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United States Department of State

Washington, D.C.: U.S. Government Printing Office, 1902

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P A P E R S

RELATING TO THE

FOREIGN RELATIONS

OF

THE UNITED STATES,

WITH

THE ANNUAL MESSAGE OF THE PRESIDENT

TRANSMITTED TO CONGRESS

DECEMBER 2, 1902.

WASHINGTON:

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TABLE OF CONTENTS.

[For alphabetical index see end of volume.]

	Page
Message of the President.....	XI
List of papers, with subjects of correspondence.....	XXXV
Circulars.....	1-12
Passports—intent to return to the United States.....	1
Passports for persons residing or sojourning abroad.....	1
Charge of diplomatic mission in the absence of its head: Construction of article 19 of Instructions to Diplomatic Officers.....	4
Charges against diplomatic and consular officers.....	5
Cessation of military occupation of Cuba by the United States.....	6
Protection of Cuban interests by United States consular officials.....	6
Passports to residents of insular possessions of the United States.....	6
Argentine Republic.....	13-24
Extracts from message of President of Argentine Republic.....	13
Adjustment of difficulty between Argentine Republic and Chile.....	18
Refusal to exempt operators of Central and South American Telegraph Company from military service.....	23
Protection of Cuban interests by United States consular officials.....	24
Austria-Hungary.....	25-72
Passage through United States of remains of late Mexican minister to Austria-Hungary.....	25
Agreement between Russia and China relative to Manchuria.....	26
Raising of United States legation to Austria-Hungary and Austro-Hungarian legation to the United States to embassies.....	27
Right of widow of Austro-Hungarian soldier to pension.....	33
Political, social, and commercial relations between the United States and Austria-Hungary.....	34
Protection of Cuban interests by United States consular officials.....	36
Admission into Austria-Hungary of proprietary preparations of American manufacture.....	37
Jews in Roumania—discriminations against, condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons.....	42
Sending of Hungarian national banner to the United States.....	45
Accident to President Roosevelt.....	48
Status of naturalized United States citizens of Austro-Hungarian origin returning to their native country—Retention by Hungarian officials of passport and certificate of naturalization of Josef Janco.....	49
Military service case of Joseph Kristof.....	61
Military service cases of Joseph Knopp, Jacob Friedberg, Harry Schmierie, Michael Tenzer, and Frank Howrka.....	63
Passport application of Moses Lilienthal.....	65
Passport application of Theodor F. Alexander.....	67
Passport application of Armin Freiman.....	69
Passport application of Harry Frommer.....	70
Belgium.....	73-100
Fine on Belgian steamship <i>Belgika</i> in the Philippine Islands.....	73
Sugar bounty conference—text of convention.....	80
Riots and strikes in Belgium over question of suffrage—brief sketch of electoral system.....	85
Protection of Cuban interests by United States consular officials.....	86

	Page.
Belgium—Continued.	
Treaty between the United States of America and the Kingdom of Belgium for the mutual extradition of fugitives from justice	87
An additional act, concluded at Brussels December 14, 1900, by the plenipotentiaries of the United States and other countries, for the protection of industrial property, modifying the industrial property convention of March 20, 1883	92
Accident to President Roosevelt	97
Death of the Queen of Belgium	98
Protection of Belgian interests in Haiti by United States naval vessel	98
Attempt on life of King of Belgium	99
Bolivia	101, 102
Protection of Cuban interests by United States consular officials	101
Protection of British interests in Bolivia by United States officials	101
Brazil	103-115
Treaty submitting to arbitration the question of the boundary between Brazil and British Guiana	103
Inadvisability of American emigration to the Upper Amazon region	105
Protection of Cuban interests by United States consular officials	106
Inheritance tax on estate of Baron Thomsen	107
Inauguration of President Alves—address of United States minister and President's reply—exchange of courtesies between officers of U. S. S. <i>Iowa</i> and Brazilian officials	114
Chile	116-128
Relations between the United States and Chile	116
Courtesies to United States battle ships <i>Iowa</i> and <i>Wisconsin</i>	119
Protection of Cuban interests by United States consular officials	121
Treaty between the United States and Chile providing for the extradition of criminals	122
Chile-Argentine treaty	126
China	129-283
Restoration of silver bullion seized by United States forces at Tientsin	129
Protection of native Christians by missionaries	131
Protection of missionaries by United States naval forces	138
Rehabilitation of Chang Yin-huan	140
Return of the Chinese court to Peking	142
Mutual embarrassments of United States and Russian officials at Niuchwang—conflict between United States seamen and Russian officials—delays in transmission of telegrams, etc	145
Riots, uprisings, massacres, etc	159
Reform edicts aiming at reorganization of institutions of learning and restoration of friendly intercourse with foreigners	181
Restoration of Tientsin to Chinese authorities	184
Request of taot'ai of Kiukiang for recall of native missionaries	202
Audience of diplomatic corps with Emperor and Empress Dowager of China, and reception by the latter of the ladies of the diplomatic corps	205
Reform edicts removing prohibition of marriage between Manchus and Chinese, and providing for selection of students to be sent abroad	208
Arguments against the United States laws for the exclusion of Chinese	209
Protection denied to H. Krippendorf, who had merely declared intention to become a citizen of the United States	221
Question of establishment of United States post-offices in China, and collection of additional duty on articles that have already been entered into China	222
Refusal of Chinese Government to issue passports for travel in Thibet	226
Student interpreters in China	227
Protection of Cuban interests by United States consular officials	234
Exclusion of Chinese—refusal of Treasury Department to modify certain regulations	236
Reception of Rear-Admiral Frederick Rodgers, U. S. N., by the Emperor and Empress Dowager	240
Vicarious punishment of relatives in China of Chinese naturalized citizens of the United States	244
Decree disarming natives of Chihli	254
Monopoly of camphor trade in Fukien granted to a Japanese company	255
Protection of Chinese at Panama by United States officials	262

TABLE OF CONTENTS.

v

	Page.
China—Continued.	
Admission of Chinese into Cuba	263
Proclamation denouncing Boxer practices as heresy	266
Death of Viceroy Liu K'un-yi	267
Convention and arrangement between Russia and China respecting Manchuria	271
Commencement of evacuation of Manchuria by Russia	281
Colombia	284-319
Seizure of vessels of, and alleged discriminations against American enterprises in Colombia	289
Protection of Roberto Beck, a Swiss citizen, by United States officials in Colombia	292
Death of President Sanclemente	293
Reopening of United States missionary schools at Barranquilla, Bogotá, and Medellín, closed by Colombian authorities	293
Rights of United States citizens in Colombia as to expropriation of property	304
Neutrality of aliens—"certificates of neutrality" not to be issued by legations to United States citizens	313
Protection of Cuban interests by United States consular officials	318
Protection by United States consular officers of Chinese on the Isthmus of Panama	318
Cuba	320-364
Establishment of independent government in Cuba	320
Message from the President of the United States commending timely consideration of measures for maintaining diplomatic and consular representatives in Cuba and for carrying out the provisions of the act making appropriation for the support of the Army for the fiscal year ending June 30, 1902	322
Reception of minister of the United States	324
Resolution of United States Senate congratulating Cuban Republic on its appearance among the nations of the world	325
Resolution of Cuban House of Representatives thanking Government and people of the United States for assistance	326
Announcement of establishment of Cuban Republic	327
Courtesies of Cuban Government on occasion of anniversary of independence of the United States	329
Protection of Cuban interests by United States consular officials	333
Messages of the President of Cuba to Congress	350
Ceremonies attending hauling down of United States flag at Matanzas	351
Amnesty granted American citizens who committed crimes in Cuba during intervention period	352
Exclusion of Chinese from Cuba	354
Suspension of tonnage dues on Cuban vessels	355
Diplomatic immunities: Testimony of United States diplomatic representatives in foreign courts	356
Accident to President Roosevelt	356
Law establishing procedure for obtaining Cuban citizenship	358
Relations between Cuba and the United States	365-380
Denmark	365
Protection of Danish interests in Salvador by United States officials	368
Treaty between the United States and the Kingdom of Denmark for the extradition of fugitives from justice	372
Liability of naturalized citizens of the United States to military service in Denmark	373
Protection of Cuban interests by United States consular officials	373
Accident to President Roosevelt	373
Courtesies to U. S. S. <i>Chicago</i> and <i>Albany</i>	375
Military-service case of James Nelson	377
Effect of the continued residence of naturalized United States citizens in the country of origin	378
Military-service cases of James John Hansen and Anton Miller	381-385
Dominican Republic	381
Visit of Gen. Maximo Gomez to Santo Domingo, during which relics of Christopher Columbus were exhibited	381
Protection denied Porto Ricans engaged in insurrection against Dominican Government	382

	Page.
Dominican Republic—Continued.	
Protection of Cuban interests by United States consular officials	383
Accident to President Roosevelt	384
Ecuador	386-390
Passports and citizenship—explanatory of Department's attitude in regard to, and defining limits within which naturalization certificates are recognized	386
Protection of Cuban interests by United States consular officials	389
Accident to President Roosevelt	390
France	391-421
Complaints of alleged violation at Pacific coast ports of consular convention of February 23, 1853, between the United States and France.....	391
Passports—attitude of Department on question of declaration of intention to return to the United States within a stipulated period.....	407
Agreement between Russia and China relative to Manchuria.....	408
Dedication of monument to Marshal de Rochambeau at Washington.....	409
Assistance rendered by the United States to the sufferers from the volcanic eruption at Martinique	412
Protection of Cuban interests by United States consular officials.....	417
Protection of French cable in Haiti by United States officials.....	417
Amendatory and additional agreement to the commercial agreement of May 28, 1898.....	418
Accident to President Roosevelt.....	419
Jews in Roumania—discriminations against, condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons	420
Passport erroneously issued to G. L. Rosenbaum without proof of his father's naturalization—special passports not to be issued by diplomatic representatives abroad.....	420
Germany	422-462
Visit of Prince Henry of Prussia to the United States	422
Foreign policy of Germany—résumé of speeches of Chancellor Count Bülow relative to China, visit of Prince Henry of Prussia to the United States, war in South Africa, etc.....	425
Foreign debt of Guatemala—the United States declines to join with other powers in coercive action, but will reserve for United States citizens all rights secured by such action.....	426
Protection of German interests at Bocas del Toro by United States naval officials.....	427
Protection of Cuban interests by United States consular officials.....	428
Death of King Albert of Saxony.....	429
Defilement of United States coat of arms.....	430
Restrictions on sojourn in their country of origin of Germans naturalized in the United States	440
Jews in Roumania—discriminations against, conditions of helplessness to which they are reduced, and objection of United States Government to immigration of such persons	442
Accident to President Roosevelt.....	442
Relations of Germany with Haiti.....	442
Claims on account of military operations conducted in Samoa in 1899—preliminary decision of the King of Sweden and Norway as arbitrator..	444
Passport application of Schabssel Reif	448
Passport application of Joseph Duff.....	448
Passport application of Gustav Frank Eichborn	449
Expulsion of Peter Mikolainis.....	450
Expulsion of Albert and Nathan Eisemann	451
Expulsion of Johann Wilhelm Lohmann.....	457
Expulsion of Leo Hess.....	457
Expulsion of Charles von Oehsen, (Carl) Christian Markhoff and family, and Henry Blohm.....	458
Expulsion of Mads Peder L. Fysant	459
Expulsion of Samuel Samuel.....	460
Military-service cases of Rene Huttler, Eugene Herr, and Meyer Schwartz.....	460
Military-service cases of Ferdinand Herman Grenzer, Henry Honebein, George Soehlke, Gustav Meincke, and George Dickmann (Dieckmann).....	461
Great Britain	463-564
Prisoners of war, American citizens, held in British colonies	463

TABLE OF CONTENTS.

