an account of his labor, political and administrative. A vote of confidence was immediately passed, and all that which the President had done during the provisional presidency was expressly ratified, as appears from the language of the resolution of Congress:

The Congress of the United States of Venezuela, having examined scrupulously the message which has been sent by Citizen General Cipriano Castro, provisional president of the Republic, giving an account of his labor, political and administrative, agrees:

First. To give our approbation to all of the acts executed by the Citizen General Cipriano Castro during the period in which he has exercised the provisional presidency of the Republic.

As this weighty approbation and ratification of the acts of the President is a matter of public record, it need not be further referred to.

It should be stated, however, that Crichfield did not obligate himself to take title to the mine and to pay the purchase money, except upon certain condition, namely, that the Venezuelan Government grant to Crichfield a concession for the building and operation of a railroad; and it further appears that President Castro was advised that the consummation of the purchase of the mine was conditioned upon the grant of the right to construct the railroad. It also appears that the railway concession was granted by President Castro through his authorized agent, the Venezuelan minister of public works, on April 20, 1901.

There were certain important and fundamental conditions specified in this contract: First, that the grantee was to enjoy immunity from all national taxes or contributions, with the exception of certain stamp fees and mining dues; secondly, that the grantee was exempted from all import duties on the material, etc., required in the construction of the railroad, the operation of the mines, and in refining and transporting the products of the mines; third, the construction of the railroad was to begin within six months from the date of the concession and was to be completed within one year after commencement; fourth, the concession was for the period of 50 years, at the expiration of which the railroad, with rolling stock and all other appurtenances, was to be turned over in good condition to the Government.

The United States & Venezuela Co. became domiciled in Venezuela on August 1, 1901, and on January 2, 1902, Crichfield transferred to it the railroad concession and mine, said transfer being approved by the Venezuelan Government on January 30, 1902.

From this brief statement of the origin and terms of the concession it appears that the claimant did not receive a gratuity; that he gave value for the property acquired; that he undertook to construct a railroad to connect the mine with the port, a work of great difficulty owing to the physical conditions of the country, and that he bound himself to deliver the railroad in good condition at the expiration of 50 years to the Venezuelan Government. The advantage expected by Crichfield was not to be retained by him solely, for Venezuela was to receive the benefit of the investments and in the course of time was to become the owner in fee of a railroad. And it should be stated in this connection that the claimant has, under this concession, expended about \$600,000 in gold, has canalized the rivers and made them navigable, cleared the forests, constructed and operated the

railroad, and has built and put in operation a large mining and refining plant, furnishing steady employment to about 1,000 Venezuelans.

While the company did not anticipate any of the difficulties which have since arisen, it sought, by a careful and precise statement of the rights and privileges it was to enjoy and the duties it undertook to perform, to avoid future complications which might otherwise result from an honest difference of opinion as to the nature and extent of these rights, privileges, and duties. For this purpose it was expressly stipulated in Article XII of the concession that—

Neither this enterprise nor the products of its mines can be burdened with any kind of national taxes or contributions, except those levied by the department of public instruction and the dues prescribed by the *now existing law* relating to mines.

This statement of the rights and obligations would seem to need no interpretation. As no dispute has arisen concerning the stamp fees, it is unnecessary to do more than mention the provision, and it has never been claimed that any of the new taxes imposed since the date of the concession have been stamp fees.

To measure the rights and obligations of the parties under this concession, it is only necessary to consult the mining law of 1901, which was in force at the time of the concession. Under that law the only tax was a hectare tax amounting to 10 cents per annum for each hectare of the area of the mine, which in the case of the company's mine Inciarte, a mine of 300 hectares, amounted to a gross annual tax of \$30. It would seem, therefore, that upon the payment of this nominal tax of \$30 per annum the company was exempt from further payments of any kind to the Venezuelan Government. Such was the understanding of the company; such should have been the understanding of the Venezuelan Government, because it drew up the concession and is supposed to know the import of the terms used. It is proper to mention in passing that the claimant contends, and always has contended, that he would not have bought the concession and expended money upon the faith of it had the exemption from future increased taxation not been expressly stated in the concession.

Notwithstanding this solemn exemption, the Venezuelan Government has proceeded to impose additional taxes upon the company by extending to it the provisions of laws subsequently enacted. On January 23, 1904, a new mining code of Venezuela was passed, whereby the company's taxes were increased in the following ways: First, the hectare tax of 10 cents a hectare was increased fourfold, thus imposing a new tax of \$120 per annum instead of the tax of \$30, the tax specified in the concession; second, a tax of 3 per cent on the gross product of the mine was imposed, which, under the valuation of \$20 a ton fixed for refining asphalt, amounted to a tax of 60 cents per ton on the products of the mine; third, by executive decree relating to mines, issued January 21, 1904, further taxes were imposed as follows: Four bolivars, or 80 cents, per ton, as export dues on each ton of asphalt exported; fourth, a minimum tax of 25 per cent of the net products of the exploitation of the mine.

Shortly after the passage of this new code the Venezuelan Government proceeded to enforce these various provisions, except the tax of 25 per cent upon the net product of the mine; and, moreover, in further violation of the terms of the concession the Government pro-

ceeded to impose the regular import taxes of the country on certain bags and other articles imported by the company for use in connection with its mine and railroad in packing and shipping asphalt.

The net result of the various taxes imposed is \$120 a year hectare tax, and \$1.40 tax per ton on each ton of refined asphalt exported, and the regular import taxes of the country upon all goods imported in connection with the operation of the concessions.

The company has contested and does contest the right of the Venezuelan Government to tax them, and a reference to the language of Article XII of the concession justifies, in the opinion of this Government, the contention of the claimant.

It is suggested that the company should seek redress for its grievances, if any it has, in the courts of Venezuela, and attention is called to the Calvo clause, which is supposed to preclude diplomatic intervention; but this Government fails to understand how a country can take advantage of a clause in a contract when it denies the existence of the very contract in which the clause is supposed to be found, nor can this Government concede the right of its citizens to waive or contract away the right of the United States to intervent diplomatically in a proper case.

The invitation to litigate its rights in a court of justice when the rights are stated and safeguarded in the concession as strongly as language can safeguard or state any right or privilege is an invitation to delay operations, to waste the company's resources in the costs of litigation without any guaranty that the decision of the court when rendered will be accepted as binding upon the executive, should it fail to support the contention of the executive. Reference has been made in the case of the Orinoco Corporation, in which it will be remembered that an international tribunal and the law courts of Venezuela denied the power of the executive to annul a contract ratified by the Venezuelan Congress, and yet, notwithstanding the existence of this international and national decree, the Federal executive has repeatedly granted away property of the Orinoco Corporation under its concession as if the judgments of the international and national courts denying the right of the executive were nonexistent. Under these circumstances this Government can not advise its citizens to litigate a question when it appears that the judgments rendered in cases in which its citizens were claimants had been repeatedly and systematically disregarded.

The United States, therefore, must insist either that the Venezuelan Government withdraw its opposition to the right of the claimant to perform his contract in accordance with the terms of the concession, or that the question be submitted to an impartial and competent tribunal in which the rights of the company may be adjudicated and damages assessed.

The several cases in regard to which the Government of the United States now finds itself constrained to seek due remedy and redress being thus set forth in all needful detail, you are instructed to bring these several causes of complaint to the immediate and serious attention of the Venezuelan Government and to insist that the Government to which you are accredited shall give to each and every demand herein set forth immediate consideration.

You will deliver a copy of this instruction to the Venezuelan minister for foreign affairs.

I am, etc.,

ELIHU ROOT.

Minister Russell to the Secretary of State.

No. 186.]

AMERICAN LEGATION,
Caracas, April 7, 1907.

SIR: I have the honor to inform you that I have presented to the Venezuelan Government the five cases in which American citizens claim redress, in accordance with your instructions of February 28. Your instructions were sent here a week before my departure from Washington, and were held pending my arrival. I inclose you herewith a copy of my note to the foreign office in presenting these cases, and a copy and translation of the answer from the minister for foreign affairs.

I have had several interviews with Dr. Paul since I sent my note, and he assures me that he intends to study very carefully all the cases as they are now presented in your instructions to me, a copy of which was inclosed with my note, and that there will be no undue delay in his answer.

I am, etc.,

WILLIAM W. RUSSELL.

[Inclosure 1.]

*Minister Russell to the Minister for Foreign Affairs.*AMERICAN LEGATION,
Caracas, March 30, 1907.

SIR: In accordance with instructions from my Government I am directed to bring to the attention of the Venezuelan Government the five pending cases in which American citizens claim redress, and to ask for the serious and immediate consideration of these cases as presented in the inclosed copy of instructions to me.

My Government has devoted a considerable length of time to a very serious and careful reexamination of all these cases, and in the new and fuller light in which they are now again presented your excellency can not fail to take that favorable action in each case that is expected by my Government.

I take, etc.,

W. W. RUSSELL.

[Inclosure 2.—Translation.]

*The Minister for Foreign Affairs to Minister Russell.*UNITED STATES OF VENEZUELA,
MINISTRY OF FOREIGN AFFAIRS,
Caracas, April 6, 1907.

SIR: I have received your excellency's note of the 30th of last month, in which you inform me that your Government has instructed you to call the attention of the Government of Venezuela to five special cases in which American citizens claim redress, and to ask from this Government an immediate consideration of said cases as presented in a communication to your excellency from his excellency, Elihu Root, Secretary of State, dated the 28th of last February, and a copy of which, consisting of 50 pages of typewritten English, accompanied your excellency's note.

Your excellency observes that your Government has devoted considerable time to a very serious and careful reexamination of all these cases, and that in the new and fuller light in which they are now again presented I can not fail to take the favorable action in each case that your Government expects.

From a cursory examination I have made at first view of the five cases referred to in your excellency's note, and in that of his excellency the Secretary of State, I have noted that for the first time are presented for the study and consideration of my Government the arguments in the two claims called

"Orinoco Corporation" and "Crichfield," and there is no former communication concerning them on record in this ministry.

In regard to the other three cases—"Jaurett," "Orinoco Steamship Co." and "New York & Bermudez Co."—which your excellency mentions as having been reexamined by the Government of the United States, devoting for this purpose considerable time in order to present them, as it is now done, in a new and fuller light, I must call your excellency's attention to a fact very worthy to be taken into consideration, viz, that from the end of 1904 until March, 1905, these same three claims were actively pressed by your excellency's predecessor, Mr. Herbert W. Bowen, the Government of Venezuela contending that the decisions in said cases were in conformity to principles that safeguarded the sovereignty and independence of the courts of justice of the Republic, to the exercise of its rights as a nation, and to the strict observance of international obligations of mixed commissions whose decisions it was agreed should be definite and inappealable.

This diplomatic discussion ended March 23, 1905, when answer was made from this ministry to the note of the 19th of the same month and year from your excellency's predecessor, Mr. Herbert W. Bowen, who presented with his note a copy of instructions from his excellency Mr. John Hay, then Secretary of State of your excellency's Government.

Since the above-mentioned date, March 23, 1905, my Government had received no declaration on the part of that of your excellency to indicate its purpose to insist on said claims as included in the inclosure with your excellency's note, and for that reason it was considered that diplomatic discussion in regard to them was fundamentally closed.

Since the Government of the United States has presented these claims again, and as your excellency states in a new and fuller light, my Government proposes to consider carefully the new phase of the aforesaid three cases, and the grounds on which the Government of your excellency relies to introduce the other two cases—that of the Orinoco Corporation and that of Crichfield.

As soon as this ministry can acquaint itself fully with all the antecedents in the cases and with all the voluminous mass of documents which it must examine I will hasten to transmit a reply to your excellency.

I avail, etc.,

J. DE J. PAUL.

Minister Russell to the Secretary of State.

No. 188.]

AMERICAN LEGATION,
Caracas, April 28, 1907.