VII

	Page.
Great Britain—Continued.	
Special embassy of the United States to coronation of Edward VII	498
Title of King Edward VII	507
Protection of British interests in Colombia by United States officials.....	509
Agreement between Russia and China relative to Manchuria	511
Text of defensive agreement between Great Britain and Japan	513
Treaty between the United States and Great Britain to facilitate the construction of a ship canal	517
British protectorates in East Africa placed under zone of total prohibition of alcoholic liquors, under Article XCI of the Brussels act	520
Abduction of Miss Stone—assistance in rescue rendered by British officials in Turkey and Bulgaria.....	520
Protection of American interests in Bulgaria by British representatives ..	521
Assistance rendered by United States to sufferers from volcanic eruption at St. Vincent, Windward Islands.....	523
Protection by United States officials of British interests in Bolivia	528
Death of Lord Pauncefote, British ambassador to the United States.....	530
Protection of Cuban interests by United States consular officials	532
Scholarships under the will of Cecil John Rhodes	532
Scholarships under the will of Cecil John Rhodes	537
Condolences on illness of King Edward VII.....	537
Protection by United States consul of British interests at Martinique.....	540
Protection of an American citizen by British vice-consul at Van, Turkey..	543
Protection of American interests at Habana by British consul-general....	543
Interview in London of United States Special Ambassador Reid with Prince Chen, Chinese special envoy	543
Release of British subject from involuntary military service in Venezuela secured by United States naval officials	545
Discourtesy to British flag at Skagway, Alaska. (Canadian customs flags not to be displayed in United States territory, nor United States customs flags in Canadian territory)	546
Jews in Roumania—discriminations against, condition of helplessness to which they are reduced, and objections of United States Government to immigration of such persons	549
Accident to President Roosevelt.....	550
Treaty between the United States and Great Britain concerning the establishment of import duties in Zanzibar.....	551
Protection of American interests by British vice-consul at Bitlis, Turkey..	553
Text of commercial treaty between Great Britain and China.....	553
	565-568
Greece.....	565
Courtesies at Piræus to European squadron of the United States Navy....	567
Protection of Cuban interests by United States consular officials	567
Courtesies to U. S. S. <i>Hartford</i> at Piræus.....	569-586
Guatemala and Honduras.....	569
Foreign debt of Guatemala—the United States declines to join with other powers in coercive action, but will reserve for United States citizens all rights secured by such action.....	582
Convention between the United States and Guatemala for the reciprocal protection of trade-marks and trade labels	583
Protection of Cuban interests by United States consular officials	584
Accident to President Roosevelt.....	584
Convention between the United States and Guatemala relating to the tenure and disposition of real and personal property	587-682
Haiti.....	587
Revolution in Haiti	678
Protection of Cuban interests by United States consular officials.....	679
Question of "right of asylum" in United States legations	682
Accident to President Roosevelt.....	683-686
Italy.....	683
Protection of Cuban interests by United States consular officials.....	683
Accident to President Roosevelt.....	684
Jews in Roumania—discriminations against, condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons	685
Passport application of Antonio Basile.....	687-732
Japan.....	687
Submission to arbitration of question of taxation of buildings on perpetually leased ground in Japan	687

	Page.
Japan—Continued.	
Protection of Cuban interests by United States consular officials	730
Accident to President Roosevelt	731
Death of Alfred E. Buck, United States minister to Japan	731
Korea	733-737
Amendment to land regulations of foreign settlement at Chemulpo	733
Protection of Cuban interests by United States consular officials	736
Accident to President Roosevelt	737
Mexico	738-833
Claim of the Catholic Church (Pious Fund) <i>v.</i> Mexico	738
Settlement of claim of Michael Brown <i>v.</i> Mexico, on account of illegal eviction and imprisonment	786
Enforced enlistment in and discharge from Mexican army of Francisco Cuero, an American Indian	789
Consular immunities—exemption of consuls, under most favored nation clause, from payment of personal taxes	792
Passage through United States of remains of late Mexican minister to Austria-Hungary	794
Arrest and imprisonment of American citizens, railway employees, in Mexico—detailed reports in case of Nathaniel F. Bonsall	795
Treaty of compulsory arbitration between Mexico and Spain	813
Protection of Cuban interests by United States consular officials	815
Treaty of commerce and navigation between Austria-Hungary and Mexico. Jurisdiction of United States consuls over disputes and differences between masters, officers, and crews of American vessels in Mexican ports	816
Denials of justice to United States citizens to be reported to embassy by consular officials	828
Accident to President Roosevelt	830
Message of President of Mexico to Congress—passages relating to the Pious Fund Claim and the silver question	831
Reception of the Cuban minister to Mexico	832
Netherlands	834-835
Passport application of Juliaan Johan Becker	834
Protection of Cuban interests by United States consular officials	835
Nicaragua, Costa Rica, and Salvador	836-889
Protection of Danish interests in Salvador by United States officials	836
Arbitration of claims of the Salvador Commercial Company <i>et al.</i> <i>v.</i> Sal- vador	838
Arbitration of claim of Rosa Gelbtrunk <i>v.</i> Salvador	873
In absence of treaty stipulations, law of Salvador governs where not inconsistent with international law, etc	880
Treaty between Central American States providing for the arbitration of differences	881
Protection of Cuban interests by United States consular officials	883
Guaranty by United States of transit across the Isthmus of Panama under treaty of 1846—so long as rights of American vessels and citizens are not interfered with the United States can not intervene	884
Accident to President Roosevelt	889
Persia	890
Railway construction monopoly in Persia held by Russia	890
Accident to President Roosevelt	890
Peru	891-903
Text of arbitration protocol between Peru and Bolivia	891
Adoption of gold standard in Peru	893
Protection of Cuban interests by United States consular officials	898
Extracts from message of President of Peru to Peruvian Congress	900
Accident to President Roosevelt	903
Portugal	904
Protection of Cuban interests by United States consular officials	904
Accident to President Roosevelt	904
Roumania	905-915
Financial conditions in Roumania	905
Protection of Cuban interests by United States consular officials	909
Jews in Roumania—discussion of proposed naturalization convention between the United States and Roumania; discriminations in the latter country against Jews, condition of helplessness to which they are reduced, and objection of United States Government to immigration of such per- sons	910

TABLE OF CONTENTS.

IX

	Page.
Russia	916-937
Mutual embarrassments of United States and Russian officials at Niu-chwang—Conflict between United States seamen and Russian officials—Delays in transmission of telegrams, etc.	916
Convention and arrangement between Russia and China respecting Manchuria	926
Declaration of Russia and France concerning defensive agreement between Great Britain and Japan	929
Protection of Cuban interests by United States consular officials	933
Visit of Russian Grand Duke Boris Wladimirovitch to the United States	934
Partial removal of restrictions on travel and residence in Central Asia	936
Jews in Roumania—Discriminations against, condition of helplessness to which they are reduced, and objections of United States Government to immigration of such persons	936
Servia	938-942
Treaty between the United States and Servia for the mutual extradition of fugitives from justice	938
Siam	943-948
Question as to whether a United States official may issue a passport to a United States citizen residing in the district of another United States official—application of Henry S. Wetherbee	943
Protection of Cuban interests by United States consular officials	945
Visit of the Crown Prince of Siam to the United States	945
Accident to President Roosevelt	948
Spain	949-966
Military-service case of Antonio Gisbert y Bayot	949
Celebration of majority of Alfonso XIII	954
Assumption of power by Alfonso XIII	959
Protection of Cuban interests by United States consular officials	960
Accident to President Roosevelt	960
Jurisdiction over vessels and their crews—Complaint that local officials of Pensacola, Fla., made arrests aboard a Spanish vessel without notice to Spanish consul	961
Sweden and Norway	967
Protection of Cuban interests by United States consular officials	967
Switzerland	968-996
Passport application of Helena Pecare	968
Passport application of Bertha Knopf	969
Passport application of William Strahlheim	973
Passports not to be issued to persons, minors at the time of naturalization of parents, who were not at the time of such naturalization dwelling within the United States (case of Meta Schwarz)	976
Passport application of Bernhard Kaufmann	977
Protection of Paul Dick, a Swiss citizen, by United States representative in Egypt	979
Protection of Robert Beck, a Swiss citizen, by United States officials in Colombia	979
Protection of Cuban interests by United States consular officials	981
Referendum and initiative	981
Execution in Switzerland of judgment of Massachusetts court denied by Swiss authorities because of refusal of United States to guarantee reciprocal action in similar cases	994
Turkey	997-1050
Abduction by brigands, ransom, and release of Miss Ellen M. Stone, an American missionary	997
Passport application of Assadur H. Kludjian	1023
Exchange of compliments between the President of the United States and the Sultan of Turkey on the recurrence of the Bairam	1025
Restrictions on American life insurance companies in Turkey	1026
Protection of Cuban interests by United States consuls	1041
Protection of American interests by British vice-consul at Bitlis	1042
Friction between the United States minister and the Grand Vizier	1044
Jews in Roumania—Discriminations against, condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons	1048
Congratulations on anniversary of Sultan's accession to throne	1048
Treaty of 1830—Interpretation of Article IV	1049
Accident to President Roosevelt	1050

TABLE OF CONTENTS.

	Page.
Uruguay and Paraguay	1051-1057
Deposition of President Aceval and elevation of Vice-President Carvalla to Presidency of Paraguay	1051
Reception of officers of U. S. S. <i>Iowa</i> by the President of Uruguay	1055
Protection of Cuban interests by United States consular officials	1055
Venezuela	1058-1074
Threatened seizure of the <i>Viking</i> , which sailed for a Venezuelan port in possession of insurgents under clearance of United States consul at Port of Spain, the Venezuelan consul at that port having refused the vessel clearance	1058
Renewal of diplomatic relations between Venezuela and France—text of protocol	1067
Protection of Cuban interests by United States consular officials	1069
Blockade by decree—the United States Government recognizes a blockade only when it is effective	1069
Improper use of United States flag by Venezuelan gunboat <i>Restaurador</i> ...	1072

M E S S A G E .

To the Senate and House of Representatives:

We still continue in a period of unbounded prosperity. This prosperity is not the creature of law, but undoubtedly the laws under which we work have been instrumental in creating the conditions which made it possible, and by unwise legislation it would be easy enough to destroy it. There will undoubtedly be periods of depression. The wave will recede; but the tide will advance. This Nation is seated on a continent flanked by two great oceans. It is composed of men the descendants of pioneers, or, in a sense, pioneers themselves; of men winnowed out from among the nations of the Old World by the energy, boldness, and love of adventure found in their own eager hearts. Such a nation, so placed, will surely wrest success from fortune.

As a people we have played a large part in the world, and we are bent upon making our future even larger than the past. In particular, the events of the last four years have definitely decided that, for woe or for weal, our place must be great among the nations. We may either fail greatly or succeed greatly; but we can not avoid the endeavor from which either great failure or great success must come. Even if we would, we can not play a small part. If we should try, all that would follow would be that we should play a large part ignobly and shamefully.

But our people, the sons of the men of the Civil War, the sons of the men who had iron in their blood, rejoice in the present and face the future high of heart and resolute of will. Ours is not the creed of the weakling and the coward; ours is the gospel of hope and of triumphant endeavor. We do not shrink from the struggle before us. There are many problems for us to face at the outset of the twentieth century—grave problems abroad and still graver at home; but we know that we can solve them and solve them well, provided

only that we bring to the solution the qualities of head and heart which were shown by the men who, in the days of Washington, founded this Government, and, in the days of Lincoln, preserved it.

No country has ever occupied a higher plane of material well-being than ours at the present moment. This well-being is due to no sudden or accidental causes, but to the play of the economic forces in this country for over a century; to our laws, our sustained and continuous policies; above all, to the high individual average of our citizenship. Great fortunes have been won by those who have taken the lead in this phenomenal industrial development, and most of these fortunes have been won not by doing evil, but as an incident to action which has benefited the community as a whole. Never before has material well-being been so widely diffused among our people. Great fortunes have been accumulated, and yet in the aggregate these fortunes are small indeed when compared to the wealth of the people as a whole. The plain people are better off than they have ever been before. The insurance companies, which are practically mutual benefit societies—especially helpful to men of moderate means—represent accumulations of capital which are among the largest in this country. There are more deposits in the savings banks, more owners of farms, more well-paid wage-workers in this country now than ever before in our history. Of course, when the conditions have favored the growth of so much that was good, they have also favored somewhat the growth of what was evil. It is eminently necessary that we should endeavor to cut out this evil, but let us keep a due sense of proportion; let us not in fixing our gaze upon the lesser evil forget the greater good. The evils are real and some of them are menacing, but they are the outgrowth, not of misery or decadence, but of prosperity—of the progress of our gigantic industrial development. This industrial development must not be checked, but side by side with it should go such progressive regulation as will diminish the evils. We should fail in our duty if we did not try to remedy the evils, but we shall succeed only if we proceed patiently, with practical common sense as well as resolution, separating the good from the bad and holding on to the former while endeavoring to get rid of the latter.

In my Message to the present Congress at its first session I discussed at length the question of the regulation of those big corporations commonly doing an interstate business, often with some

tendency to monopoly, which are popularly known as trusts. The experience of the past year has emphasized, in my opinion, the desirability of the steps I then proposed. A fundamental requisite of social efficiency is a high standard of individual energy and excellence; but this is in no wise inconsistent with power to act in combination for aims which can not so well be achieved by the individual acting alone. A fundamental base of civilization is the inviolability of property; but this is in no wise inconsistent with the right of society to regulate the exercise of the artificial powers which it confers upon the owners of property, under the name of corporate franchises, in such a way as to prevent the misuse of these powers. Corporations, and especially combinations of corporations, should be managed under public regulation. Experience has shown that under our system of government the necessary supervision can not be obtained by State action. It must therefore be achieved by national action. Our aim is not to do away with corporations; on the contrary, these big aggregations are an inevitable development of modern industrialism, and the effort to destroy them would be futile unless accomplished in ways that would work the utmost mischief to the entire body politic. We can do nothing of good in the way of regulating and supervising these corporations until we fix clearly in our minds that we are not attacking the corporations, but endeavoring to do away with any evil in them. We are not hostile to them; we are merely determined that they shall be so handled as to subserve the public good. We draw the line against misconduct, not against wealth. The capitalist who, alone or in conjunction with his fellows, performs some great industrial feat by which he wins money is a welldoer, not a wrongdoer, provided only he works in proper and legitimate lines. We wish to favor such a man when he does well. We wish to supervise and control his actions only to prevent him from doing ill. Publicity can do no harm to the honest corporation; and we need not be overtender about sparing the dishonest corporation.

In curbing and regulating the combinations of capital which are or may become injurious to the public we must be careful not to stop the great enterprises which have legitimately reduced the cost of production, not to abandon the place which our country has won in the leadership of the international industrial world, not to strike down wealth with the result of closing factories and mines, of turning the wage-worker idle in the streets and leaving the farmer without a market for what he grows. Insistence upon the impossible

means delay in achieving the possible, exactly as, on the other hand, the stubborn defense alike of what is good and what is bad in the existing system, the resolute effort to obstruct any attempt at betterment, betrays blindness to the historic truth that wise evolution is the sure safeguard against revolution.

No more important subject can come before the Congress than this of the regulation of interstate business. This country can not afford to sit supine on the plea that under our peculiar system of government we are helpless in the presence of the new conditions, and unable to grapple with them or to cut out whatever of evil has arisen in connection with them. The power of the Congress to regulate interstate commerce is an absolute and unqualified grant, and without limitations other than those prescribed by the Constitution. The Congress has constitutional authority to make all laws necessary and proper for executing this power, and I am satisfied that this power has not been exhausted by any legislation now on the statute books. It is evident, therefore, that evils restrictive of commercial freedom and entailing restraint upon national commerce fall within the regulative power of the Congress, and that a wise and reasonable law would be a necessary and proper exercise of Congressional authority to the end that such evils should be eradicated.

I believe that monopolies, unjust discriminations, which prevent or cripple competition, fraudulent overcapitalization, and other evils in trust organizations and practices which injuriously affect interstate trade can be prevented under the power of the Congress to "regulate commerce with foreign nations and among the several States" through regulations and requirements operating directly upon such commerce, the instrumentalities thereof, and those engaged therein.

I earnestly recommend this subject to the consideration of the Congress with a view to the passage of a law reasonable in its provisions and effective in its operations, upon which the questions can be finally adjudicated that now raise doubts as to the necessity of constitutional amendment. If it prove impossible to accomplish the purposes above set forth by such a law, then, assuredly, we should not shrink from amending the Constitution so as to secure beyond peradventure the power sought.

The Congress has not heretofore made any appropriation for the better enforcement of the antitrust law as it now stands. Very much has been done by the Department of Justice in securing the

enforcement of this law, but much more could be done if the Congress would make a special appropriation for this purpose, to be expended under the direction of the Attorney-General.

One proposition advocated has been the reduction of the tariff as a means of reaching the evils of the trusts which fall within the category I have described. Not merely would this be wholly ineffective, but the diversion of our efforts in such a direction would mean the abandonment of all intelligent attempt to do away with these evils. Many of the largest corporations, many of those which should certainly be included in any proper scheme of regulation, would not be affected in the slightest degree by a change in the tariff, save as such change interfered with the general prosperity of the country. The only relation of the tariff to big corporations as a whole is that the tariff makes manufactures profitable, and the tariff remedy proposed would be in effect simply to make manufactures unprofitable. To remove the tariff as a punitive measure directed against trusts would inevitably result in ruin to the weaker competitors who are struggling against them. Our aim should be not by unwise tariff changes to give foreign products the advantage over domestic products, but by proper regulation to give domestic competition a fair chance; and this end can not be reached by any tariff changes which would affect unfavorably all domestic competitors, good and bad alike. The question of regulation of the trusts stands apart from the question of tariff revision.

Stability of economic policy must always be the prime economic need of this country. This stability should not be fossilization. The country has acquiesced in the wisdom of the protective-tariff principle. It is exceedingly undesirable that this system should be destroyed or that there should be violent and radical changes therein. Our past experience shows that great prosperity in this country has always come under a protective tariff; and that the country can not prosper under fitful tariff changes at short intervals. Moreover, if the tariff laws as a whole work well, and if business has prospered under them and is prospering, it is better to endure for a time slight inconveniences and inequalities in some schedules than to upset business by too quick and too radical changes. It is most earnestly to be wished that we could treat the tariff from the standpoint solely of our business needs. It is, perhaps, too much to hope that partisanship may be entirely excluded from consideration of the subject, but at least it can be made secondary to the business interests of the country—that is, to the interests of our people as a

whole. Unquestionably these business interests will best be served if together with fixity of principle as regards the tariff we combine a system which will permit us from time to time to make the necessary reapplication of the principle to the shifting national needs. We must take scrupulous care that the reapplication shall be made in such a way that it will not amount to a dislocation of our system, the mere threat of which (not to speak of the performance) would produce paralysis in the business energies of the community. The first consideration in making these changes would, of course, be to preserve the principle which underlies our whole tariff system—that is, the principle of putting American business interests at least on a full equality with interests abroad, and of always allowing a sufficient rate of duty to more than cover the difference between the labor cost here and abroad. The well-being of the wage-worker, like the well-being of the tiller of the soil, should be treated as an essential in shaping our whole economic policy. There must never be any change which will jeopardize the standard of comfort, the standard of wages of the American wage-worker.

One way in which the readjustment sought can be reached is by reciprocity treaties. It is greatly to be desired that such treaties may be adopted. They can be used to widen our markets and to give a greater field for the activities of our producers on the one hand, and on the other hand to secure in practical shape the lowering of duties when they are no longer needed for protection among our own people, or when the minimum of damage done may be disregarded for the sake of the maximum of good accomplished. If it prove impossible to ratify the pending treaties, and if there seem to be no warrant for the endeavor to execute others, or to amend the pending treaties so that they can be ratified, then the same end—to secure reciprocity—should be met by direct legislation.

Wherever the tariff conditions are such that a needed change can not with advantage be made by the application of the reciprocity idea, then it can be made outright by a lowering of duties on a given product. If possible, such change should be made only after the fullest consideration by practical experts, who should approach the subject from a business standpoint, having in view both the particular interests affected and the commercial well-being of the people as a whole. The machinery for providing such careful investigation can readily be supplied. The executive department has already at its disposal methods of collecting facts and figures; and if the Congress desires additional consideration to that which will be given

the subject by its own committees, then a commission of business experts can be appointed whose duty it should be to recommend action by the Congress after a deliberate and scientific examination of the various schedules as they are affected by the changed and changing conditions. The unhurried and unbiased report of this commission would show what changes should be made in the various schedules, and how far these changes could go without also changing the great prosperity which this country is now enjoying, or upsetting its fixed economic policy.

The cases in which the tariff can produce a monopoly are so few as to constitute an inconsiderable factor in the question; but of course if in any case it be found that a given rate of duty does promote a monopoly which works ill, no protectionist would object to such reduction of the duty as would equalize competition.

In my judgment, the tariff on anthracite coal should be removed, and anthracite put actually, where it now is nominally, on the free list. This would have no effect at all save in crises; but in crises it might be of service to the people.

Interest rates are a potent factor in business activity, and in order that these rates may be equalized to meet the varying needs of the seasons and of widely separated communities, and to prevent the recurrence of financial stringencies which injuriously affect legitimate business, it is necessary that there should be an element of elasticity in our monetary system. Banks are the natural servants of commerce, and upon them should be placed, as far as practicable, the burden of furnishing and maintaining a circulation adequate to supply the needs of our diversified industries and of our domestic and foreign commerce; and the issue of this should be so regulated that a sufficient supply should be always available for the business interests of the country.

It would be both unwise and unnecessary at this time to attempt to reconstruct our financial system, which has been the growth of a century; but some additional legislation is, I think, desirable. The mere outline of any plan sufficiently comprehensive to meet these requirements would transgress the appropriate limits of this communication. It is suggested, however, that all future legislation on the subject should be with the view of encouraging the use of such instrumentalities as will automatically supply every legitimate demand of productive industries and of commerce, not only in the amount, but in the character of circulation; and of making all

kinds of money interchangeable, and, at the will of the holder, convertible into the established gold standard.

I again call your attention to the need of passing a proper immigration law, covering the points outlined in my Message to you at the first session of the present Congress; substantially such a bill has already passed the House.

How to secure fair treatment alike for labor and for capital, how to hold in check the unscrupulous man, whether employer or employee, without weakening individual initiative, without hampering and cramping the industrial development of the country, is a problem fraught with great difficulties and one which it is of the highest importance to solve on lines of sanity and far-sighted common sense as well as of devotion to the right. This is an era of federation and combination. Exactly as business men find they must often work through corporations, and as it is a constant tendency of these corporations to grow larger, so it is often necessary for laboring men to work in federations, and these have become important factors of modern industrial life. Both kinds of federation, capitalistic and labor, can do much good, and as a necessary corollary they can both do evil. Opposition to each kind of organization should take the form of opposition to whatever is bad in the conduct of any given corporation or union—not of attacks upon corporations as such nor upon unions as such; for some of the most far-reaching beneficent work for our people has been accomplished through both corporations and unions. Each must refrain from arbitrary or tyrannous interference with the rights of others. Organized capital and organized labor alike should remember that in the long run the interest of each must be brought into harmony with the interest of the general public; and the conduct of each must conform to the fundamental rules of obedience to the law, of individual freedom, and of justice and fair dealing toward all. Each should remember that in addition to power it must strive after the realization of healthy, lofty, and generous ideals. Every employer, every wage-worker, must be guaranteed his liberty and his right to do as he likes with his property or his labor so long as he does not infringe upon the rights of others. It is of the highest importance that employer and employee alike should endeavor to appreciate each the viewpoint of the other and the sure disaster that will come upon both in the long run if either grows to take as habitual an attitude of sour hostility and distrust toward the other.