SIR: Referring to your unnumbered instructions of February 28, 1907 (no file number to refer to), in regard to the five pending cases in which American citizens are claiming redress from the Government of Venezuela, I have the honor to inclose herewith a translation of the note of the foreign minister in answer to my communication transmitting a copy of your instructions to me. A copy and translation of the memorandum of the President is also inclosed.

In this connection I have to inform you that the foreign minister has stated to me that the Venezuelan Government is still disposed to endeavor to come to some amicable arrangement in regard to the Critchfield case, and will consider a proposition from the United States & Venezuela Co. for a new contract. I respectfully request instructions as to whether I am now authorized to submit for the consideration of this Government the proposed contract drawn up by Mr. R. Floyd Clarke, attorney for the United States & Venezuela Co., which contract was handed to me by the Solicitor for the Department of State last winter, and is indorsed on the back as follows:

Index Bureau, Department of State. January 31, 1907. 1948/3.

In submitting the proposal for a new contract I understand it is without prejudice to the interests of the company as outlined in your letter of instructions to me.

I am, etc.,

WILLIAM W. RUSSELL.

[Inclosure.—Translation.]

The Minister for Foreign Affairs to Minister Russell.

No. 385.]

MINISTRY OF FOREIGN AFFAIRS OF THE
UNITED STATES OF VENEZUELA,
Caracas, April 23, 1907.

SIR: In answer to your excellency's note of the 30th of last month, and to the memorandum which accompanied it, I am instructed by the constitutional President of the Republic to send to your excellency the inclosed memorandum, which your excellency will please forward to your Government.

I avail, etc.,

J. DE J. PAUL.

[Subinclosure.—Translation.]

Memorandum.

It is the rule of the Government of Venezuela, in matters which it is obliged to treat with the governments of other countries, to confine its statements only to principal points, thus facilitating clearness and concision.

In the memorandum presented by his excellency Mr. W. W. Russell, which accompanied his note of March 30 last, there will be found five points, or, rather, five cases, which cover the questions presented in the aforesaid memorandum. They are as follows:

No. 1. Claim of Mr. Jaurett.

No. 2. Claim of the Manoa Co. (Ltd.), Orinoco Co. (Ltd.), and Orinoco Corporation.

No. 3. Claim of the Orinoco Steamship Co.

No. 4. Claim of the New York & Bermudez Co.

No. 5. Crichfield claim.

In regard to the first point, the Government of Venezuela observes that the explanations requested by the Government of the United States were duly given and in quite and explicit note, but now it can be added that it was a matter of publicity and notoriety, the pernicious and malevolent conduct of the foreigner Jaurett against the country which had afforded him hospitality and against the Government which had even shown him favors.

It is universally known that Jaurett, during the last revolution which devastated Venezuela, was sending by cable directly, or through Curacao or Trinidad and in any way in which he was able, entirely false and alarming news for the purpose of producing a sensation in the press of the United States, all of which may be reviewed to prove the truth of this assertion. The Government of the United States found the expulsion of Mr. Jaurett so right and just, in view of his bad conduct, that at that time it closed the affair without Mr. Jaurett taking any personal action against the Government of Venezuela, endeavoring only from the very first to influence diplomatic action against the Republic.

In regard to the second, third, and fourth points the Government of the United States knows very well that the questions which they involve are questions which have already been adjudicated ("*Cosa juzgada*"), and that the revision proposed in the memorandum of the verdicts of the Venezuelan-American Mixed Commission, in two of those questions, even though said verdicts were definitely favorable to Venezuela by reason of the right which she had on her side, there would be no reason then why all the rest of the verdicts of the mixed commissions *against* Venezuela should not be revised; verdicts claimed by her in several cases to be contrary to law.

The Manoa Co. (Ltd.), according to a declaration of the Venezuelan-American Mixed Commission, should have recognized, in the matter of the resolution of its contract with the Government of Venezuela, the sentence which the tribunals of the Republic should render in that matter, and if there was any negotiation to be carried on in that suit, it should have been done by the representative or lawyer of said company before the usual and competent tribunals having cognizance of the affair.

The claims of the Orinoco Steamship Co. and the New York & Bermudez Co. are matters which have been adjudicated and closed in legal form, and in accordance with the procedure required in each case.

In regard to the fifth point referred to in the memorandum the Government of the United States ought to know also that the Crichfield contract was not approved by Congress, which approval at that time was an indispensable constitutional requisite for the validity of said contract. The Government of Venezuela, actuated only by a desire to come to a friendly understanding with Mr. Crichfield, drew up a new contract, satisfactory to both parties, as his excellency Mr. Russell well knows, which said new contract was the result of a private conference with the representative of Crichfield, and the Government of Venezuela has not been able to understand why Mr. Crichfield did not take up the matter again instead of leaving it in the state that it is now in.

The Secretary of State to Minister Russell.

No. 90.]

DEPARTMENT OF STATE,
Washington, June 21, 1907.

SIR: I have to acknowledge the receipt of your No. 188 of April 28 last, inclosing a note and a memorandum from the Venezuelan Government in regard to the five pending cases in which American citizens claim redress from the Venezuelan Government.

The department regrets to find in the position assumed by Venezuela a complete absence of anything responsive to the propositions contained in its instruction to you of February 23 last, looking to an amicable adjustment of these controversies by means of international arbitration. That instruction, prepared only after a most exhaustive examination into the merits of each of the controversies in question, directed you to bring these cases again to the attention of the Venezuelan Government, and to urge upon that Government the reasons existing in each case for favorable action, and to insist that each and every demand therein set forth should receive consideration.

The answer the Venezuelan Government makes to these demands practically refuses consideration. It is practically confined to a simple denial of the correctness of the attitude of this Government. The curt and contemptuous way in which it ignores or dismisses the serious and respectful representations of the United States produces a painful impression of indifference and disrespect. With the patience, however, which has characterized the actions of the Government of the United States in the past in all its relations to Venezuela, the department again instructs you to reiterate the views expressed in the instruction of February 23 last and to make the following brief reply to each of the points raised by the memorandum of Venezuela:

THE CLAIM OF A. F. JAURETT.

The answer of the Venezuelan minister of foreign affairs qualifies in general and unfavorable terms the conduct of Mr. Jaurett, but without bringing forward any specific facts which the department had not already most carefully investigated and considered, with the result that no justification appears to exist in point of law or fact for his expulsion. It should hardly be necessary to say that the mere characterization of Mr. Jaurett's conduct as bad, unsupported by facts specific and sufficient in point of law, does not satisfactorily meet the issues presented.

The Venezuelan Government's attention was called to the unnecessarily harsh manner and method of Mr. Jaurett's expulsion, involving the double grievance of personal humiliation and pecuniary loss. Moreover, attention was called to the fact that the summary and ignominious expulsion of Mr. Jaurett was in contravention of the fundamental law of Venezuela. As to these points no explanation or justification is offered.

The answer finally rests on a mistaken assumption of fact that "the Government of the United States found the expulsion of Mr. Jaurett so right and just, in view of his bad conduct, that at the time it closed the affair." From this assumption the United States Government is constrained to vigorously dissent.

There is an absence of any serious attempt on the part of the minister of foreign affairs to meet the arguments and authorities abundantly adduced in support of this claim. On the other hand, there is an assumption, at once erroneous and gratuitous, that the Government of the United States found the expulsion of Jaurett right and just and had abandoned the case. Both that which is said and that which is omitted in the Venezuelan reply seem clearly to indicate that the Government of Venezuela is without an adequate answer to the merits of the case and to afford additional proof of the justice of the claim.

THE QUESTION OF OPENING AWARDS.

The Government of Venezuela interposes the general objection to a consideration of the cases of the Manoa Corporation and its predecessors and the Orinoco Steamship Co., that these cases were passed upon by the American-Venezuelan Mixed Commission. The Venezuelan memorandum asserts that if these cases are to be examined, there is "no reason then why all the rest of the verdicts of the mixed commissions against Venezuela should not be revised; verdicts claimed by her in several cases to be contrary to law." To answer this objection it is only necessary to refer once more to the well-known fact suggested in the last clause of the Venezuelan answer just quoted, that the Venezuelan Government recognizes that there are certain well-defined grounds for impeaching and setting aside the decisions of arbitral tribunals, and that such action in these specific and exceptional cases in no way conflicts with the general obligation to maintain and perform such awards.

The Venezuelan minister of foreign affairs remarked in his report to the National Congress in 1904, referring to the awards of the mixed commissions of 1903:

The fact that Venezuela subscribed to the agreements to which I have referred, and that by virtue of said agreements the mixed commissions entered upon an examination of the claims of foreign subjects, did not impose upon the Government the duty of indiscriminately accepting the sentences they might render. * * * The character of a final decision can not always be conceded to arbitral decisions merely because they proceed from the persons appointed to constitute an arbitration commission.

The cause of arbitration would suffer severe injury if the principle should come to be accepted that all arbitral decisions must be carried out, whatever they may be. Publicists have already declared unanimously in favor of the right that governments have to seek the invalidation of certain sentences, and well known are the causes that neither opinion may lead to that recourse.

Accordingly, Venezuela has contested the award of the Belgian-Venezuelan Mixed Commission in the case of the General Co. of the Caracas Water Works and the award of the Venezuelan-Mexican Commission in the case of the claim of Messrs. Martinez del Rio Hermanos. Under these circumstances it would not appear that the contention of this Government that certain awards of the American-Venezuelan Commission should be reexamined, for definite and specific reasons, threatens the integrity of finality of the awards of the mixed commissions in general.

THE CASE OF THE ORINOCO CORPORATION ET AL.

This Government can not regard the Venezuelan answer to our proposition to arbitrate the claims of the Orinoco Corporation and its predecessors, the Manoa Co. (Ltd.) and the Orinoco Co (Ltd.), as satisfactory or sufficient. Many of the claims of the Orinoco Corporation had their origin in 1906, long subsequent to the American-Venezuelan Claims Commission of 1903, and none of them were presented to that or to any other tribunal for adjudication.

The action of the umpire of the American-Venezuelan Claims Commission in dismissing certain claims of the Manoa Co. and the Orinoco Co. which were presented to the commission can not be accepted as final, since the umpire, in looking to the language of the Fitzgerald contract rather than to the plain text of the protocol for a definition of the authority of the commission to examine and adjudicate the claims presented to it, decided that the clause of the contract providing that any controversies growing out of the contract should be submitted to the local courts prevented the commission from passing on the merits of the case.

It should be added in passing that in his purely obiter discussion of the status of the Fitzgerald contract the umpire overlooked the fact that some of the claims of the Manoa Co. and all of the claims of the Orinoco Co. which were presented to the commission arose subsequently to the promulgation of the executive resolution of June 18, 1895, which reinstated the Manoa Co. in all of its rights under the Fitzgerald contract, and, therefore, they could not have been invalidated by the failure of the Manoa Co. in 1884-85-86 to perform that contract, if such failure there had been, as the umpire supposed.

Such a decision, disregarding alike the terms of the protocol which gave rise to the commission and defined its jurisdiction, and the plain principles of justice and equity which should have guided its judgment even had there been no express provision to that effect, can not be regarded as a final or satisfactory disposition of these claims.

THE ORINOCO STEAMSHIP CO.

That the Government of Venezuela recognizes that the awards of arbitral commissions are not necessarily binding upon the parties, has already been remarked. That the decision in the case of the Orinoco Steamship Co. falls within the well-defined limits of the principles which justify a government in refusing to be bound by such a decision, has been pointed out in detail in the instruction of February 23, 1907, to the United States minister, which has been presented to the Government of Venezuela.

It has been shown that the decision of the umpire of the American-Venezuelan Commission of 1903, in this case, rested on such serious errors of law and fact, and manifested such a complete disregard as well of the terms of the protocol as of those principles of justice and equity common not only to international law but to the law of all civilized States, that the United States could not be expected to regard the decision as a finality. This well-considered and well-supported opinion has not been changed by the simple statement of the Government of Venezuela that the questions involved in this case "have already been adjudicated."