Few people deserve better of the country than those representatives both of capital and labor—and there are many such—who work continually to bring about a good understanding of this kind, based upon wisdom and upon broad and kindly sympathy between employers and employed. Above all, we need to remember that any kind of class animosity in the political world is, if possible, even more wicked, even more destructive to national welfare, than sectional, race, or religious animosity. We can get good government only upon condition that we keep true to the principles upon which this Nation was founded, and judge each man not as a part of a class, but upon his individual merits. All that we have a right to ask of any man, rich or poor, whatever his creed, his occupation, his birth-place, or his residence, is that he shall act well and honorably by his neighbor and by his country. We are neither for the rich man as such nor for the poor man as such; we are for the upright man, rich or poor. So far as the constitutional powers of the National Government touch these matters of general and vital moment to the Nation, they should be exercised in conformity with the principles above set forth.

It is earnestly hoped that a secretary of commerce may be created, with a seat in the Cabinet. The rapid multiplication of questions affecting labor and capital, the growth and complexity of the organizations through which both labor and capital now find expression, the steady tendency toward the employment of capital in huge corporations, and the wonderful strides of this country toward leadership in the international business world justify an urgent demand for the creation of such a position. Substantially all the leading commercial bodies in this country have united in requesting its creation. It is desirable that some such measure as that which has already passed the Senate be enacted into law. The creation of such a department would in itself be an advance toward dealing with and exercising supervision over the whole subject of the great corporations doing an interstate business; and with this end in view, the Congress should endow the department with large powers, which could be increased as experience might show the need.

I hope soon to submit to the Senate a reciprocity treaty with Cuba. On May 20 last the United States kept its promise to the island by formally vacating Cuban soil and turning Cuba over to

those whom her own people had chosen as the first officials of the new Republic.

Cuba lies at our doors, and whatever affects her for good or for ill affects us also. So much have our people felt this that in the Platt amendment we definitely took the ground that Cuba must hereafter have closer political relations with us than with any other power. Thus in a sense Cuba has become a part of our international political system. This makes it necessary that in return she should be given some of the benefits of becoming part of our economic system. It is, from our own standpoint, a short-sighted and mischievous policy to fail to recognize this need. Moreover, it is unworthy of a mighty and generous nation, itself the greatest and most successful republic in history, to refuse to stretch out a helping hand to a young and weak sister republic just entering upon its career of independence. We should always fearlessly insist upon our rights in the face of the strong, and we should with ungrudging hand do our generous duty by the weak. I urge the adoption of reciprocity with Cuba not only because it is eminently for our own interests to control the Cuban market and by every means to foster our supremacy in the tropical lands and waters south of us, but also because we, of the giant republic of the north, should make all our sister nations of the American Continent feel that whenever they will permit it we desire to show ourselves disinterestedly and effectively their friend.

A convention with Great Britain has been concluded, which will be at once laid before the Senate for ratification, providing for reciprocal trade arrangements between the United States and Newfoundland on substantially the lines of the convention formerly negotiated by the Secretary of State, Mr. Blaine. I believe reciprocal trade relations will be greatly to the advantage of both countries.

As civilization grows warfare becomes less and less the normal condition of foreign relations. The last century has seen a marked diminution of wars between civilized powers; wars with uncivilized powers are largely mere matters of international police duty, essential for the welfare of the world. Wherever possible, arbitration or some similar method should be employed in lieu of war to settle difficulties between civilized nations, although as yet the world has not progressed sufficiently to render it possible, or necessarily desirable, to invoke arbitration in every case. The formation of the

international tribunal which sits at The Hague is an event of good omen from which great consequences for the welfare of all mankind may flow. It is far better, where possible, to invoke such a permanent tribunal than to create special arbitrators for a given purpose.

It is a matter of sincere congratulation to our country that the United States and Mexico should have been the first to use the good offices of The Hague Court. This was done last summer with most satisfactory results in the case of a claim at issue between us and our sister Republic. It is earnestly to be hoped that this first case will serve as a precedent for others, in which not only the United States but foreign nations may take advantage of the machinery already in existence at The Hague.

I commend to the favorable consideration of the Congress the Hawaiian fire claims, which were the subject of careful investigation during the last session.

The Congress has wisely provided that we shall build at once an isthmian canal, if possible at Panama. The Attorney-General reports that we can undoubtedly acquire good title from the French Panama canal company. Negotiations are now pending with Colombia to secure her assent to our building the canal. This canal will be one of the greatest engineering feats of the twentieth century; a greater engineering feat than has yet been accomplished during the history of mankind. The work should be carried out as a continuing policy without regard to change of Administration; and it should be begun under circumstances which will make it a matter of pride for all Administrations to continue the policy.

The canal will be of great benefit to America, and of importance to all the world. It will be of advantage to us industrially and also as improving our military position. It will be of advantage to the countries of tropical America. It is earnestly to be hoped that all of these countries will do as some of them have already done with signal success, and will invite to their shores commerce and improve their material conditions by recognizing that stability and order are the prerequisites of successful development. No independent nation in America need have the slightest fear of aggression from the United States. It behooves each one to maintain order within its own borders and to discharge its just obligations to foreigners. When this is done, they can rest assured that, be they strong or weak, they have nothing to dread from outside interference. More and more

the increasing interdependence and complexity of international political and economic relations render it incumbent on all civilized and orderly powers to insist on the proper policing of the world.

During the fall of 1901 a communication was addressed to the Secretary of State, asking whether permission would be granted by the President to a corporation to lay a cable from a point on the California coast to the Philippine Islands by way of Hawaii. A statement of conditions or terms upon which such corporation would undertake to lay and operate a cable was volunteered.

Inasmuch as the Congress was shortly to convene, and Pacific-cable legislation had been the subject of consideration by the Congress for several years, it seemed to me wise to defer action upon the application until the Congress had first an opportunity to act. The Congress adjourned without taking any action, leaving the matter in exactly the same condition in which it stood when the Congress convened.

Meanwhile it appears that the Commercial Pacific Cable Company had promptly proceeded with preparations for laying its cable. It also made application to the President for access to and use of soundings taken by the U. S. S. *Nero*, for the purpose of discovering a practicable route for a trans-Pacific cable, the company urging that with access to these soundings it could complete its cable much sooner than if it were required to take soundings upon its own account. Pending consideration of this subject, it appeared important and desirable to attach certain conditions to the permission to examine and use the soundings, if it should be granted.

In consequence of this solicitation of the cable company, certain conditions were formulated, upon which the President was willing to allow access to these soundings and to consent to the landing and laying of the cable, subject to any alterations or additions thereto imposed by the Congress. This was deemed proper, especially as it was clear that a cable connection of some kind with China, a foreign country, was a part of the company's plan. This course was, moreover, in accordance with a line of precedents, including President Grant's action in the case of the first French cable, explained to the Congress in his Annual Message of December, 1875, and the instance occurring in 1879 of the second French cable from Brest to St. Pierre, with a branch to Cape Cod.

These conditions prescribed, among other things, a maximum rate for commercial messages and that the company should construct

a line from the Philippine Islands to China, there being at present, as is well known, a British line from Manila to Hongkong.

The representatives of the cable company kept these conditions long under consideration, continuing, in the meantime, to prepare for laying the cable. They have, however, at length acceded to them, and an all-American line between our Pacific coast and the Chinese Empire, by way of Honolulu and the Philippine Islands, is thus provided for, and is expected within a few months to be ready for business.

Among the conditions is one reserving the power of the Congress to modify or repeal any or all of them. A copy of the conditions is herewith transmitted.

Of Porto Rico it is only necessary to say that the prosperity of the island and the wisdom with which it has been governed have been such as to make it serve as an example of all that is best in insular administration.

On July 4 last, on the one hundred and twenty-sixth anniversary of the declaration of our independence, peace and amnesty were promulgated in the Philippine Islands. Some trouble has since from time to time threatened with the Mohammedan Moros, but with the late insurrectionary Filipinos the war has entirely ceased. Civil government has now been introduced. Not only does each Filipino enjoy such rights to life, liberty, and the pursuit of happiness as he has never before known during the recorded history of the islands, but the people taken as a whole now enjoy a measure of self-government greater than that granted to any other Orientals by any foreign power and greater than that enjoyed by any other Orientals under their own governments, save the Japanese alone. We have not gone too far in granting these rights of liberty and self-government; but we have certainly gone to the limit that in the interests of the Philippine people themselves it was wise or just to go. To hurry matters, to go faster than we are now going, would entail calamity on the people of the islands. No policy ever entered into by the American people has vindicated itself in more signal manner than the policy of holding the Philippines. The triumph of our arms, above all the triumph of our laws and principles, has come sooner than we had any right to expect. Too much praise can not be given to the Army for what it has done in the Philippines both in warfare and from an administrative standpoint

in preparing the way for civil government; and similar credit belongs to the civil authorities for the way in which they have planted the seeds of self-government in the ground thus made ready for them. The courage, the unflinching endurance, the high soldierly efficiency, and the general kind-heartedness and humanity of our troops have been strikingly manifested. There now remain only some fifteen thousand troops in the islands. All told, over one hundred thousand have been sent there. Of course, there have been individual instances of wrongdoing among them. They warred under fearful difficulties of climate and surroundings; and under the strain of the terrible provocations which they continually received from their foes, occasional instances of cruel retaliation occurred. Every effort has been made to prevent such cruelties, and finally these efforts have been completely successful. Every effort has also been made to detect and punish the wrongdoers. After making all allowance for these misdeeds, it remains true that few indeed have been the instances in which war has been waged by a civilized power against semicivilized or barbarous forces where there has been so little wrongdoing by the victors as in the Philippine Islands. On the other hand, the amount of difficult, important, and beneficent work which has been done is well-nigh incalculable.

Taking the work of the Army and the civil authorities together, it may be questioned whether anywhere else in modern times the world has seen a better example of real constructive statesmanship than our people have given in the Philippine Islands. High praise should also be given those Filipinos, in the aggregate very numerous, who have accepted the new conditions and joined with our representatives to work with hearty good will for the welfare of the islands.

The Army has been reduced to the minimum allowed by law. It is very small for the size of the Nation, and most certainly should be kept at the highest point of efficiency. The senior officers are given scant chance under ordinary conditions to exercise commands commensurate with their rank, under circumstances which would fit them to do their duty in time of actual war. A system of maneuvering our Army in bodies of some little size has been begun and should be steadily continued. Without such maneuvers it is folly to expect that in the event of hostilities with any serious foe even a small army corps could be handled to advantage. Both our officers and enlisted men are such that we can take hearty pride in them. No better material can be found.

But they must be thoroughly trained, both as individuals and in the mass. The marksmanship of the men must receive special attention. In the circumstances of modern warfare the man must act far more on his own individual responsibility than ever before, and the high individual efficiency of the unit is of the utmost importance. Formerly this unit was the regiment; it is now not the regiment, not even the troop or company; it is the individual soldier. Every effort must be made to develop every workmanlike and soldierly quality in both the officer and the enlisted man.

I urgently call your attention to the need of passing a bill providing for a general staff and for the reorganization of the supply departments on the lines of the bill proposed by the Secretary of War last year. When the young officers enter the Army from West Point they probably stand above their compeers in any other military service. Every effort should be made, by training, by reward of merit, by scrutiny into their careers and capacity, to keep them of the same high relative excellence throughout their careers.

The measure providing for the reorganization of the militia system and for securing the highest efficiency in the National Guard, which has already passed the House, should receive prompt attention and action. It is of great importance that the relation of the National Guard to the militia and volunteer forces of the United States should be defined, and that in place of our present obsolete laws a practical and efficient system should be adopted.

Provision should be made to enable the Secretary of War to keep cavalry and artillery horses, worn-out in long performance of duty. Such horses fetch but a trifle when sold; and rather than turn them out to the misery awaiting them when thus disposed of, it would be better to employ them at light work around the posts, and when necessary to put them painlessly to death.

For the first time in our history naval maneuvers on a large scale are being held under the immediate command of the Admiral of the Navy. Constantly increasing attention is being paid to the gunnery of the Navy, but it is yet far from what it should be. I earnestly urge that the increase asked for by the Secretary of the Navy in the appropriation for improving the marksmanship be granted. In battle the only shots that count are the shots that hit. It is necessary to provide ample funds for practice with the great guns in time of peace. These funds must provide not only for the purchase of projectiles, but for allowances for prizes to encourage the gun crews,

and especially the gun pointers, and for perfecting an intelligent system under which alone it is possible to get good practice.

There should be no halt in the work of building up the Navy, providing every year additional fighting craft. We are a very rich country, vast in extent of territory and great in population; a country, moreover, which has an Army diminutive indeed when compared with that of any other first-class power. We have deliberately made our own certain foreign policies which demand the possession of a first-class navy. The isthmian canal will greatly increase the efficiency of our Navy if the Navy is of sufficient size; but if we have an inadequate navy, then the building of the canal would be merely giving a hostage to any power of superior strength. The Monroe Doctrine should be treated as the cardinal feature of American foreign policy; but it would be worse than idle to assert it unless we intended to back it up, and it can be backed up only by a thoroughly good navy. A good navy is not a provocative of war. It is the surest guaranty of peace.

Each individual unit of our Navy should be the most efficient of its kind as regards both material and personnel that is to be found in the world. I call your special attention to the need of providing for the manning of the ships. Serious trouble threatens us if we can not do better than we are now doing as regards securing the services of a sufficient number of the highest type of sailormen, of sea mechanics. The veteran seamen of our war ships are of as high a type as can be found in any navy which rides the waters of the world; they are unsurpassed in daring, in resolution, in readiness, in thorough knowledge of their profession. They deserve every consideration that can be shown them. But there are not enough of them. It is no more possible to improvise a crew than it is possible to improvise a war ship. To build the finest ship, with the deadliest battery, and to send it afloat with a raw crew, no matter how brave they were individually, would be to insure disaster if a foe of average capacity were encountered. Neither ships nor men can be improvised when war has begun.

We need a thousand additional officers in order to properly man the ships now provided for and under construction. The classes at the Naval School at Annapolis should be greatly enlarged. At the same time that we thus add the officers where we need them, we should facilitate the retirement of those at the head of the list whose usefulness has become impaired. Promotion must be fostered if the service is to be kept efficient.

The lamentable scarcity of officers; and the large number of recruits and of unskilled men necessarily put aboard the new vessels as they have been commissioned, has thrown upon our officers, and especially on the lieutenants and junior grades, unusual labor and fatigue and has gravely strained their powers of endurance. Nor is there sign of any immediate let-up in this strain. It must continue for some time longer, until more officers are graduated from Annapolis, and until the recruits become trained and skillful in their duties. In these difficulties incident upon the development of our war fleet the conduct of all our officers has been creditable to the service, and the lieutenants and junior grades in particular have displayed an ability and a steadfast cheerfulness which entitles them to the ungrudging thanks of all who realize the disheartening trials and fatigues to which they are of necessity subjected.

There is not a cloud on the horizon at present. There seems not the slightest chance of trouble with a foreign power. We most earnestly hope that this state of things may continue; and the way to insure its continuance is to provide for a thoroughly efficient navy. The refusal to maintain such a navy would invite trouble, and if trouble came would insure disaster. Fatuous self-complacency or vanity, or short-sightedness in refusing to prepare for danger, is both foolish and wicked in such a nation as ours; and past experience has shown that such fatuity in refusing to recognize or prepare for any crisis in advance is usually succeeded by a mad panic of hysterical fear once the crisis has actually arrived.

The striking increase in the revenues of the Post-Office Department shows clearly the prosperity of our people and the increasing activity of the business of the country.

The receipts of the Post-Office Department for the fiscal year ending June 30 last amounted to \$121,848,047.26, an increase of \$10,216,853.87 over the preceding year, the largest increase known in the history of the postal service. The magnitude of this increase will best appear from the fact that the entire postal receipts for the year 1860 amounted to but \$8,518,067.

Rural free-delivery service is no longer in the experimental stage; it has become a fixed policy. The results following its introduction have fully justified the Congress in the large appropriations made for its establishment and extension. The average yearly increase in post-office receipts in the rural districts of the country is about two per cent. We are now able, by actual results, to show

that where rural free-delivery service has been established to such an extent as to enable us to make comparisons the yearly increase has been upward of ten per cent.

On November 1, 1902, 11,650 rural free-delivery routes had been established and were in operation, covering about one-third of the territory of the United States available for rural free-delivery service. There are now awaiting the action of the Department petitions and applications for the establishment of 10,748 additional routes. This shows conclusively the want which the establishment of the service has met and the need of further extending it as rapidly as possible. It is justified both by the financial results and by the practical benefits to our rural population; it brings the men who live on the soil into close relations with the active business world; it keeps the farmer in daily touch with the markets; it is a potential educational force; it enhances the value of farm property, makes farm life far pleasanter and less isolated, and will do much to check the undesirable current from country to city.

It is to be hoped that the Congress will make liberal appropriations for the continuance of the service already established and for its further extension.

Few subjects of more importance have been taken up by the Congress in recent years than the inauguration of the system of nationally-aided irrigation for the arid regions of the far West. A good beginning therein has been made. Now that this policy of national irrigation has been adopted, the need of thorough and scientific forest protection will grow more rapidly than ever throughout the public-land States.

Legislation should be provided for the protection of the game, and the wild creatures generally, on the forest reserves. The senseless slaughter of game, which can by judicious protection be permanently preserved on our national reserves for the people as a whole, should be stopped at once. It is, for instance, a serious count against our national good sense to permit the present practice of butchering off such a stately and beautiful creature as the elk for its antlers or tusks.

So far as they are available for agriculture, and to whatever extent they may be reclaimed under the national irrigation law, the remaining public lands should be held rigidly for the home builder, the settler who lives on his land, and for no one else. In their actual use the desert-land law, the timber and stone law, and the commutation

clause of the homestead law have been so perverted from the intention with which they were enacted as to permit the acquisition of large areas of the public domain for other than actual settlers and the consequent prevention of settlement. Moreover, the approaching exhaustion of the public ranges has of late led to much discussion as to the best manner of using these public lands in the West which are suitable chiefly or only for grazing. The sound and steady development of the West depends upon the building up of homes therein. Much of our prosperity as a nation has been due to the operation of the homestead law. On the other hand, we should recognize the fact that in the grazing region the man who corresponds to the homesteader may be unable to settle permanently if only allowed to use the same amount of pasture land that his brother, the homesteader, is allowed to use of arable land. One hundred and sixty acres of fairly rich and well-watered soil, or a much smaller amount of irrigated land, may keep a family in plenty, whereas no one could get a living from one hundred and sixty acres of dry pasture land capable of supporting at the outside only one head of cattle to every ten acres. In the past great tracts of the public domain have been fenced in by persons having no title thereto, in direct defiance of the law forbidding the maintenance or construction of any such unlawful inclosure of public land. For various reasons there has been little interference with such inclosures in the past, but ample notice has now been given the trespassers, and all the resources at the command of the Government will hereafter be used to put a stop to such trespassing.

In view of the capital importance of these matters, I commend them to the earnest consideration of the Congress, and if the Congress finds difficulty in dealing with them from lack of thorough knowledge of the subject, I recommend that provision be made for a commission of experts specially to investigate and report upon the complicated questions involved.

I especially urge upon the Congress the need of wise legislation for Alaska. It is not to our credit as a nation that Alaska, which has been ours for thirty-five years, should still have as poor a system of laws as is the case. No country has a more valuable possession—in mineral wealth, in fisheries, furs, forests, and also in land available for certain kinds of farming and stockgrowing. It is a territory of great size and varied resources, well fitted to support a large permanent population. Alaska needs a good land law and such

provisions for homesteads and preemptions as will encourage permanent settlement. We should shape legislation with a view not to the exploiting and abandoning of the territory, but to the building up of homes therein. The land laws should be liberal in type, so as to hold out inducements to the actual settler whom we most desire to see take possession of the country. The forests of Alaska should be protected, and, as a secondary but still important matter, the game also, and at the same time it is imperative that the settlers should be allowed to cut timber, under proper regulations, for their own use. Laws should be enacted to protect the Alaskan salmon fisheries against the greed which would destroy them. They should be preserved as a permanent industry and food supply. Their management and control should be turned over to the Commission of Fish and Fisheries. Alaska should have a Delegate in the Congress. It would be well if a Congressional committee could visit Alaska and investigate its needs on the ground.

In dealing with the Indians our aim should be their ultimate absorption into the body of our people. But in many cases this absorption must and should be very slow. In portions of the Indian Territory the mixture of blood has gone on at the same time with progress in wealth and education, so that there are plenty of men with varying degrees of purity of Indian blood who are absolutely indistinguishable in point of social, political, and economic ability from their white associates. There are other tribes which have as yet made no perceptible advance toward such equality. To try to force such tribes too fast is to prevent their going forward at all. Moreover, the tribes live under widely different conditions. Where a tribe has made considerable advance and lives on fertile farming soil it is possible to allot the members lands in severalty much as is the case with white settlers. There are other tribes where such a course is not desirable. On the arid prairie lands the effort should be to induce the Indians to lead pastoral rather than agricultural lives, and to permit them to settle in villages rather than to force them into isolation.

The large Indian schools situated remote from any Indian reservation do a special and peculiar work of great importance. But, excellent though these are, an immense amount of additional work must be done on the reservations themselves among the old, and above all among the young, Indians.

The first and most important step toward the absorption of the

Indian is to teach him to earn his living; yet it is not necessarily to be assumed that in each community all Indians must become either tillers of the soil or stock raisers. Their industries may properly be diversified, and those who show special desire or adaptability for industrial or even commercial pursuits should be encouraged so far as practicable to follow out each his own bent.

Every effort should be made to develop the Indian along the lines of natural aptitude, and to encourage the existing native industries peculiar to certain tribes, such as the various kinds of basket weaving, canoe building, smith work, and blanket work. Above all, the Indian boys and girls should be given confident command of colloquial English, and should ordinarily be prepared for a vigorous struggle with the conditions under which their people live, rather than for immediate absorption into some more highly developed community.

The officials who represent the Government in dealing with the Indians work under hard conditions, and also under conditions which render it easy to do wrong and very difficult to detect wrong. Consequently they should be amply paid on the one hand, and on the other hand a particularly high standard of conduct should be demanded from them, and where misconduct can be proved the punishment should be exemplary.