THE NEW YORK & BERMUDEZ CO.

The Venezuelan note says that the claims of the Orinoco Steamship Co. and the New York & Bermudez Co. are "matters which have been adjudicated and closed in legal form, and in accordance with the legal procedure required in each case."

Formerly when representations were made to the Venezuelan Government concerning the seizure of the property of the New York & Bermudez Co. that Government answered that it could not discuss the allegations made as to the irregular and arbitrary character of the seizure because the case was pending before the courts. But now, after the lapse of nearly three years, the ground is taken that the matter is not one to be discussed because it has been "adjudicated and closed in legal form." As the result of this second position the Venezuelan Government in effect declines to enter into any discussion of the subject at all. The proofs submitted by this Government of denial of justice, and its representations that the claimant's property rights have been taken away arbitrarily and in gross violation of Venezuelan law, have been passed over in utter silence.

It is, moreover, necessary to point out that the assertion that the case has been "adjudicated and closed in legal form" involves a strange misconstruction of the legal situation. Except for the decision of the federal and cassation court, rendered on August 7, 1905, declaring the Hamilton concession to be annulled, the company's legal rights, embracing its land and mining titles, stand judicially unassailed, save in so far as they were arbitrarily disregarded and violated in the ex parte order of sequestration under which the company's property was seized. It is also necessary to point out that even the proceeding for the annulment of the Hamilton concession has not been terminated, since no disposition has been made of the report of the appraisers appointed by the federal and cassation court to assess damages against the company in that suit. Although this report was filed on November 24, 1905, it still remains unacted upon.

In its instruction of February 23 last the department set out the claim of the New York & Bermudez Co. in sufficient detail to acquaint the Venezuelan Government with the specific wrongs complained of, for which a remedy was courteously asked. This Government then made earnest protest against the continuance in the case of this perversion of judicial process. In reply thereto no remedial action is promised, or is there even a recognition that the facts stated by this Government call for inquiry. Such a state of affairs constitutes a plain denial of justice and should not be permitted to exist.

CLAIM OF THE UNITED STATES & VENEZUELA CO.

In regard to the case of the United States & Venezuela Co., ordinarily known as the Crichfield case, the Venezuelan memorandum asserts that the Crichfield concession was not approved by the Nation Congress. This Government once more calls attention to the general resolution of the Venezuelan Congress, passed on the 25th of February, 1902, approving all the acts executed by the Citizen General Cipriano Castro "during the period in which he has exercised the provisional presidency of the republic."

Inasmuch as the Crichfield concession was granted by Gen. Castro during his provisional presidency, it would seem to have been approved and validated by the above resolution in case such approval by the legislative department is required by the constitution of Venezuela. This resolution was called to the attention of the Venezuelan Government in the department's instruction of February 23, The answer of the Venezuelan Government, however, is silent upon this point.

In regard to the statement in the Venezuelan reply that the Government of Venezuela has, through private conference, come to a friendly understanding with Mr. Crichfield, and is not able to understand why Mr. Crichfield does not "take up the matter again instead of leaving it in the state it is now in," this Government is constrained to reply that it does not understand that any arrangement has been reached which is satisfactory to the United States & Venezuela Co. On the contrary, it understands that having failed to reach a private settlement with the Government of Venezuela that company has notified the Government of Venezuela of its election to regard the action of that Government as amounting to a repudiation of the Crichfield contract, and that the company has therefore elected to rescind the said contract, and to claim from the Government of Venezuela all damages suffered by the company by reason of said repudiation, always providing that such election to rescind will become inoperative if the Government of Venezuela should elect to affirm and to comply with the terms of the original Crichfield concession.

Under these circumstances the Government of the United States is constrained to believe that the Crichfield concession was a valid and subsisting contract, duly ratified and binding upon the Government of Venezuela. That this contract has been improperly violated and repudiated by the Government of Venezuela, and that the United States & Venezuela Co., not having been able to agree upon any terms of settlement with the Government of Venezuela, has elected to regard the acts of that Government as a repudiation of the contract and to rescind the contract and claim damages for such repudiation unless the Government of Venezuela consents to acknowledge the validity of the original Crichfield concession and to comply with its terms.

This Government therefore instructs you to bring this case once more to the attention of the Venezuelan Government and to urge its immediate and careful consideration.

As to each and every one of the aforesaid cases, in case you shall not receive a prompt and favorable reply from the Government of Venezuela, you will expressly and formally propose to the Government of Venezuela that the claims against that Government in respect

thereof be submitted to arbitration before the permanent court of arbitration at The Hague, or, if Venezuela shall prefer, before a tribunal of three jurists not members of The Hague tribunal, to be selected in the usual manner.

I am, etc.,

ELIHU ROOT.

Minister Russell to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Willemstad, July 27, 1907.

(Received 1.55 p. m.)

Venezuelan Government answered to-day my note sent in compliance with your instructions of June 21 and says: "In the first place, the Government of Venezuela reiterates its position as stated in the memorandum which was addressed to you in answer to the one which you sent to this ministry on the 30th of March last, and proceeds now in order to more clearly show the right and justice of its position to make point by point various observations which it deems pertinent." Then follow 10 pages of the official statements amplifying justice and right assumed by Venezuela in its position in memorandum forwarded in my No. 188, of April 28. Shall I present formal proposition for arbitration as per instructions in your No. 90, of June 21, or do you wish me to wait until you see note which will leave here August 5?

RUSSELL.

Minister Russell to the Secretary of State.

No. 218.]

AMERICAN LEGATION,
Caracas, August 4, 1907.

SIR: In accordance with your instructions No. 90, of June 21, 1907, received here July 7, I have the honor to state that on July 9 I addressed a note to the Venezuelan Government in regard to the five pending cases in which American citizens claim redress, a copy of which is herewith inclosed (inclosure No. 1).

On July 24 I received an answer to my note, a copy of the Spanish text of which is herewith inclosed with translation (inclosures 2 and 3).

Although I considered this answer as unsatisfactory, yet there were some new statements in it that I thought the department might want to see, and I cabled to you on July 25, before making the formal proposition for arbitration at The Hague.

Touching the Crichfield case, the ministry for foreign affairs makes the statement that in an interview with the President I had agreed to "what was considered a satisfactory agreement." This is a misstatement. I had a conference with the President and the minister of fomento was present. At this conference there was shown me a copy of a proposed new contract which the President had ordered to be forwarded to the United States & Venezuela Co., and which he (the President) said he thought was entirely satisfactory, as he had granted all and even more than the company asked. I cabled this

interview on March 6, 1906, requesting information for the President as to the attitude of the Crichfield people in regard to the proposed new contract, and on March 15 the department replied: "We have been informed by the Crichfield Co. that Venezuelan proposition has not been accepted."

The statement as to Mr. Jaurett being private secretary to Mr. Bowen may have arisen from the fact that during the "Libertadora" revolution Mr. Bowen gave Mr. Jaurett a "safe conduct" as his private secretary for the purpose of obtaining information from the interior as to the progress of the revolution. With this "safe conduct" Mr. Jaurett accompanied me to Guanta and Barcelona on the U. S. cruiser *Cincinnati*.

I am, etc.,

WILLIAM W. RUSSELL.

[Inclosure 1.]

Minister Russell to the Minister for Foreign Affairs.

AMERICAN LEGATION, Caracas, July 9, 1907.

SIR: Referring to my communication of March 30, 1907, in which, in accordance with instructions, I brought to the attention of the Venezuelan Government the five pending cases in which American citizens claim redress, and asked for a serious and immediate consideration of those cases as presented in a copy of instructions to me, which I inclosed with my note, I have to say that my Government regrets to find in the position assumed by Venezuela, in its memorandum in reply, a complete absence of anything responsive to its proposition looking to an amicable adjustment of these controversies by means of international arbitration.

The answer the Venezuelan Government makes practically refuses consideration and is practically confined to a simple denial of the correctness of the attitude of the Government of the United States.

With that patience, however, which has characterized the actions of my Government in the past in all of its relations to Venezuela, I am again instructed to reiterate the views expressed in the copy of the instructions which accompanied my note of March 30, above referred to, and to make reply as follows to each of the points raised by the memorandum of Venezuela:¹

I am furthermore instructed to respectfully request your honor, in each and every one of the aforesaid cases, to favor me with a prompt reply, and I avail myself, etc.

WILLIAM W. RUSSELL.

[Inclosure 2.—Translation.]

The Minister for Foreign Affairs to Minister Russell.

No. 766.]

MINISTRY OF FOREIGN AFFAIRS,
Caracas, July 24, 1907.

SIR: I have the honor to acknowledge the receipt of your excellency's official note of July 9 of the current year.

My Government is quite surprised to see the somewhat uncordial phrases made use of in the note to which I refer, in judging of and qualifying the proceedings and resolutions of the executive power in the cases which your excellency mentions, phrases which are overlooked in answering your excellency's Government.

Upon a careful examination of the questions brought anew to the consideration of the Government of Venezuela, it will be found that the patience and discretion which the executive power has observed in said questions has been

¹This note from here on follows instruction No. 90, of June 21, p. 800.

very considerable, a procedure adopted purposely, in view of the desire of maintaining on the firmest footing the friendly relations which it has striven to cultivate with the Government of the United States.

In the first place, Mr. Minister, the Government of Venezuela reiterates its position as stated in the memorandum which was addressed to you in answer to the one which you sent to this ministry on the 30th of March last, and proceeds now, in order to more clearly show the right and justice which it has, to make, point by point, various declarations which it deems pertinent.

The Government of Venezuela can not but think that the Government of the United States forgets the data and antecedents which should deter it from giving its protection to the so-called Mr. Jaurett, who, a fugitive from France, his native country, and from the tribunals of justice of Mexico, seeks now to shield himself under the folds of the American flag, to attack a country to which said Government has repeatedly given assurance of friendly sentiment.

The more surprising is it, taking into account that the above-mentioned Jaurett, on fleeing from Mexico in the year 1896 for the crime of a fraud, came immediately to Venezuela, knowing, without doubt, that there was no extradition treaty with the Mexican Republic, and without having previously complied with the requisites for maintaining an uninterrupted residence of five years in the United States, as prescribed by the laws then in force in that country, and without which he could not have acquired at that time a true American nationality.

It is also very strange that the Government of the United States does not take into consideration the conduct of Mr. Jaurett in Venezuela during the whole of the revolution called "Libertadora," when, under salary from the New York & Bermudez Co., this latter being the agent and principal accomplice in said revolution, he availed himself of the cable to send news to the Associated Press and important newspapers of the United States, by way of Curaçao, thus causing to be circulated alarming and even calumniating news against the constituted Government.

Your excellency's note makes a great point of the fact that the constitution of Venezuela limits the exercise of the sovereign right of expulsion from the territory of the Republic of pernicious foreigners, in the case where they have acquired domicile. To this the Government of Venezuela answers that it never regarded Mr. Jaurett as domiciled in Venezuela, because, admitting the fact that he did reside in the country for several years, there is no proof that he made any declaration before the proper authorities of his wish to acquire domicile, as required by law, it being public and notorious that, notwithstanding the fact that he was married, he did not establish a home here with his wife, who lived all of that time out of Venezuela.

Lastly, Mr. Jaurett was considered for the greater part of his residence in Venezuela as an employee of the American legation, firstly, on account of his relations and business negotiations with Mr. Francis B. Loomis, envoy extraordinary and minister plenipotentiary of the United States up to the beginning of 1901; and afterwards for having been private secretary of Mr. Bowen up to 1904, when his services ceased, Mr. Bowen having acquired at that time from the French legation very unfavorable reports as to the character and antecedents of Mr. Jaurett. In accordance with the provisions of the law of foreigners of the Republic of April 2, 1903, residence for the purpose of acquiring domicile is interrupted from the fact of being in the diplomatic service of another country. (See above-mentioned law and pp. 37, 43, 69, 138, 194, 219, 222, 223, 224, and 229 of the pamphlet printed by the Government in Washington in 1905 and entitled "In the affair of the charges of Mr. H. W. Bowen, United States minister in Venezuela, against Mr. F. B. Loomis, First Assistant Secretary of State, and the countercharges of Mr. Loomis against Mr. Bowen.")