In no department of governmental work in recent years has there been greater success than in that of giving scientific aid to the farming population, thereby showing them how most efficiently to help themselves. There is no need of insisting upon its importance, for the welfare of the farmer is fundamentally necessary to the welfare of the Republic as a whole. In addition to such work as quarantine against animal and vegetable plagues, and warring against them when here introduced, much efficient help has been rendered to the farmer by the introduction of new plants specially fitted for cultivation under the peculiar conditions existing in different portions of the country. New cereals have been established in the semi-arid West. For instance, the practicability of producing the best types of macaroni wheats in regions of an annual rainfall of only ten inches or thereabouts has been conclusively demonstrated. Through the introduction of new rices in Louisiana and Texas the production of rice in this country has been made to about equal the home demand. In the Southwest the possibility of regrassing overstocked range lands has been demonstrated; in the North many new

forage crops have been introduced, while in the East it has been shown that some of our choicest fruits can be stored and shipped in such a way as to find a profitable market abroad.

I again recommend to the favorable consideration of the Congress the plans of the Smithsonian Institution for making the Museum under its charge worthy of the Nation, and for preserving at the National Capital not only records of the vanishing races of men but of the animals of this continent which, like the buffalo, will soon become extinct unless specimens from which their representatives may be renewed are sought in their native regions and maintained there in safety.

The District of Columbia is the only part of our territory in which the National Government exercises local or municipal functions, and where in consequence the Government has a free hand in reference to certain types of social and economic legislation which must be essentially local or municipal in their character. The Government should see to it, for instance, that the hygienic and sanitary legislation affecting Washington is of a high character. The evils of slum dwellings, whether in the shape of crowded and congested tenement-house districts or of the back-alley type, should never be permitted to grow up in Washington. The city should be a model in every respect for all the cities of the country. The charitable and correctional systems of the District should receive consideration at the hands of the Congress to the end that they may embody the results of the most advanced thought in these fields. Moreover, while Washington is not a great industrial city, there is some industrialism here, and our labor legislation, while it would not be important in itself, might be made a model for the rest of the Nation. We should pass, for instance, a wise employer's-liability act for the District of Columbia, and we need such an act in our navy-yards. Railroad companies in the District ought to be required by law to block their frogs.

The safety-appliance law, for the better protection of the lives and limbs of railway employees, which was passed in 1893, went into full effect on August 1, 1901. It has resulted in averting thousands of casualties. Experience shows, however, the necessity of additional legislation to perfect this law. A bill to provide for this passed the Senate at the last session. It is to be hoped that some such measure may now be enacted into law.

There is a growing tendency to provide for the publication of masses of documents for which there is no public demand and for the printing of which there is no real necessity. Large numbers of volumes are turned out by the Government printing presses for which there is no justification. Nothing should be printed by any of the Departments unless it contains something of permanent value, and the Congress could with advantage cut down very materially on all the printing which it has now become customary to provide. The excessive cost of Government printing is a strong argument against the position of those who are inclined on abstract grounds to advocate the Government's doing any work which can with propriety be left in private hands.

Gratifying progress has been made during the year in the extension of the merit system of making appointments in the Government service. It should be extended by law to the District of Columbia. It is much to be desired that our consular system be established by law on a basis providing for appointment and promotion only in consequence of proved fitness.

Through a wise provision of the Congress at its last session the White House, which had become disfigured by incongruous additions and changes, has now been restored to what it was planned to be by Washington. In making the restorations the utmost care has been exercised to come as near as possible to the early plans and to supplement these plans by a careful study of such buildings as that of the University of Virginia, which was built by Jefferson. The White House is the property of the Nation, and so far as is compatible with living therein it should be kept as it originally was, for the same reasons that we keep Mount Vernon as it originally was. The stately simplicity of its architecture is an expression of the character of the period in which it was built, and is in accord with the purposes it was designed to serve. It is a good thing to preserve such buildings as historic monuments which keep alive our sense of continuity with the Nation's past.

The reports of the several Executive Departments are submitted to the Congress with this communication.

THEODORE ROOSEVELT.

WHITE HOUSE,

December 2, 1902.

LIST OF PAPERS WITH SUBJECTS OF CORRESPONDENCE.

CIRCULARS.

No.	From and to whom.	Date.	Subject.	Page.
	Circular	1899 Mar. 27	Passports for persons residing or sojourning abroad.	1
	do	Sept. 26	Passports. Intent to return to the United States.	4
	do	1902 Jan. 17	Same.....	1
	do	Mar. 25	Charge of diplomatic mission in the absence of its head. Construction of article 19 of "Instructions to diplomatic officers."	4
	do	Apr. 26	Charges against diplomatic and consular officers.	5
	do	May 20	Cessation of military occupation of Cuba by the United States.	5
	do	May 24	Protection of Cuban interests by United States consular officials.	6
	do	Oct. 22	Passports to residents of insular possessions of the United States.	6

ARGENTINE REPUBLIC.

	Mr. Hay to Mr. Lord (telegram).	1901. Dec. 21	Refusal to exempt operators of Central and South American Telegraph Co. from military service. Instructs to inquire if exemption will be granted.	23
	Mr. Lord to Mr. Hay (telegram).	Dec. 23	Same subject. Reports that exemption will not be granted.	23
	Same to same.....	1902. Jan. 7	Same subject. Confirms above telegram.....	24
161	Same to same.....	May 10	Extracts from message of President of Argentine Republic.	13
191	Same to same.....	June 3	Adjustment of difficulty between Argentine Republic and Chile. Incloses texts of peace agreements.	18
192	Same to same.....	June 16	Protection of Cuban interests by United States consular officials. Reports assent of Argentine Republic.	24
200	Same to same.....	Sept. 1	Adjustment of difficulty between Argentine Republic and Chile. Reports ceremonials in commemoration of.	23

AUSTRIA-HUNGARY.

38	Mr. McCormick to Mr. Hay.	1901 Nov. 12	Passport application of Moses Lilienthal submitted for instructions.	65
19	Mr. Hill to Mr. McCormick.	Nov. 19	Status of naturalized United States citizens of Austro-Hungarian origin returning to their native country. Retention by Hungarian officials of passport and certificate of naturalization of Josef Janco. Incloses Janco's complaint and instructs to report.	49
53	Mr. McCormick to Mr. Hay.	Dec. 29	Same subject. Reports on Janco's case and states that matter will be taken up with foreign office.	70
25	Mr. Hay to Mr. McCormick.	1902 Jan. 3	Military service of Joseph Kristof. Incloses correspondence and instructs to investigate.	61
30	Same to same.....	Jan. 18	Passport application of Moses Lilienthal. Approves withholding of passport.	66
	Mr. McCormick to Mr. Hay.....do...	.....do...	Passage through United States of remains of late Mexican minister to Austria-Hungary. Requests courtesies on occasion of.	25

AUSTRIA-HUNGARY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
63	Same to same.....	1902. Jan. 22	Military service cases of Joseph Knopp, Jacob Friedberg, Harry Schmieger, Michael Tenzer, and Frank Howrka. Reports on.	63
	Mr. Hay to Mr. McCormick.	Feb. 3	Agreement between Russia and China relative to Manchuria. Incloses for communication to Austro-Hungarian Government memorandum of Feb. 1, 1902, expressing views of United States.	26
67	Mr. McCormick to Mr. Hay.	Feb. 11	Status of naturalized United States citizens of Austro-Hungarian origin returning to their native country. Retention by Hungarian officials of passport and certificate of naturalization of Josef Janco. Incloses correspondence and reports interviews with minister for foreign affairs in connection with case of Janco, mentions a tentative proposal of Austria-Hungary to abrogate the naturalization treaty, explains that a law of "military defense" stands in the way of enforcement of demands made by legation in regard to passports and naturalization papers, and suggests this as a propitious time for securing a satisfactory arrangement.	51
32	Mr. Hay to Mr. McCormick.	Feb. 12	Passage through United States of remains of late Mexican minister to Austria-Hungary. States that customary courtesies will be extended on occasion of.	25
35	Same to same	Mar. 6	Status of naturalized United States citizens of Austro-Hungarian origin returning to their native country. Approves conduct of matter as reported in dispatch No. 67.	56
	Mr. McCormick to Mr. Hay (telegram).	.....do	Raising of United States legation to Austria-Hungary and Austro-Hungarian legation to United States to embassies. Reports intention of Austria-Hungary.	27
71	Same to same	Mar. 7	Same subject. Confirms above, with details.....	27
72	Same to same	Mar. 8	Same subject. Incloses article from Vienna <i>Fremdenblatt</i> .	28
36	Mr. Hill to Mr. McCormick.	Mar. 11	Right of widow of Austro-Hungarian soldier to pension. Instructs to investigate.	33
	Mr. McCormick to Mr. Hay.	Apr. 1	Political, social, and commercial relations between the United States and Austria-Hungary. Incloses article from the Neue Wiener Tagblatt.	34
40	Mr. Hay to Mr. McCormick.	Apr. 7	Raising of United States legation to Austria-Hungary and Austro-Hungarian legation to United States to embassies. States that United States will raise legation.	29
77	Mr. McCormick to Mr. Hay.	Apr. 22	Right of widow of Austro-Hungarian soldier to pension. Incloses information secured from I. and R. ministry of war.	33
81	Same to same	May 7	Military service case of Joseph Kristof. Reports efforts to secure Kristof's discharge.	62
82	Same to same .....	.....do	Passport application of Theodor F. Alexander. Submits for instructions.	67
	Mr. McCormick to Mr. Hay.	May 20	Raising of United States legation to Austria-Hungary and Austro-Hungarian legation to United States to embassies. Reports that Emperor will be glad to receive an ambassador from the United States.	29
84	Same to same.....	May 23	Passport application of Armin Freiman. Submits for instructions.	69
45	Mr. Hay to Mr. McCormick.	May 28	Passport application of Theodor F. Alexander. Instructs to issue passport.	68
	Same to same (telegram)...	May 29	Raising of United States legation to Austria-Hungary and Austro-Hungarian legation to United States to embassies. Notifies Mr. McCormick of his nomination and confirmation as ambassador.	30
85	Mr. McCormick to Mr. Hay.	May 30	Same subject. Acknowledges above telegram, with appreciation.	30
46	Mr. Hay to Mr. McCormick.	June 3	Same subject. Notification of Mr. McCormick's appointment as ambassador.	30
50	Same to same.....	June 21	Passport application of Armin Freiman. States that case is covered by circular of Mar. 27, 1899, and legation must decide, from the circumstances, what action to take.	69
	Mr. McCormick to Mr. Hay (telegram).	June 28	Protection of Cuban interests by United States consular officials. Reports assent of Austria-Hungary.	36
1	Same to same.....	June 30	Raising of United States legation to Austria-Hungary and Austro-Hungarian legation to United States to embassies. Reports reception as ambassador.	31

LIST OF PAPERS.