As to the revision treated of in the second case in your excellency's note relative to awards made by the umpire of the Venezuelan-American Mixed Commission, in the claims as presented by the agent of the Government of the United States, Mr. Robert C. Morris, in the name of "George Turnbull," the "Manoa Co. (Ltd.)," the "Orinoco Co. (Ltd.)," and the "Orinoco Steamship Co.," not only does the Government of Venezuela find no justifiable explanation for this pretension, but finds it strange and even surprising, as when the awards referred to were made, neither the aforesaid agent or representative of the Government of the United States before the Venezuelan-American Mixed Commission, nor even the Government of your excellency, made any protest at the time against those awards as rendered by the honorable Mr. Harry Barge, who as umpire selected by Her Majesty the Queen of the Netherlands, had the especial and exclusive duty of settling any question in regard to which there

was a disagreement between the respective commissioners of Venezuela and the United States, as happened in the cases treated of.

Not only was there no protest made to the Venezuelan-American Mixed Commission when the respective awards were made on February 20 and April 12, 1904, nor within a natural time limit or the limit which the established practices of international law allow for formulating such protests, but the sums awarded by the umpire to the Orinoco Steamship Co. of \$28,224.93, and to the Orinoco Co. (Ltd.) of \$26,620, figure since that time as a part of the sum which the Government of Venezuela owes to the Government of the United States and to other nations, in fulfillment of the sentences of the mixed commissions assembled in Caracas in 1903, and for which purpose it has to distribute between these creditors, pro rata, 30 per cent of the proceeds of the custom-houses of La Guaira and Puerto Cabello, after the payment to the preferred creditors, as decided by The Hague Tribunal.

Consequently, it is surprising that the Government of your excellency, three years after the awards have been made, should take the position that it takes to-day in regard to them, with absolutely no reason, justice, nor right on its side.

As to the fact that the Government of Venezuela protests against the awards of the umpire of the Venezuelan-Belgian Mixed Commission, in the case of the General Water Co. of Caracas, and of the Venezuelan-Mexican Commission in the case of the claim of Messrs. Martinez del Rio Hermanos, the Government of your excellency does not give the reasons which can be adduced to establish the parity of the cases, as the protest to the Government of Venezuela in these cases was made the same day that the award was given, as being against the express stipulations of the protocols which fixed the jurisdiction of the mixed commissions; and consequently the Government addressed itself immediately to the Belgian representative in an official note accompanied by the protest which the attorney general of the nation made before the commission; and furthermore immediately named a minister for Brussels with the principal object of explaining without loss of time the very just and powerful reasons on which Venezuela founded its right to ask for a revision of that sentence, and also that said reasons should be duly studied and considered by the Government of His Majesty the King, being as he is a friend of Venezuela.

In regard to the protest against the award in the claim of Messrs. Martinez del Rio Hermanos because the umpire had neglected to take into account the countercharges of the Government of Venezuela against that of Mexico, said countercharges having been submitted by mutual agreement for the examination and decision of the commissioners, the umpire refusing to receive said protest, alleging that the commission had finished its work, and there being no diplomatic representative of the Republic of Mexico in this city, the Government of Venezuela decided to instruct its special agent at The Hague Tribunal, then in session, to make known to the powers there represented the justifiable grounds for that protest against an award which was enormously prejudicial to the fiscal interests of the Republic, detrimental not only to those interests but to the interests of the other creditor nations. The Venezuelan commissioner carried out his instructions, as may be seen by reference to the "proceso verbal" X of the session of the 10th of November, 1903; that is to say, one month and eight days after the rendering of the award in question.

From a perusal of your excellency's note to which I refer, and to the memorandum of March 30 last, the pretension to revise the award in the claim of "The Manoa Co., (Ltd.)," is made now by your excellency's Government, not in the name of the interested parties which figured as claimants against the Government of Venezuela, but in the name of a new party called the "Orinoco Corporation," of which nothing was known at the time of the presentation of the claim and of its examination and settlement.

This so-called "Orinoco Corporation," styling itself the transferee of rights which were declared by the umpire as without foundation whatever in the claims presented by the "Manoa Co. (Ltd.)," the "Orinoco Co. (Ltd.)," and "George Turnbull," and setting forth facts posterior to the awards in question, or in the year 1906, places itself in this novel position, viz, that with a change of name from the "Orinoco Co. (Ltd.)," to the "Orinoco Corporation," questions of more than 20 years old are renewed, which questions were especially examined and passed upon by the umpire, the honorable Mr. Barge; thus alleging that acts committed after the rendering of said award, and as a consequence of it, destroy its validity and strength, so that that which is a consequence of the award serves to annul it, or the principal depends on the accessory, or the cause on the effect.

The verdict of the honorable Mr. Barge in the Manoa claim and other claims established the incontrovertible principle, and in this he is in accord with the Northfield decisions of the honorable Judge Plumley, umpire of the Venezuelan-French Mixed Commission, in a similar case, that juridical questions in regard to the rescission of contracts between individuals and governments are of the exclusive jurisdiction of the tribunals of the country whose government made the contract, and it was in accordance with this principle that both umpires declared as out of their jurisdiction the examination and decision of those points, referring them to the Venezuelan tribunals of justice. If your excellency's Government invokes, as it does, the force of the decision of the honorable Mr. Barge to claim that the Government of Venezuela could not execute certain acts posterior to that decision, without a previous decision by the federal and cassation court on the rescission of the Fitzgerald contract, of which the "Manoa Co. (Ltd.);" was transferred, it is thus using the validity and force of the question adjudicated by the umpire, and it is inconceivable that it asks at the same time for a revision of that verdict in favor of the "Orinoco Corporation."

The observation of your excellency's Government is so strong in qualifying the decision of the honorable Mr. Barge, when it says "that it rests on such serious errors of law and fact, and manifests such a complete disregard as well of the terms of the protocol as of those principles of justice and equity common not only to international law, but to the law of all civilized states," that the Government of Venezuela is bound to reject, in the name of that same international law and of that respect which its principles merit, expressions of such a nature, in referring to one who has filled the high functions of umpire, chosen by Her Majesty Queen Wilhelmina, who, in appointing him, complied with the request of both Governments. It can not be said of a sentence in a case of this kind that it is *manifestly unjust and at variance with the law of civilized states*, when said sentence has been pronounced in a question about which the interested parties and the commissioners of the two Governments have failed to agree and for which reason it was agreed to submit it to the decision of an impartial umpire.

Much less justifiable is the statement of your excellency's Government in regard to those awards when it is taken into consideration that the person who made those arrangements or protocols for the creation of the mixed commissions in question was Mr. Herbert W. Bowen, at that time United States minister in Caracas, and to the carrying out of those arrangements the Government of the Republic has devoted its attention and efforts, as your excellency knows, and as should be justly considered by those Governments to which the Republic religiously pays the sums awarded by the numerous decisions of the mixed commissions.

In the case of the New York & Bermudez Co. it is quite strange that your excellency's Government should ask Venezuela to take away from the courts of the Republic the suits instituted against the New York & Bermudez Co., and even suits in course of trial, to make out of this as it were an accumulation or increase of claims against Venezuela by means of an action entirely diplomatic, when the Government of the Republic is sure that neither the Government of the United States nor that of any other independent and sovereign nation would stand for such proceeding.

Your excellency's Government overlooks the fact universally known through the North American press, and proven in the suit in course of trial in the civil branch of the court of first instance of this section of the Federal district, of the active part which the New York & Bermudez Co. took in the revolution called "Libertadora" against the Government of Venezuela, a complicity which for itself alone would have been sufficient reason for any other Government less patient and less respectful of the usual judicial procedure to have taken immediate steps of a rigorous nature in accord with justice and perfect right; and the executive is so empowered in the case of an armed rebellion against the constituted authorities, and can suspend for this purpose all rights and guarantees, the enjoyment of which are incompatible with the measure of defense for reestablishing order.

The Attorney General having instituted suits against the New York & Bermudez Co., in the respective tribunals, for act affecting its responsibility, first as transferee of the Hamilton contract, for nonfulfillment of its obligations, and again as an accomplice in the aforementioned "Libertadora" revolution, the proceedings in both suits have been in entire conformity to the laws of the country, and in order to invoke denial of justice it would be absolutely neces-

sary to present proofs of such denial of justice. Can your excellency's Government, without irrefutable proofs, defend said company, and take the aggressive attitude that it does in qualifying the suits against the New York & Bermudez Co. as *arbitrary and in gross violation of Venezuelan law*? Can it forget that the party thus defended has committed the crime of insurrection against the Government of Venezuela, and that in violating, as it has violated, the laws of neutrality in a country friendly to the Government of your excellency, it has incurred grave responsibilities for which the very laws of the United States inflict severe punishment on its nationals?

The Government of Venezuela does not suppose that your excellency's Government would care to be held in any manner responsible for the revolutionary acts of the New York & Bermudez Co., and for the immense damage caused the Republic by said acts. Consequently the judicial action of the representative of the nation has been directed exclusively against the New York & Bermudez Co., and not against your excellency's Government, the precautionary attachment of the asphalt mine being continued to await the result of the suits.

Consequently the properties of the New York & Bermudez Co. have not been attacked by the Government of Venezuela, but the company itself, by its own acts, has made it necessary for the Government of the Republic to bring it to trial. These proceedings have been carried on and are still being carried on before the proper tribunals, with every means for defense and all the guarantees under the laws, without any proven denial of justice as alleged; and consequently to this case there could not have been, nor can there be applied now, any diplomatic procedure.

Lastly, I have to say to your excellency that the claim of the United States & Venezuela Co. is much similar to that of the New York & Bermudez Co. as regards the question of rescission of contract, which your excellency states that said company has elected to do, alleging as a reason therefor certain acts of the Government of Venezuela. There does exist, however, a cardinal difference in the proceeding adopted by one and the other party in both negotiations, as the Government of Venezuela, through the representative of the nation, has submitted to the proper tribunal the questions arising out of the contract of which the New York & Bermudez Co. was transferee, but your excellency's Government attempts to take away the question of rescission of the Crichfield contract, and the question of consequent damages and losses, from the jurisdiction of the tribunals of justice of Venezuela, thus overlooking the laws of the Republic, the only ones applicable in matters of contracts, when the latter are celebrated and must be executed in its own territory. To attempt to substitute the proper legal action of the contracting parties in regard to rescission with diplomatic action is in manifest violation of universally established principles and laws, impairs the dominion and jurisdiction of the tribunals of the Republic, and at the beginning breaks one of the express provisions of said contract, which is textually as follows: "The doubts and controversies which may arise as to the interpretation and execution of this contract shall be resolved by the tribunals of the Republic, in conformity to its laws, and in no case can be a motive for international claims."

Your excellency's Government falls into a flagrant contradiction when it invokes decisions of the federal court of Venezuela and even of international tribunals, which have declared that contracts celebrated by the Federal executive *can not be destroyed by a decree of said executive and that the cancellation of a concession so granted is a question for judicial and not political action*, and when, as in the case of the Crichfield concession, it asks the Government of Venezuela to agree to the rescission of that contract on account of what the interested company chooses to do, thus doing away with all judicial proceedings. Such a repudiation and rescission of the contract laid down in your excellency's note as adopted by the "United States & Venezuela Co.," alleging that no satisfactory arrangement has been reached with the Government of Venezuela, if assented to by the Federal executive, disregarding judicial discussion in the competent tribunals, for settling upon damages and losses before an international tribunal, would be to go against the constituted faculties of the judicial power, which, as your excellency knows, is the third power in the Republic, whose prerogatives and jurisdiction can not be interfered with by the executive power.