XXXVII

AUSTRIA-HUNGARY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
55	Mr. Hill to Mr. Hale.....	1902. July 22	Same subject. Acknowledges above and instructs to report when Austria-Hungary will raise its mission to rank of embassy.	32
57	Mr. Hill to Mr. McCormick.	July 28	Admission into Austria-Hungary of proprietary preparations of American manufacture. Incloses correspondence and instructs to investigate and report regarding regulations, etc.	37
	Mr. Hay to Mr. McCormick.	Aug. 11	Jews in Roumania, discriminations against; condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons. In connection with pending naturalization treaty with Roumania, discusses at length the foregoing questions, and appeals to the principles laid down in the Treaty of Berlin for amelioration of said conditions. Instructs to present above considerations to minister for foreign affairs.	42
5	Mr. McCormick to Mr. Hay.	....do....	Military service case of Joseph Kristof. Reports release of Kristof.	63
6	Same to same	Aug. 12	Raising of United States legation to Austria-Hungary and Austro-Hungarian legation to United States to embassies. States that an ambassador will be appointed by Austria-Hungary upon going into effect of the budget.	32
60	Mr. Adee to Mr. Hale.....	Aug. 14	Admission into Austria-Hungary of proprietary preparations of American manufacture. Refers to instruction No. 57 and incloses further correspondence.	38
	Mr. Hale to Mr. Hay.....	Aug. 27	Same subject. Reports that matter has been presented to ministry for foreign affairs.	39
63	Mr. Adee to Mr. McCormick	Sept. 3	Sending of Hungarian national banner to the United States. Incloses letter of A. S. Ambrose reporting, and instructs to investigate.	45
	The Emperor of Austria to the President (telegram).	Sept. 5	Accident to President Roosevelt. Congratulations on escape from injury.	48
	The President to the Emperor of Austria (telegram).	Sept. 6	Same subject. Acknowledges above	49
25	Mr. Hale to Mr. Hay.....	Oct. 13	Admission into Austria-Hungary of proprietary preparations of American manufacture. Incloses correspondence outlining conditions of.	39
26	Same to same	Oct. 17	Status of naturalized United States citizens of Austro-Hungarian origin returning to their native country. Retention by Hungarian officials of passport and certificate of naturalization of Josef Janco. Reports that orders have been issued to Hungarian local authorities to deliver receipts stating reasons for taking papers. Incloses correspondence with foreign office in connection with Janco case suggesting regulations on the lines agreed to by the Austrian Government on the subject of passports.	56
30	Same to same	Oct. 30	Passport application of Harry Frommer. Submits for instructions.	70
32	Same to same	Nov. 4	Sending of Hungarian national banner to the United States. Inclosed note from foreign office stating that the project is a purely patriotic one, and has no political significance.	47
75	Mr. Hay to Mr. Hale	Nov. 19	Passport application of Harry Frommer. Approves course in withholding passport.	71

BELGIUM.

	Count Lichtervelde to Mr. Hay.	1901. Mar. 11	Fine on Belgian steamship <i>Belgika</i> in the Philippine Islands. Presents for consideration reclamation of the Compagnie Générale des Philippines.	73
267	Mr. Hay to Count Lichtervelde.	Mar. 18	Same subject. States that matter has been referred to Secretary of War.	74
	Mr. Wauters to Mr. Hay.....	Oct. 20	Same subject. Renews request for favorable consideration of reclamation.	74
310	Mr. Hay to Mr. Wauters	Oct. 30	Same subject. Secretary of War has been asked for report.	75
	Belgian legation to Department of State (memorandum).	Dec. 20	Same subject. Sets forth further grounds in support of claim.	75
14	Mr. Hay to Baron Moncheur	Dec. 24	Same subject. States that above memorandum has been referred to the Secretary of War and a report requested.	76

BELGIUM—Continued.

No.	From and to whom.	Date.	Subject.	Page.
17	Mr. Hay to Mr. Wauters.....	1902. Jan. 11	Same subject. Reviews case and states that United States Government can not entertain claim.	76
	Mr. Hay to Mr. Townsend ..	Feb. 3	Agreement between Russia and China relative to Manchuria. Incloses for communication to Belgian Government memorandum of Feb. 1, 1902, expressing views of United States.	26
127	Mr. Townsend to Mr. Hay ..	Mar. 6	Sugar-bounty conference. Text of convention...	80
	Baron Moncheur to Mr. Hay	Apr. 8	Fine on Belgian steamship <i>Belgika</i> in the Philippine Islands. Requests reduction of fine.	78
132	Mr. Townsend to Mr. Hay ..	Apr. 19	Riots and strikes in Belgium over question of suffrage. Brief sketch of electoral system.	85
62	Mr. Hay to Baron Moncheur	Apr. 28	Fine on Belgian steamship <i>Belgika</i> in the Philippine Islands. States fine can not be rescinded.	79
135	Mr. Townsend to Mr. Hay ..	May 6	Sugar-bounty conference. Reports ratification by Chamber of Deputies.	84
138	Mr. Townsend to Mr. Hay..	June 11	Protection of Cuban interests by United States consular officials. Reports assent of Belgium.	86
	Treaty between the United States and Belgium.	June 14	For the mutual extradition of fugitives from justice. Text.	87
	Additional act concluded at Brussels Dec. 14, 1900, by the plenipotentiaries of the United States and other countries.	Aug. 25	For the protection of industrial property, modifying the industrial-property convention of March 20, 1883. Text.	92
	King of the Belgians to the President (telegram).	Sept. 6	Accident to President Roosevelt. Congratulations on escape from injury.	97
	The President to the King of the Belgians (telegram).	....do....	Same subject. Acknowledges above.....	97
	Mr. Winthrop to Mr. Hay (telegram).	Sept. 20	Death of the Queen of Belgium reported.....	98
	Mr. Adee to Mr. Winthrop (telegram).	....do....	Same subject. Instructs to express condolences.	98
	Memorandum of State Department.	Sept. 24	Same subject. States that Belgium minister called to express thanks of King and Government for sympathy of United States.	98
	Belgian legation to Department of State (memorandum).	Oct. 6	Protection of Belgian interests in Haiti by United States naval vessel requested.	98
	Department of State to Belgian legation (memorandum).	Oct. 10	Same subject. Instructions have been issued in compliance with above request.	99
95	Mr. Hay to Baron Moncheur.	Oct. 13	Fine on Belgian steamship <i>Belgika</i> in the Philippine Islands. States that Secretary of War declines to reverse judgment against vessel.	80
	Mr. Townsend to Mr. Hay (telegram).	Nov. 15	Attempt on life of King of Belgium reported.....	99
164	Same to same .....	....do....	Same subject. Reports in detail	99
	Mr. Hay to Mr. Townsend (telegram).	Nov. 17	Same subject. Instructs to convey congratulations on King's escape from harm.	99
165	Mr. Townsend to Mr. Hay..	Nov. 19	Same subject. Reports having carried out above instruction.	100
166	Same to same	Dec. 3	Same subject. Incloses reply of minister for foreign affairs to letter of congratulation.	100

BOLIVIA.

841	Mr. Barber to Mr. Hay	1902. June 2	Protection of Cuban interests by United States consular officials. Reports assent of Bolivia.	101
8	Mr. Hay to Mr. Sorsby	Oct. 4	Protection of British interests in Bolivia by United States officials. Instructs to continue, if agreeable to Bolivian Government.	101
27	Mr. Sorsby to Mr. Hay.....	Dec. 27	Same subject. Reports that arrangement is satisfactory to Bolivian Government.	102

BRAZIL.

396	Mr. Dawson to Mr. Hay.....	1902. Feb. 6	Treaty submitting to arbitration the question of the boundary between Brazil and British Guiana. Text.	103
411	Mr. Bryan to Mr. Hay.....	Apr. 30	Inadvisability of American emigration to the Upper Amazon region. Reports.	105
434	Same to same.....	July 11	Protection of Cuban interests by United States consular officials. Incloses correspondence and reports assent of Brazil.	106

LIST OF PAPERS.

XXXIX

BRAZIL—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1902.		
	Mr. Hill to Mr. Bryan (telegram).	July 30	Inheritance tax on estate of Baron Thomsen. Instructs to invoke good offices of Brazilian Government with a view to assure due legal process.	107
	Mr. Dawson to Mr. Hay (telegram).	July 31	Same subject. Reports that vigorous steps have been taken in matter.	108
438	Mr. Bryan to Mr. Hay	Aug. 4	Same subject. Reports in detail present status of case. Incloses correspondence.	108
439	Same to same.....	Aug. 5	Same subject. Reports temporary suspension of proceedings.	112
454	Same to same.....	Sept. 15	Same subject. Reports that a compromise has been sought by the parties through the executive.	112
	Same to same (telegram)...	Sept. 27	Same subject. Reports amicable settlement.....	113
455	Same to same.....	do	Same subject. Incloses letter from United States consular agent at Rio Grande do Sul reporting settlement.	113
296	Mr. Hay to Mr. Bryan	Oct. 6	Same subject. Transmits letter of thanks from Thomsen's attorneys.	114
470	Mr. Bryan to Mr. Hay	Nov. 18	Inauguration of President Alves. Address of United States minister and President's reply.	114
471	Same to same.....	do	Same subject. Exchange of courtesies between officers of U. S. S. <i>Iowa</i> and Brazilian officials.	115

CHILE.

224	Mr. Wilson to Mr. Hay.....	1902. Jan. 3	Relations between the United States and Chile. Incloses newspaper accounts bearing upon.	116
230	Same to same	Feb. 11	Courtesies to U. S. battleships <i>Iowa</i> and <i>Wisconsin</i> . Reports.	119
204	Mr. Hay to Mr. Wilson.....	Feb. 28	Same subject. Incloses letter of thanks from Navy Department for transmission to proper quarters.	120
	Mr. Hutchinson to Mr. Hay.	May 26	Protection of Cuban interests by United States officials. Reports assent of Chile.	121
	Treaty between the United States and Chile.	May 27	Providing for the extradition of criminals. Text.	122
270	Mr. Hutchinson to Mr. Hay.	July 18	Relations between the United States and Chile. Transmits account of Fourth of July reception at United States legation.	118
	Same to same (telegram)...	Sept. 22	Chile-Argentine treaty. Reports exchange of ratifications and outlines of.	126
286	Same to same	Sept. 23	Same subject. Reports in detail regarding	126
	Same to same (telegram)...	Nov. 8	Courtesies to U. S. battleship <i>Iowa</i> . Reports that money paid for cleaning the <i>Iowa</i> has been returned by Chilean Government.	121
	Mr. Hay to Mr. Hutchinson (telegram).	Nov. 13	Same subject. Instructs to accept money returned by Chilean Government, and to express thanks for the generous courtesy.	121

CHINA.

	Mr. Wu to Mr. Hay.....	1901. July 13	Restoration of silver bullion seized by United States forces at Tientsin. Inquires if United States Government contemplates.	129
	Mr. Hay to Mr. Wu.....	July 18	Same subject. States that time and manner of restoration remains to be determined by the President.	129
213	Mr. Wu to Mr. Hay.....	Oct. 25	Protection of native Christians by missionaries. Incloses dispatch from viceroy at Nankin relative to serious conflicts between Protestant and Catholic converts as illustrating the evils of.	131
184	Mr. Hay to Mr. Wu.....	Oct. 30	Same subject. States that above note has been forwarded to United States minister at Peking for investigation.	133
405	Mr. Hay to Mr. Conger	do	Same subject. Transmits No. 213, Oct. 25, 1901, from Chinese minister, for investigation and report.	134
	Mr. Conger to Mr. Hay (telegram).	Dec. 3	Convention and arrangement between Russia and China respecting Manchuria. Reports substance of convention which Prince Ch'ing has been authorized to sign, and asks if he shall take any action.	271