Surely it was in view of this that your excellency and the representative of the United States & Venezuela Co. treated directly with the President of the Republic, and agreed to what was considered a satisfactory arrangement, but which remained in suspense by order of the Government of the United States, according to private statements made at that time.

Surely since that time began the attitude which is to-day taken against a Government which has always relied upon the greatest friendship on the part of your excellency's Government amongst those that favor it with their good and very cordial relation.

Consequently the Government of Venezuela hopes that in view of these antecedents and of the very good disposition which your excellency knows, and which is constantly shown, you will please explain to your Government those circumstances which can serve for the interests of both countries and for their good relations of friendship, this being the most appreciable result of the mission confided to those who are invested with a diplomatic character near a Government who really strives to cultivate with friendly nations the most cordial relations, cementing them always on the broad and sure basis of equity, justice, and right.

I take this opportunity to renew to your excellency the protests of my highest consideration.

I am, etc.,

LUIS CHURION.

The Acting Secretary of State to Minister Russell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 6, 1907.

Answering yours July 27, you will present formal proposal for arbitration, following instruction No. 90.

BACON.

Minister Russell to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Willemstad, August 22.
(Received Aug. 25, 1907.)

My formal proposition for arbitration of pending cases was presented on the 13th of this month. Minister for foreign affairs answered under date of 20th instant that, in accordance with instructions from the President, "the Government of Venezuela adheres wholly to its position as stated in its memorandum of April 23 and in the note of July 24 last, in answer to the memorandum of March 30 and to your note of July 9."

RUSSELL.

Minister Russell to the Secretary of State.

No. 228.]

AMERICAN LEGATION,
Caracas, August 24, 1907.

SIR: Referring to my cable of the 22d instant, which is confirmed in a separate dispatch, I have the honor to inclose you herewith copies of the latest correspondence between this legation and the Venezuelan foreign office in regard to the five pending cases in which American citizens claim redress from the Government of Venezuela.

I have, etc.,

WILLIAM W. RUSSELL.

[Inclosure 1.]

*Minister Russell to the Minister for Foreign Affairs.*AMERICAN LEGATION,
Caracas, August 13, 1907.

MR. MINISTER: Referring to my communications of March 30 and July 9, 1907, in regard to the five pending cases in which American citizens claim redress from the Government of Venezuela, and to your excellency's answers thereto of April 23 and July 24, 1907, acting under instructions from my Government, I now have the honor to expressly and formally propose to your excellency's Government that the claims against Venezuela in respect to the above-mentioned cases be submitted to arbitration before the permanent court of arbitration at The Hague, or, if Venezuela shall prefer, before a tribunal of three jurists not members of The Hague tribunal, to be selected in the usual manner.

Trusting that I may be favored with a reply at your excellency's earliest convenience, I take this opportunity, etc.,

WILLIAM W. RUSSELL.

[Inclosure 2.—Translation.]

*The Minister for Foreign Affairs to Minister Russell.*MINISTRY OF FOREIGN AFFAIRS,
Caracas, August 20, 1907.

MR. MINISTER: Referring to your excellency's communication of the 13th of the present month, and of the contents of which I informed the President of the Republic, in accordance with his instructions, I have the honor to answer your excellency that the Government of Venezuela adheres wholly to its position as expressed in the memorandum of April 23 and in the note of July 24 of the present year, in answer to the memorandum of March 30 and to your note of July 9 last.

I avail, etc.,

J. DE J. PAUL.

The Acting Secretary of State to Minister Russell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 14, 1907.

When the Government of Venezuela pays the first installment due the United States on the awards of the mixed commission of 1903, you will write a note to the minister of foreign affairs embodying the following language: "My Government instructs me in accepting the first installment of money due from Venezuela on account of the awards of the mixed commission of 1903 to make the following statement: My Government insists upon a revision of the award in the case of the Orinoco Steamship Co. Pending final settlement of this question no portion of any moneys which may be paid by Venezuela will be considered as paid on account of or applicable to that award. As to the case of the Orinoco Co. (Ltd.), however, my Government does not share the view of the Government of Venezuela that the acceptance of the sum awarded in this case is inconsistent with the position of the United States as set forth in my memorandum of March 30 and my notes of July 9 and August 13." Referring to your dispatch No. 229, of August 28, department on August 26 sent you an official list of the American claims. You will be governed by that list, subject to the instructions contained in this cable as to the Orinoco Steamship Co. and the Orinoco Co. (Ltd.).

ADEE.

Minister Russell to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Curacao, September 27, 1907.

(Received 3.50 p. m.)

Venezuelan Government has answered my note, sent in accordance with your cable instructions in accepting first payment, and says that it considers moneys received by me as paid on account of all the awards of the mixed commission of 1903, including the award to the Orinoco Steamship Co., this being in compliance with the terms of the signed protocols, and that it does not consider that there is any question pending in regard to award to said steamship company, as in its three notes it closed discussion in regard to revising the awards to the Orinoco Steamship Co. and the Orinoco Co. (Ltd.) and Manoa Co. (Ltd.).

RUSSELL.

Minister Russell to the Secretary of State.

No. 236.]

AMERICAN LEGATION,
Caracas, September 28, 1907.

SIR: Referring to your cable of the 14th instant, which is confirmed in a separate dispatch, I have the honor to inform you that I have accepted the sum of 33,771.10 bolivars, the first installment of money due from the Venezuelan Government on account of the awards of the mixed commission of 1903.

The minister for foreign affairs advised me that the rate of exchange to be applied for gold dollars was 5.55 bolivars, but this means a New York draft at 60 days' sight for \$6,084.88, whereas a sight draft at 5.65 bolivars is equal to \$5,977.18, a difference in our favor of \$107.70. I determined at first to purchase a sight draft, not knowing whether our Government is disposed to accept drafts at 60 days in payment of those awards, but as I had cabled for instructions I have concluded to await your answer.

On the 20th instant, after having received your cable instructions, I wrote to the foreign office accepting the first payment, with the reserve in regard to the award to the Orinoco Steamship Co. On the 21st instant the foreign minister answered my note.

The situation here is becoming more strained, and a few days ago the Government commenced to publish in the local press, in English and Spanish, all of the correspondence between this legation and the foreign office since the issue of the yellow book which contained my memorandum of March 30 and Venezuela's counter-memorandum of April 23. The position of our Government, as outlined in my note of July 9, is not published, but only Venezuela's answer to that note; thus the public in general only gets the one side of the affair.

My note in accepting the first payment of the American awards and the reply thereto are also published. The Constitutional, referring to the publication of these documents, says:

From the notes which we begin to publish to-day the country and the people who are following the affair between Venezuela and the United States will be made aware of the powerful reasons which have induced the chief executive in not agreeing to a revision of the awards of the mixed commissions that met

in Caracas as international tribunals, as well as his reasons for not disregarding the verdict of our tribunals in matters exclusively of their jurisdiction, as claimed by the Government of the United States.

I would respectfully suggest to the department that some means of cable communication with Curacao be afforded me. I am entirely dependent on steamship communication, either with Curacao or Trinidad, and can receive no answers to my cables under a week or ten days, and am compelled to wait three or four days before I can get a cable to Curacao.

In regard to the five pending cases in which American citizens claim redress from this Government, as presented in the memorandum of March 30 and in subsequent notes, I would like to be informed as to whether our Government insists upon its position in regard to each and every case. I have so construed my instructions, and have so been governed in my interviews with the foreign minister. I bring this matter up in case there should be a possibility of arranging two or three of the cases to the satisfaction of our Government. The possibility is very remote, however, that the Venezuelan Government will ever consent to an opening of the award to the Orinoco Steamship Co. or to an arbitration of the case of the New York & Bermudez Co.

I have, etc.,

WILLIAM W. RUSSELL.

[Inclosure 1.]

Minister Russell to the Minister for Foreign Affairs.

AMERICAN LEGATION,
Caracas, September 20, 1907.

Mr. MINISTER: Referring to my communication of the 16th instant, I have the honor to inform your excellency that I have collected from the Bank of Venezuela the sum of 33,771.10 bolivars, a payment for the month of August, 1907, on account of the sum due the United States under the awards of the mixed commission of 1903.

In accepting this first installment of money due from the Venezuelan Government on account of the awards of the mixed commission of 1903, my Government instructs me to say that it insists upon a revision of the award in the case of the Orinoco Steamship Co., and that pending final settlement of this question no portion of any moneys which may be paid by Venezuela will be considered as paid on account of or applicable to that award.

As to the case of the Orinoco Co. (Ltd.), however, my Government does not share the view of the Government of Venezuela that the acceptance of the sum awarded in this case is inconsistent with the position of the United States as set forth in my memorandum of March 30, and my notes of July 9 and August 13.

I take, etc.,

W. W. RUSSELL.

[Inclosure 2.—Translation.]

The Minister for Foreign Affairs to Minister Russell.

CARACAS, September 21, 1907.

Mr. MINISTER: I am in receipt of your excellency's communication of yesterday in which you inform me that you have collected from the Bank of Venezuela the sum of bolivars 33,771.10 (thirty-three thousand seven hundred and seventy-one bolivars and ten centimos), payment for the month of August, 1907, on account of the sum due the United States under the awards of the mixed commission of 1903.

Your excellency further adds that in accepting this first sum of money due by the Venezuelan Government by reason of the awards of the mixed commission of 1903 your Government instructs you to say that it insists on a revision of the award in the case of the "Orinoco Steamship Co.," and that pending a final settlement of this question no portion of any moneys paid by Venezuela will be considered as paid on account of or applicable to that award.

Your excellency concludes the note to which I refer by stating that in the case of the Orinoco Co. (Ltd.) your Government does not share the view of the Government of Venezuela that the acceptance of the sum awarded in this case is inconsistent with the position of the United States as set forth in your memorandum of March 30, and your notes of July 9 and August 13.

The Government of Venezuela is constrained to answer categorically your excellency's note by quoting the following statements which your excellency makes: "That you have collected from the Bank of Venezuela the sum of bolivars 33,771.10 (thirty-three thousand seven hundred and seventy-one bolivars and ten centimos), *on account of the sum due the United States under the awards of the mixed commission of 1903,*" and, further on, "that in accepting this first sum of money due by the Venezuelan Government *by reason of the awards of the mixed commission of 1903* you are instructed by your Government to say," etc.

The receipt which your excellency gives for the sum of bolivars 33,771.10 (thirty-three thousand seven hundred and seventy-one bolivars and ten centimos) which you collected from the Bank of Venezuela, means for this Government as follows: That your excellency, acting in your character as representative of the Government of the United States, which is a creditor of the Government of Venezuela, by reason of the awards of the Venezuelan-American Mixed Commission, created by the Washington protocol of February 17, 1903, have received from the Bank of Venezuela the sum of bolivars 33,771.10 (thirty-three thousand seven hundred and seventy-one bolivars and ten centimos), which is the first sum of money due by the Venezuelan Government by reason of said award, said sum amounting to 10.752 per cent of the 30 per cent of the proceeds of the custom-houses of La Guaira and Puerto Cabello for the month of August last, said 30 per cent being set aside for the payment of all the awards of the Venezuelan-American Mixed Commission and of those of the other commissions, in strict compliance with the terms of the above-mentioned protocol of February 17, 1903, and of the additional verdict of The Hague Tribunal of February 22, 1904.

The Government of Venezuela must take due notice of your excellency's communication referring to the total of the sum received from the Bank of Venezuela as the first sum on account of the amount which this Government owes under the awards of the Venezuelan-American Mixed Commission, said sum and the further sums which it will continue to deliver monthly for the same purpose being set aside solely and exclusively for the definitive payment of all the awards of the above-mentioned commission.

The Venezuelan Government is not concerned with the way in which the Government of the United States disposes of the amount already received, nor of those sums which it may continue to receive, after said amounts are in possession of your excellency's Government. For its discharge the Government of Venezuela merely has to deliver to your excellency the sums it is obliged to pay in execution of the protocol signed at Washington on February 17, 1903, in accordance with the awards of the Venezuelan-American Mixed Commission, created by that protocol, and also in accordance with the verdict of The Hague Tribunal on February 22, 1904, which decreed that the Government of Venezuela should pay the claims of the nonblockading nations, as awarded by the mixed commissions of 1903, after the awards to Germany, England, and Italy were satisfied.

The receipt from your excellency is a proof that the Government of Venezuela is fulfilling its obligation to distribute among the creditor nations, under the awards of the mixed commissions, the monthly 30 per cent of the receipts of the customhouses of La Guaira and Puerto Cabello in the proportion which the sums due each bear to the sum total of the awards of the several commissions. Your excellency was duly notified of that proportion in a note from this ministry, dated August 27, No. 924, fixing at 10.752 per cent said proportion, which corresponds to \$436,441.90, the total of all the awards of the Venezuelan-American Mixed Commission, and your excellency acknowledged the receipt of my note on the 29th of the same month.

Your excellency states that your Government insists on a revision of the award in the case of the Orinoco Steamship Co., and considers as pending a definite settlement of that question. The Government of Venezuela has given no motive for the Government of your excellency to think that a definite settlement of that question is pending, as in its memorandum of April 23, 1907, and in its notes of July 24 and August 20, in answer to the memorandum and notes from your excellency of March 30, July 9, and August 13, it did not accede to the pretensions of your excellency's Government as to revising the arbitral awards in the cases of the Orinoco Steamship Co., Manoa Co. (Ltd.), and Oronoco Co. (Ltd.), for the reasons therein expressed, thus closing definitely discussion on this matter.

The Government of Venezuela deems it opportune, in view of the insistence of the Government of the United States, to present for the high consideration of your excellency's Government the text of the two notes of March 24 and 26, 1903, from his excellency Mr. John Hay, then Secretary of State, to his excellency Don Rafael S. Lopez, minister of Salvador, in answer to the memorandum in which said minister requested a revision or reopening of the award made by Sir Henry Strong and Hon. N. Dickinson in the case of the Salvador Commercial Co. and others against the Government of Salvador.

Said notes are as follows:

"STATE DEPARTMENT,
"March 24, 1903.

"The undersigned, Secretary of State, has the honor to inform the minister of Salvador, after a due consideration of the memorandum from the minister of March 4, 1903, that the Government of the United States does not find in it any reason for altering the opinion before expressed, that it is in no way empowered to revise or reopen the award made in the case of Salvador Commercial Co. and others against the Government of Salvador. A failure to carry out the award would imply in addition a grave discourtesy for the eminent arbitrators who examined this case and a serious offense against the cause of arbitration. The Government of the United States expects, consequently, that the Government of Salvador will comply with the terms of the protocol of arbitration signed by its executive and ratified by the National Assembly.

"JOHN HAY.

"DON RAFAEL S. LOPEZ, *Minister of Salvador.*"

"DEPARTMENT OF STATE,
"March 26, 1903.

"SIR: I have the honor to acknowledge the receipt of your communication of the present month, which has been taken into consideration. The department considers in no way applicable to the case the principles and authorities you invoke in support of your contention that the award made by the arbiters in the case of the Salvador Commercial Co. and others against the Government of Salvador is illegal and null. I do not see any reason for changing the view as expressed in my note of the 24th of the present month. As indicated in that note this Government expects that the Government of Salvador will comply with the terms of the protocol of arbitration.

"Accept, sir, etc.,

"JOHN HAY.

"DON RAFAEL S. LOPEZ, *etc.*"

These laconic and decisive answers from his excellency, Mr. Hay, denying absolutely to revise the Strong-Dickinson award, are presented by the Government of Venezuela to the Government of your excellency, with all the significance with which they are invested, as bearing the signature of that eminent statesman, who by a rare coincidence also signed the protocol of February 17, 1903, by which the claims of the Orinoco Steamship Co. and the Orinoco Co. (Ltd.) were submitted to the decisions of the commissioners, and in case of the disagreement of the latter to the umpire chosen by the Queen of the Netherlands, with the stipulation that those awards should be *definite and conclusive*.

I avail myself of this opportunity, etc.,

J. DE J. PAÚL.

The Secretary of State to Minister Russell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 16, 1907.

Write a note to the minister of foreign affairs embodying the following language: "My Government hereby acknowledges the receipt from the Venezuelan Government of \$15,719.69, the same to be applied to the payment of awards made to American claimants by the Venezuelan-American Mixed Claims Commission of 1903. My Government observes the statement in your excellency's note of September 21 that the sums now being set aside by your excellency's Government are for the payment of all the awards made to the non-blockading nations by the Venezuelan-American Mixed Commission, but that the distribution of these sums among the various claimants of the creditor nations is a matter in which the Venezuelan Government is not concerned. My Government, therefore, will distribute among the various American claimants, excluding the Orinoco Steamship Co., the sums already received and to be received. Concerning the receipt of moneys for and the payment of the same to the Orinoco Steamship Co. and the Orinoco Co. (Ltd.) on account of the awards made to them by the Venezuelan-American Mixed Commission, my Government adheres to the position set forth in my note to your excellency of September 20."

Root.

Minister Russell to the Secretary of State.

No. 269.]

AMERICAN LEGATION,
Caracas, January 4, 1908.

SIR: Referring to your cable of December 19, received in Caracas December 28, and which is acknowledged in a separate dispatch, I have the honor to inform you that I addressed a note to the minister for foreign affairs in accordance with your instructions, a copy of which note is inclosed.

On January 3 the minister for foreign affairs answered my note, copy and translation of which I inclose.

I have, etc.,

WILLIAM H. RUSSELL.

[Inclosure 1.]

Minister Russell to the Minister for Foreign Affairs.

AMERICAN LEGATION,
CARACAS, December 30, 1907.

MR. MINISTER: Referring to my communication of December 7 last, in regard to the quotas collected and forwarded to Washington, said quotas being due under the Venezuelan-American Mixed Commission of 1903, I have the honor to state that the draft mentioned in my communication has reached Washington and that my Government hereby acknowledges the receipt from the Venezuelan Government of \$15,719.69, the same to be applied to the payment of awards made to American claimants by the Venezuelan-American Mixed Claims Commission of 1903.

My Government observes the statement in your excellency's note of September 21 that the sums now being set aside by your excellency's Government are for the payment of all the awards made to the nonblockading nations by the various mixed commissions of 1903, but that the distribution of these sums among the various claimants of the creditor nations is a matter in which the Venezuelan Government is not concerned. My Government, therefore, will distribute among the various American claimants, excluding the Orinoco Steamship Co., the sums already received and to be received. Concerning the receipt of moneys for and the payment of the same to the Orinoco Steamship Co. and the Orinoco Co. (Ltd.) on account of the awards made to them by the Venezuelan-American Mixed Commission, my Government adheres to the position set forth in my note to your excellency of September 20.

I take this occasion to renew to your excellency, etc.,

W. W. RUSSELL.

[Inclosure 2.—Translation.]

The Minister for Foreign Affairs to Minister Russell.

FOREIGN OFFICE,
Caracas, January 3, 1908.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's courteous communication of the 30th of last month, in which you are pleased to state to me that, referring to your communication of the 7th of the same month of December, your excellency's Government acknowledges the receipt from the Venezuelan Government of \$15,719.69, the sums collected from the Bank of Venezuela by your legation, in the months of September, October, and November last, and which are to be applied to the payment of the awards made to American claimants by the Venezuelan-American Mixed Commission of 1903.

In regard to the statement which your excellency makes in the above-mentioned note that your Government will distribute among the various American claimants, excluding the Orinoco Steamship Co., the sums already received and to be received and that concerning the receipts of moneys for and the payment of the same to the Orinoco Steamship Co. and the Orinoco Co. (Ltd.) on account of the awards made to them by the Venezuelan-American Mixed Commission, your Government adheres to the position set forth in your note to this ministry of September 20 last, I am constrained in turn to say to your excellency that the Government of Venezuela ratifies and maintains everything that was stated in my note to your excellency of the 21st of the same month of September with reference to the payment that is being made and will continue to be made of the sums awarded by the Venezuelan-American Mixed Commission of 1903 in favor of American claimants, without any distinction whatever.

I avail myself, etc.,

J. DE J. PAUL.

The Secretary of State to Minister Russell.

No. 121.]

DEPARTMENT OF STATE,
Washington, January 21, 1908.

SIR: I have to acknowledge the receipt of your dispatch No. 269, of the 4th instant, inclosing copies of the correspondence exchanged between you and the Venezuelan minister of foreign relations in the matter of the receipt for the quota paid by the Venezuelan Government in satisfaction of the awards of the Venezuelan-American Mixed Commission of 1903.

In reply I have to say that, in acknowledging receipt of all payments by Venezuela on account of awards made by the American-Venezuelan Commission of 1903, this Government instructs you to say that it adheres to its position as set forth in your note of Decem-

ber 30, 1907, and that the payment in question is accepted and will be distributed in accordance with the terms of that note.

I am, etc.,

ELIHU ROOT.

The Secretary of State to Minister Russell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 18, 1908.

Ascertain whether the refusal of Venezuela to accept our proposal of arbitration of pending claims is designed to apply to each and every one of the five claims presented by you on the 30th of March, and, if she is ready to arbitrate any of those claims, which ones she is willing to arbitrate.

ROOT.

Minister Russell to the Secretary of State.

No. 289.]

AMERICAN LEGATION,
Caracas, February 29, 1908.

SIR: I have the honor to inform you that in accordance with the instructions contained in your cable of the 19th instant, confirmed in a separate dispatch, I addressed a note to the Venezuelan Government on the 22d instant, with a view to ascertain its attitude in regard to arbitration in the five pending cases presented by the Government of the United States. On the 29th instant I received the answer from the minister for foreign affairs, copy and translation of which is inclosed, as also a copy of my note to the foreign office.

I have, etc.,

WILLIAM W. RUSSELL.

[Inclosure 1.]

Minister Russell to the Minister for Foreign Affairs.

AMERICAN LEGATION,
Caracas, February 22, 1908.

MR. MINISTER: I have the honor to inform your excellency that I have been instructed by my Government to ascertain whether the refusal of Venezuela to accept our proposal of arbitration of pending claims is designed to apply to each and every one of the five claims presented by me on the 30th of March, and, if Venezuela is ready to arbitrate any of those claims, which ones she is willing to arbitrate.

I take, etc.,

W. W. RUSSELL.

[Inclosure 2.—Translation.]

The Minister for Foreign Affairs to Minister Russell.

MINISTRY OF FOREIGN AFFAIRS,
Caracas, February 29, 1908.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's courteous communication of the 22d instant, and in reply to the question

asked by your excellency, under instructions from your Government, I must say to you that the Government of Venezuela refrains for the present from taking into consideration the suggestion made to it in your courteous note, for the reason that up to now you have not contradicted ("contradicho") the notes from this ministry of July 9 and September 20 of last year relative to the points which have been the subject of discussion, and in which notes were well set forth the reasons upon which this Government based its refusal.

Consequently, as the cases referred to by your excellency can not be considered as being comprised among those which call for diplomatic action, the Government of Venezuela would view it with satisfaction if the Government of the United States would consider this question as closed, the interested parties always having the right of recourse to the tribunals of justice of the Republic should they deem fit.

I avail myself, etc.,

J. DE J. PAUL.

Minister Russell to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Willemstad (February 29).
 (Received Mar. 3, 1908—1.40 p. m.)

The Venezuelan Government answered to-day my note, sent in accordance with your cable instructions 19th.

Minister for foreign affairs states that Venezuela refrains from considering for the present the question of arbitration, because I have not as yet refuted the arguments in notes July 9 and September 20, in which notes Venezuela plainly stated grounds for refusing to arbitrate. Note concludes as follows:

Consequently, as the cases referred to can not be considered as being comprised among those which call for diplomatic action, the Government of Venezuela would view it with satisfaction if the Government of the United States would consider this question as closed, the parties interested always having the right of recourse to the tribunals of justice of the Republic should they deem fit.

RUSSELL.

File No. 4832/8.

The Secretary of State to Chargé Sleeper.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 13, 1908.

(Mr. Root instructs Mr. Sleeper to inform the Government of Venezuela that in view of the persistent refusal of the present Government of Venezuela to give redress for the governmental action by which substantially all American interests in that country have been destroyed or confiscated, or to submit the claims of American citizens for such redress to arbitration, and in view of the tone and character of the communications received from the Venezuelan Government, the Government of the United States is forced to the conclusion that the further presence in Caracas of diplomatic representatives of the United States subserves no useful purpose, and has determined to close its legation in that capital and to place its interests, property,

and archives in Venezuela in the hands of the representative of Brazil, which country kindly consented to take charge thereof.

Mr. Sleeper is also directed to apply for his passports and safe conduct to and until his departure from the appropriate port of departure; to close the legation in Caracas, leaving the building with its archives and property with the legation clerk, Mr. Brewer, to watch over under the direction and protection of the Brazilian chargé d'affaires, Mr. de Lorena Ferreira; and to make arrangements for continuing the rental of the premises heretofore occupied as a legation in order that the archives and property may be safely preserved there. Mr. Root instructs Mr. Sleeper to proceed to Puerto Cabello, where the U. S. naval vessel *Marietta* will be prepared to receive him and take him to Guantanamo, whence he will come to the United States by the ordinary means of conveyance. Adds that no present instructions varying the position or action of consuls will be given.)

File No. 4832/8.

The Secretary of State to the Brazilian Ambassador.

DEPARTMENT OF STATE,
Washington, June 13, 1908.

EXCELLENCY: With a high sense of appreciation of the friendly courtesy on the part of the Brazilian Government, I have the honor to make formal acknowledgment of the willingness of that Government, made known to me by your personal note of the 11th instant, to take charge of American interests in Venezuela upon the withdrawal of the American diplomatic representatives from that country.

The final determination on the part of the United States to close its legation at Caracas having been reached, I beg to inclose herewith a copy of a telegram¹ which will this day be sent to the chargé d'affaires ad interim of the United States at that capital, and to request that you will repeat it to your Government in order that corresponding instructions shall be given to the Brazilian chargé d'affaires at Caracas to take charge of the archives, property, and interests of the United States in Venezuela in accordance with the consent so kindly given.

Accept, etc.,

ELIHU ROOT.

File No. 4832/21-29.

Chargé Sleeper to the Secretary of State.

No. 335.]

AMERICAN LEGATION,
Caracas, June 22, 1908.

SIR: I have the honor to acknowledge the receipt of the department's telegraphic instructions of the 15th instant (inclosure No. 1), relative to the withdrawal of this legation from Caracas and the transfer of its interests, property, and archives to the representative of Brazil, Mr. Luis de Lorena Ferreira.

¹ Supra.

In reply I beg to advise you that the aforesaid instructions were received by me on the evening of June 19, and that on the next day I addressed a note to the minister for foreign affairs of the Republic, copy herewith inclosed, closely following the phraseology of your telegram. On the afternoon of the 21st instant (Sunday) I received Dr. Paul's reply (copy and translation inclosed herewith), which was, of course, either written or dictated by the President himself.

In regard to my request for a safe conduct to my port of departure he replied that none was needed, inasmuch as the Government of Venezuela, having *no cause for complaint respecting me personally*, would preserve me in the enjoyment of my diplomatic immunities and prerogatives until my embarkation in Puerto Cabello on the U. S. S. *Marietta*, by which phrase he disposes of my request both for safe conduct and a passport. Further comment on the note is unnecessary, as it speaks for itself.

I have made the necessary arrangements for continuing the rental of the premises heretofore occupied by the legation and have placed the archives in the care of Mr. Brewer, the legation clerk.

I also beg to transmit herewith copies of my note to the Brazilian chargé d'affaires of the 20th instant, and his reply thereto of the same date, together with copies of my communication to Monsieur P. Desmarts, custodian of the archives of the French Legation here, and his reply thereto and of my letter to the American consuls in Venezuela.

In conclusion I have to inform you that it is my intention to leave here on the 24th or 25th of this month for Puerto Cabello, where I shall embark on the *Marietta*, which should have arrived by that time, and proceed via Guantanamo to the United States.

I have, etc.,

JACOB SLEEPER.

[Inclosure 1.]

Chargé Steeper to the Minister for Foreign Affairs.

AMERICAN LEGATION,
Caracas, June 20, 1908.

Mr. MINISTER: Acting under instructions from my Government, it devolves upon me to inform your excellency that in view of the persistent refusal of the present Government of Venezuela to give redress for the governmental action by which all American interests in this country have been destroyed or confiscated, or to submit the claims of American citizens for such redress to arbitration, and in view of the tone and character of the communications received from the Venezuelan Government, the Government of the United States is forced to the conclusion that the further presence in Caracas of diplomatic representatives of the United States subserves no useful purpose and has determined to close its legation in this capital and to place its interests, property, and archives in Venezuela in the hands of the representative of Brazil, which country has kindly consented to take charge thereof.

Pursuant to the aforesaid instructions I shall intrust the archives and property of the legation to the care of Mr. Luis de Lorena Ferreira, and shall proceed to Puerto Cabello and embark on the U. S. S. *Marietta*, which should arrive at the said port at any moment.

I therefore respectfully apply for my passports, and request that I be given safe conduct to my port of departure and until embarkation on the *Marietta*.

I avail, etc.,

JACOB SLEEPER.

[Inclosure 2.—Translation.]

The Minister for Foreign Affairs to Chargé Sleeper.

D. P. E. No. 730.]

UNITED STATES OF VENEZUELA,
 MINISTER OF FOREIGN AFFAIRS,
Caracas, June 20, 1908.

SIR: If the grounds which you set forth in your note of this date are those on which President Roosevelt persists in seeking reparation for American interests or individuals, which are wanting in all reason and right; if this persistence arrives at the point of wishing that matters again be submitted to arbitration, which upon the request of the United States Government were already definitely decided by a tribunal of arbiters, wherein said Government was duly represented, a pretension which is equivalent to contradicting itself and protesting against its own acts; and if, lastly, the tone and character of our clear and precise arguments have not been pleasing to President Roosevelt, it is not in any way the fault of the Venezuelan Government if, obliged to fulfill its duty, it does not permit that there be taken away and impaired the rights of the nation, free, independent, and sovereign. This attitude can be a motive of congratulation for Governments truly friendly with Venezuela, because therein are joined the rights and prerogatives of a whole continent.

It was upon these very worthy considerations that the Government of Venezuela, in its note of February 29 of the present year, informed the American minister, in reply to his communication of the 22d of the same month, that his Government not having presented any argument which would make its opinion prevail, and the case not being one calling for diplomatic action, the Government of Venezuela would view it with satisfaction if President Roosevelt would desist from his contentions in order that the American claimants should appeal to the tribunals of the Republic with the submission they owe to its laws to defend the rights which they might consider injured, since those laws, to which every foreigner in the country is subjected, are not to be broken, thereby permitting that there be substituted for this legal procedure, per saltum, a diplomatic action.

All this is to be regretted on account of the hereinbefore-mentioned reasons.

To-day it is the turn of the people of each country to judge of what has happened, in the light of reason and impartial justice, and from what their mutual interests and advantages advise, and later of the sovereign bodies, representatives of those peoples, upon whom it devolves in each country to take cognizance of and decide the case in the last resort.

As it is your honor's Government which has placed an end to your diplomatic functions in this country and as the Government of Venezuela has no cause for complaint respecting you personally, this Government will preserve you in the enjoyment of your diplomatic immunities and prerogatives until your embarkation in Puerto Cabello on the steamer *Marietta*. Not only for the reason above mentioned, that it is not the Government of Venezuela which bids you leave, but also as our actual situation with the United States is not that of war, in which case it would be proper to issue a safe conduct to the diplomatic agent crossing the territory, my Government does not consider it necessary or fitting to send it to you for your journey to Puerto Cabello, passing as you do through civilized and cultured towns which know how to respect those prerogatives and immunities. I take this occasion to remind your honor that important members of the American Legation and tourists come to this country for scientific purposes, and recommended to the aforesaid legation, have traveled over a great part of the territory of the Republic, manifesting their satisfaction to all the authorities along the way for the attentions, facilities, and personal security of which they were the object; and it would be very laudable on your part on your arrival in the United States to so inform your Government, so that, as a tribute to truth, the American people may know how foreigners are treated and considered in Venezuela who, by their loyal and correct conduct, make themselves worthy of esteem.

My Government has made a note of the fact that, by orders of your Government, the interests, property, and archives of the legation in Caracas have been placed in the hands of the Brazilian chargé d'affaires.

I close by expressing to you, in the name of my Government, the most cordial wishes for your pleasant journey, and I avail myself of the opportunity to renew to you the assurances of my distinguished consideration.

J. DE J. PAUL.

[Inclosure 3.]

*Chargé Sleeper to the Brazilian Chargé.*AMERICAN LEGATION,
Caracas, June 20, 1908.

SIR: For reasons well known to you, the Government of the United States has decided that the further presence in Caracas of diplomatic representatives of the United States subserves no useful purpose and has determined to close its legation in this capital and to place its interests, property, and archives in Venezuela in the hands of the representative of Brazil, which country has kindly consented to take charge thereof.

I have this day notified the minister for foreign affairs of Venezuela to this effect and have requested my passports.

I now therefore, in accordance with information, have the honor to place in your hands the interests, property, and archives of this legation and to inform you that the archives and property will remain in this building under the charge of the legation clerk and American consular agent, Mr. John Brewer, to watch over the same under your direction and protection.

I avail, etc.,

JACOB SLEEPER.

[Inclosure 4.—Translation.]

*The Brazilian Chargé to Chargé Sleeper.*LEGATION OF THE UNITED STATES OF BRAZIL,
Caracas, June 20, 1908.

MR. CHARGÉ D'AFFAIRES: I have the honor to acknowledge the receipt of your note of to-day, in which you advise me that, under instructions from your Government, you have applied to the Venezuelan Government for your passports.

In accordance with the wish of your Government, an honor for me, which you have expressed in the aforesaid note, and duly authorized by my Government, I shall have the agreeable duty of informing the Government of Venezuela that I have upon this date taken charge of the archives and of the legation building as well as the protection of American interests in Venezuela.

In assuring you, Mr. Chargé d'Affaires, of my zeal and of my solicitude in the exercise of these new functions, I take the occasion to renew to you, etc.,

LUIZ DE LORENA FERREIRA.

[Inclosure 5.]

*Chargé Sleeper to the French Vice Consul, guardian of the archives of the French Legation.*AMERICAN LEGATION,
Caracas, June 20, 1908.

SIR: I have to inform you that the Government of the United States has decided to close its legation in Caracas and to place its interests, property, and archives, in Venezuela, in the hands of the representative of Brazil.

I have to add that I have this day notified the minister for foreign affairs to this effect, and requested my passports.

No instructions regarding French interests have been received by this legation.

Very respectfully,

JACOB SLEEPER.

[Inclosure 6.—Translation.]

*The French Vice Consul, guardian of the archives of the French Legation. to Chargé Sleeper.*FRENCH LEGATION,
Caracas, June 21, 1908.

MR. CHARGÉ D'AFFAIRES: I have the honor to acknowledge the receipt of your letter of yesterday's date, in which you inform me that the Government of the

United States has decided to close its legation in Caracas and to place the archives as well as American interests under the protection of the Brazilian Legation in Venezuela.

With my regrets at seeing your legation withdrawn, which for the last three years has so devotedly cared for our interests in this country, I beg that you accept, Mr. Chargé d'Affaires, the assurances, etc.,

DESMARTIS.

[Inclosure 7.]

Chargé Sleeper to American Consuls in Venezuela.

AMERICAN LEGATION,
Caracas, June 20, 1908.

SIR: I have the honor to inform you that the Government of the United States has decided to close its legation in Caracas and to place its interests, property, and archives in Venezuela in the hands of the representative of Brazil.

Matters of a nature calling for diplomatic intervention should be referred therefore to the Brazilian minister here, Mr. Luiz de Lorena Ferreira.

No instructions have been received varying the position or action of consuls.

Very respectfully,

JACOB SLEEPER.

File No. 4832/8.

The Acting Secretary of State to Ambassador Dudley.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 25, 1908.

(Mr. Adee informs Mr. Dudley that the United States having withdrawn its legation from Caracas it has, by the courtesy of Brazil, placed its interests and property in Venezuela in the hands of the Brazilian diplomatic representative there. Instructs Mr. Dudley to confirm to the Brazilian Government the sense of gratitude which has already been expressed to Ambassador Nabuco.)

File No. 4832/41-42.

Ambassador Dudley to the Secretary of State.

No. 210.]

AMERICAN EMBASSY,
Petropolis, June 29, 1908.

SIR: I have the honor to acknowledge the receipt from the department of the following telegram.¹

A copy of the note of thanks which I accordingly addressed to the Brazilian foreign office is inclosed herewith.

In view of the withdrawal of our legation, France also, through its legation at Petropolis, has asked leave to confide its interests and archives at Caracas to the keeping of Brazil's legation at that capital. In both instances this Government has evidently considered itself honored by the request and has assumed the responsibility most cheerfully.

¹ Supra.

Bearing upon the good offices thus extended the American Government by Brazil is an editorial from O Paiz, of Rio de Janeiro, a copy and translation of which I believe the department will be pleased to receive and which I inclose herewith.¹

I have, etc.,

IRVING B. DUDLEY.

[Inclosure.]

Ambassador Dudley to the Brazilian Minister for Foreign Affairs.

No. 134.]

AMERICAN EMBASSY,
Rio de Janeiro, June 25, 1908.

M. LE MINISTRE: I am in receipt of a telegram from my Government which, advising me of the withdrawal of its legation from Caracas, states that by the courtesy of Brazil it has placed its interests and property in Venezuela in the hands of the diplomatic representative of your excellency's Government. The sense of gratitude aroused at Washington by Brazil's friendly action in the premises has already been expressed to Ambassador Nabuco, but it is the desire of my Government that I confirm to your excellency's Government in terms of most cordial appreciation the acknowledgment thus already made.

Allow me in so doing to assure your excellency of the sincere satisfaction it affords me to be the medium of conveying a message in recognition of my Government's indebtedness to that of Brazil for this renewed mark of consideration and good will.

Be pleased to accept, etc.,

IRVING B. DUDLEY.

File No. 4832/31-32.

The Acting Secretary of State to the Brazilian Ambassador.

No. 61.]

DEPARTMENT OF STATE,
Washington, July 10, 1908.

EXCELLENCY: I have the honor to inclose, with the request that you will be good enough to transmit them to Mr. John Brewer, who is acting as custodian of the archives of the American Legation at Caracas, for the legation's files, a copy of the note of June 20, 1908, by which the Brazilian minister at Caracas informed the Venezuelan Government that he would have charge of American interests in Venezuela during the suspension of diplomatic relations between the United States and Venezuela, and a copy of the Venezuelan Government's reply thereto under date of June 22, 1908.

I beg to request that you will inform Mr. Brewer that his consular functions have been suspended, and that he will regard himself as merely custodian of the archives under the friendly supervision of the Brazilian representative.

I trust that there may be no inconvenience in displaying the Brazilian flag over the American Legation building, if it should become necessary or desirable to display a flag.

Accept, etc.,

ALVEY A. ADEE.

[Inclosure 1.—Translation.]

The Brazilian Chargé to the Venezuelan Minister for Foreign Affairs.

LEGATION OF THE UNITED STATES OF BRAZIL,
Caracas, June 20, 1908.

Mr. MINISTER: I have the honor to inform your excellency that the charge d'affaires of the United States of America having advised me in a note dated

¹ Not printed.

to-day that he has requested his passports from the Government, I have this day assumed charge of American interests during the rupture of friendly relations between the two countries. I have also been intrusted with the protection and care of the archives and of the American Legation building which have been placed until further orders under the charge of the American consular agent, Mr. John Brewer, who will continue to reside in the aforesaid building.

In the name of my Government I express to your excellency its great regret at this event and its most ardent wish to see the present difficulties amicably arranged in the briefest possible time.

I avail myself of this opportunity to renew to your excellency, etc.

LUIZ R. DE LORENA FERREIRA.

[Inclosure 2.—Translation.]

The Venezuelan Minister for Foreign Affairs to the Brazilian Chargé.

No. 731.]

DEPARTMENT OF FOREIGN AFFAIRS,
Caracas, June 22, 1908.

SIR: I have the honor to acknowledge the receipt of your honor's polite note of the 20th instant, and referring to its contents, which have also been communicated to this office by the Hon. Jacob Sleeper, chargé d'affaires ad interim of the United States of America, in a letter of the same date, my Government takes note of the fact that the interests, property, and archives of the American Legation in Caracas have been placed under your honor's charge. I thank your honor in the name of the Government of Venezuela for the wishes which you express in regard thereto.

I avail myself, etc.,

JOSÉ DE J. PAUL.

File No. 4832/34.

The Brazilian Ambassador to the Acting Secretary of State.

EMBASSY OF BRAZIL,
Hamilton, Mass., July 14, 1908.

MR. ACTING SECRETARY OF STATE: I duly forward to Mr. Lorena your communication to Mr. John Brewer, as well as the original of your note to me, so that he can show it to him and at the same time he will take note of your wish about the use of our flag.

You will have noticed that in his note to the minister of foreign relations Mr. Lorena wrote that he would remain in charge of the American interests "during the suspension of the relations between the two countries." This view of the incident of the recall of the American Legation seems not to have occurred to the Venezuelan Government before Mr. Lorena's note, unless it did not wish that such view was taken by the public.

It seems also that the note of Mr. Paul, saying that Mr. Sleeper would continue enjoying the diplomatic immunities until taking the boat at Puerto Cabello, as he was recalled by his Government and Venezuela has no cause for complaint against him personally, is the reaffirmation, in another form, of the doctrine upheld by the Government of Caracas when it curtailed the diplomatic immunities of M. Taigny. It is therefore to be regretted that the agents of all the powers then represented at Caracas were not authorized to sign the collective note proposed by the Brazilian minister protesting against the adjustment of the diplomatic immunities according to the feelings of the local Government toward the person of the agent

and to the circumstances of his being recalled by his own Government, or of having received his passport from the Government to which he was accredited.

I have, etc.,

JOAQUIM NABUCO.

File No. 4832/34.

The Acting Secretary of State to the Brazilian Ambassador.

No. 63.]

DEPARTMENT OF STATE,
Washington, July 23, 1908.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 14th instant, by which you advise the department that you have forwarded to Mr. Lorena the department's communication to Mr. John Brewer as well as the department's note transmitting it to you, and in which you express regret that the representatives of all the powers which had diplomatic relations with Venezuela when the Government at Caracas curtailed the diplomatic immunities of M. Taigny were not authorized to sign the collective note proposed by the Brazilian minister protesting against Venezuela's attitude at that time, in view of the fact that the note of the minister for foreign affairs of Venezuela informing Mr. Sleeper that he would continue to enjoy diplomatic immunities until he embarked at Puerto Cabello is in effect a reaffirmation of the doctrine maintained by Venezuela in the former instance.

Concerning the question of diplomatic immunities, the Department of State holds that both international law and international courtesy assure to diplomatic agents, in the countries to which they are accredited, the right to be protected, although their powers to represent and negotiate for their Governments have been suspended or terminated by recall, or otherwise, and that the diplomatic immunity inherent in the persons of diplomatic agents extends for a reasonable time after the cessation of diplomatic functions in order that they may complete their arrangements to leave the country.

In regard to the note of Minister Paul to Mr. Sleeper, in which the former assures Mr. Sleeper that he would "continue enjoying the diplomatic immunities until taking the boat at Puerto Cabello," it may well be, as your excellency suggests, a reaffirmation in another form of the doctrine upheld by the Government of Caracas in connection with the withdrawal of M. Taigny from Venezuela; or, it may be, on the other hand, a mere assurance extended to Mr. Sleeper that his diplomatic immunities do not cease with his recall, but follow him until his departure from Puerto Cabello. In this latter case the note might be construed as an abandonment of the extreme claim advanced in the case of M. Taigny.

As, however, diplomatic immunities were in fact extended to and enjoyed by Mr. Sleeper, does it not seem advisable, in view of all the circumstances, to let the matter pass without taking further note of it?

Thanking you for your obliging and prompt compliance with the department's request, I beg you to accept, etc.

ALVEY A. ADEE.

File No. 4832/41-42.

The Acting Secretary of State to Ambassador Dudley.

No. 94.]

DEPARTMENT OF STATE,
Washington, July 30, 1908.

SIR: I have to acknowledge the receipt of your No. 210 of the 29th ultimo, inclosing copy of the note by which you expressed to the foreign office on the same day this Government's appreciation of Brazil's good offices in taking charge of American interests in Venezuela.

Your note is approved.

With renewed expressions of appreciation of Brazilian good offices and good will,

I am, etc.,

ROBERT BACON.

File No. 4832/49-50.

Mr. John Brewer, custodian of the legation at Caracas, to the Secretary of State.

AMERICAN LEGATION,
Caracas, August 5, 1908.

SIR: I have the honor to acknowledge the receipt of two inclosures sent me through the Brazilian ambassador at Washington in a communication dated July 10, 1908, and to say that these copies have been added to the legation archives.

Furthermore, I beg to advise the department that the Brazilian chargé d'affaires has shown me the above-mentioned note (the Acting Secretary of State to his excellency Mr. Nabuco, July 10, 1908), requesting that I be informed that my consular functions have been suspended. This information has also been communicated to the Venezuelan Government.

Mr. Lorena states that in view of this action by the department he can no longer hand over to me the monthly payments on account of the awards of the mixed commission of 1903, nor furnish me with copies, etc., of his communications with the foreign office for filing in the archives, and suggests that I request your full instructions as to how far I am to go in such matters. I respectfully add that it has been my endeavor to keep the regular business with the department running as usual, although the only instructions I have received have been to "report to the department from time to time on conditions in Venezuela." As the absence of a consular officer in Caracas throws a great deal of extra work on the Brazilian chargé d'affaires, for which neither he nor the secretary of legation can accept compensation, I trust the department may permit me to relieve Mr. Lorena in any way it may see fit.

I have, etc.,

JOHN BREWER.

File No. 4832/49-50.

The Acting Secretary of State to the Brazilian Ambassador.

No. 67.]

DEPARTMENT OF STATE,
Washington, August 27, 1908.

EXCELLENCY: The department has been advised by Mr. John Brewer, custodian of its legation at Caracas, that in view of the suspension of his consular functions, Mr. Lorena, chargé d'affaires of

Brazil, has not deemed it proper to hand over to him the monthly payments made to the chargé by the Venezuelan Government on account of the awards of the mixed commission of 1903 in favor of American claimants, or to furnish him with copies of the correspondence exchanged between the Brazilian legation and the Venezuelan Government concerning American matters. Mr. Lorena's action is understood to be based on his opinion that Mr. Brewer no longer holds any official position under this Government.

The department thinks, however, that Mr. Brewer should be held to be its agent to receive the moneys in question and custodian of its legation to receive copies of the correspondence above referred to.

Mr. Lorena will thus be relieved of the trouble of buying the drafts and remitting them to this Government, and it is also to be desired that our legation's files should possess copies of the correspondence above referred to at the time of its exchange.

I have the honor, therefore, to suggest that you will be good enough to communicate the department's views to Mr. Lorena, as well as its instruction to Mr. Brewer, which has been drawn in conformity with the views expressed in the present note to you.

Accept, etc.,

ALVEY A. ADEE.

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