No.	From and to whom.	Date.	Subject.	Page.
405	Mr. Hay to Mr. Conger (telegram).	1901. Dec. 6	Same subject. Instructs to inform Prince Ch'ing that the President expects that no arrangement which will permanently impair territorial integrity of China, or injure legitimate interests of United States, or impair China's ability to meet international obligations, will be made with any single power.	271
846	Mr. Conger to Mr. Hay.....	Dec. 12	Same subject. Reports that above telegram has been given Prince Ch'ing, who, in an interview, sets forth the various changes and modifications which China proposes to ask.	272
845	Same to same.....	do	Protection of missionaries by United States naval forces. Reports that consuls have been instructed, at request of Rear-Admiral Remy, to furnish him with maps and general information concerning navigable waters nearest to missionary stations.	138
222	Mr. Wu to Mr. Hay.....	Dec. 31	Restoration of silver bullion seized by United States forces at Tientsin. Suggests that amount be returned through his legation.	130
	Mr. Conger to Mr. Hay (telegram).	do	Rehabilitation of Chang Yin-huan. Reports....	140
868	Same to same.....	1902. Jan. 2	Same subject. Confirms above telegram, gives particulars, and incloses edict and note from foreign office.	140
	Same to same (telegram)....	Jan. 7	Return of Chinese court to Peking. Reports.....	142
872	Same to same.....	do	Same subject. Reports in detail, and incloses correspondence.	142
	Same to same (telegram)....	do	Mutual embarrassments of United States and Russian officials at Niuchwang. Reports conflict between United States seamen and Russian officials.	145
874	Same to same.....	Jan. 8	Same subject. Confirms above telegram, incloses memoranda from and to Russian legation, reports conversation with minister, and states that conditions apparently arise from mutual distrust of Russian military authorities and consular corps.	146
878	Same to same.....	Jan. 9	Riots, uprisings, massacres, etc. Reports anti-Christian outrage in province of Kansu, and incloses edicts.	159
225	Mr. Wu to Mr. Hay.....	Jan. 13	Restoration of silver bullion seized by United States forces at Tientsin. States that Chinese Government would prefer to have money returned through his legation.	130
885	Mr. Conger to Mr. Hay.....	Jan. 16	Reform edicts aiming at reorganization of institutions of learning and restoration of friendly intercourse with foreigners. Transmits and comments on.	181
226	Mr. Wu to Mr. Hay.....	Jan. 20	Restoration of Tientsin to Chinese authorities. Requests friendly offices of United States looking to.	184
887	Mr. Conger to Mr. Hay.....	Jan. 21	Protection of native Christians by missionaries. Incloses correspondence with consul-general at Shanghai.	134
890	Same to same.....	Jan. 22	Request of tao't'ai of Kinkiang for recall of native missionaries. Incloses correspondence regarding.	202
442	Mr. Hay to Mr. Conger.....	Jan. 23	Protection of missionaries by United States naval forces. Approves action reported in dispatch No. 845, of Dec. 12, 1901.	139
228	Mr. Wu to Mr. Hay.....	Jan. 24	Restoration of silver bullion seized by United States forces at Tientsin. Incloses receipt and expresses thanks for.	130
	Mr. Conger to Mr. Hay (telegram.)	Jan. 29	Convention and arrangement between Russia and China respecting Manchuria. Reports that Prince Ch'ing is about to yield and sign convention as outlined in dispatch No. 846, Dec. 12, 1901, and agreement practically conceding exclusive privileges to the Russo-Chinese Bank. Representations of the Department have been laid before Chinese Government, and similar representations have been made by British and Japanese ministers.	273
898	Same to same.....	do	Same subject. Confirms above telegram, and reports at length conversation with Prince Ch'ing.	273
201	Mr. Hay to Mr. Wu.....	Jan. 30	Restoration of Tientsin to Chinese authorities. States that Government of United States has favored early evacuation, and will consult occupying powers.	184

CHINA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
445	Mr. Hay to Mr. Conger	1902. Jan. 30	Same subject. Incloses correspondence with Chinese minister and United States representatives regarding.	184
447	Same to same	do ..	Convention and arrangement between Russia and China respecting Manchuria. Commends action reported in dispatch No. 846, Dec. 12, 1901.	274
448	Same to same	Jan. 31	Mutual embarrassments of United States and Russian officials at Niuchwang. Conflict between United States scamen and Russian officials. Incloses dispatch from United States ambassador to Russia reporting views of Russian Government.	157
	Same to same (telegram)	Feb. 1	Convention and arrangement between Russia and China respecting Manchuria. Makes representations against agreement as contravening treaties, affecting rights of United States citizens, and subversive of open-door policy accepted by Russia and other powers.	275
	Mr. Hay to Mr. Wu	Feb. 3	Same subject. Transmits memorandum expressing views of United States.	275
905	Mr. Conger to Mr. Hay	Feb. 4	Same subject. Incloses copy of note to foreign office communicating Department's telegram of Feb. 1, and reports interview with Russian minister.	276
906	Same to same	Feb. 5	Audience of diplomatic corps with Emperor and Empress Dowager of China, and reception by the latter of the ladies of the diplomatic corps. Text of addresses and replies and of the ceremonial inclosed.	205
910	Same to same	Feb. 6	Reform edicts removing prohibition of marriage between Manchus and Chinese and providing for selection of students to be sent abroad transmitted.	208
229	Mr. Wu to Mr. Hay	Feb. 7	Arguments against United States laws for the exclusion of Chinese. Incloses petition of Chinese Merchants' Association of San Francisco.	209
202	Mr. Hay to Mr. Wu	Feb. 11	Same subject. States that above note has been communicated to appropriate Senate and House committees.	210
919	Mr. Conger to Mr. Hay	Feb. 15	Protection denied to H. Krippendorf, who had merely declared intention to become a citizen of the United States. Incloses correspondence.	221
924	Same to same	Feb. 25	Rehabilitation of Chang Yin-huan. Incloses telegram of thanks from children of Chang.	141
468	Mr. Hay to Mr. Conger	Feb. 27	Question of establishment of United States post-offices in China, and collection of additional duty on articles that have already been entered into China, etc. Incloses dispatch from consul at Chefoo containing suggestions, expresses views of Department, instructs to demand that duty shall not be again collected on articles purchased in China, and awaits expression of minister's views.	222
471	Same to same	Mar. 1	Mutual embarrassments of United States and Russian officials at Niuchwang. Incloses copy of instruction to consul at Niuchwang in regard to his attitude toward Russian authorities.	157
932	Mr. Conger to Mr. Hay	Mar. 4	Convention and arrangement between Russia and China respecting Manchuria. Incloses text of propositions submitted to Russia by Prince Ch'ing, and points out clauses open to objection.	277
213	Mr. Hay to Mr. Wu	Mar. 11	Protection of native Christians by missionaries. Incloses accompaniments to dispatch No. 887, Jan. 21, 1902, from China, showing that American missionaries were not involved in the condition of affairs set forth in Minister Wu's No. 213, of Oct. 25, 1901.	137
478	Mr. Hill to Mr. Conger	Mar. 14	Request of taot'ai of Kiukiang for recall of native missionaries. Concurs in views expressed in dispatch No. 890, Jan. 22, 1902, and suggests that the missionaries give a list of their chapels and missions.	204
948	Mr. Conger to Mr. Hay	Mar. 15	Convention and arrangement between Russia and China respecting Manchuria. Reports that Russian minister will consent to reduce term of evacuation to eighteen and perhaps fifteen months, and that British objections are likely to be withdrawn.	279
950	Same to same	Mar. 19	Refusal of Chinese Government to issue passports for travel in Thibet, owing to conditions in that country. Reports that legation acquiesces.	226

CHINA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
951	Mr. Conger to Mr. Hay.....	1902. Mar. 19	Riots, uprisings, massacres, etc. Reports origin, extent, and suppression of uprising in Kwangsi. Incloses correspondence.	161
240	Mr. Wu to Mr. Hay.....	Mar. 22	Arguments against United States laws for the exclusion of Chinese. Asks that his representations be submitted to Congress.	210
218	Mr. Hay to Mr. Wu.....	Mar. 26	Same subject. States that above note has been sent to appropriate Senate and House committees.	213
956	Mr. Conger to Mr. Hay.....	Mar. 27	Riots, uprisings, massacres, etc., in province of Honan, reported.	165
959	Same to same.....	Mar. 29	Student interpreters in China. Expresses regret at rejection of appropriation for, points out necessity for such a service, and offers suggestions.	227
494	Mr. Hay to Mr. Conger.....	do	Same subject. Advises of provision made in diplomatic and consular appropriation bill for.	228
963	Mr. Conger to Mr. Hay.....	Apr. 2	Mutual embarrassments of United States and Russian officials at Niuchwang. Incloses dispatch from consul reporting good effects produced by presence of U. S. S. <i>Vicksburg</i> .	158
502	Mr. Hay to Mr. Conger.....	Apr. 8	Protection denied to H. Krippendorf, who had merely declared intention to become a citizen of the United States. Approves action reported in dispatch No. 919, Feb. 15, 1902.	222
	Mr. Bainbridge to Mr. Hay (telegram).	do	Convention and arrangement between Russia and China respecting Manchuria. Reports signing on April 8 of.	279
	Same to same.....	Apr. 17	Same subject. Incloses text of convention.....	279
243	Mr. Wu to Mr. Hay.....	Apr. 29	Arguments against United States laws for the exclusion of Chinese. Representations against extension of laws to the Hawaiian and Philippine Islands.	213
221	Mr. Hay to Mr. Wu.....	Apr. 30	Same subject. States that above note, copy of which has been sent to the President, was received by the Department after the President had signed the bill referred to.	214
972	Mr. Conger to Mr. Hay.....	do	Question of establishment of United States post-offices in China, and collection of additional duty on articles that have already been entered into China. Advises against establishment of post-offices, except at Shanghai, and reports that complaints referred to in instruction No. 468, in regard to collection of duties, do not appear to be well founded.	225
512	Mr. Hay to Mr. Conger.....	do	Refusal of Chinese Government to issue passports for travel in Thibet. Approves action reported in dispatch No. 950, Mar. 19, 1902.	227
	Mr. Conger to Mr. Hay (telegram).	May 3	Riots, uprisings, massacres, etc. Reports serious disturbances in southern portion of Chihli.	166
980	Same to same.....	May 8	Riots, uprisings, massacres, etc. Confirms his telegram of May 3. Incloses account of disturbances and correspondence.	167
982	Same to same.....	May 10	Student interpreters in China. Incloses text of regulations of the British service, and offers suggestions in carrying out appropriation of Congress announced in instruction No. 494.	229
990	Same to same.....	May 19	Riots, uprisings, massacres, etc. Refers to dispatch No. 980, and incloses correspondence.	169
247	Mr. Wu to Mr. Hay.....	do	Arguments against United States laws for the exclusion of Chinese. Advances views of his Government on enforcement of treaty, and urges necessity of revision of regulations of immigration bureau.	215
228	Mr. Hay to Mr. Wu.....	May 26	Same subject. Acknowledges above note, which has been laid before the President.	218
1007	Mr. Conger to Mr. Hay.....	June 2	Protection of Cuban interests by United States consular officials. Reports assent of Chinese Government. Incloses correspondence.	234
1013	Same to same.....	June 11	Restoration of Tientsin to Chinese authorities. Incloses text of terms proposed by military commanders, and questions right of a few of the powers to dictate conditions not contemplated in the protocol.	190

CHINA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
248	Mr. Wu to Mr. Hay.....	1902. June 14	Exclusion of Chinese. Refusal of Treasury Department to modify certain regulations. Discusses, and incloses for opinion of Attorney-General, Treasury circular, which, it is alleged, imposes upon Chinese laborers leaving United States, with intention to return, onerous conditions in contravention of treaty stipulations and law.	236
1025	Mr. Conger to Mr. Hay.....	June 25	Reception of Rear-Admiral Frederick Rodgers, U. S. Navy, by the Emperor and Empress Dowager. Reports, and incloses correspondence.	240
	Mr. Conger to Mr. Hay (telegram).	June 28	Restoration of Tientsin to Chinese authorities. Recites conditions proposed by diplomatic corps, in which he and Russian minister refused to join. Gives reasons.	195
1035	Same to same.....	July 2	Same subject. Confirms above telegram, gives particulars, and incloses correspondence.	195
	Mr. Hay to Mr. Conger (telegram).	....do....	Same subject. Approves action reported in telegram of June 28, 1902, and instructs to endeavor to reach practical adjustment of protective zone so that China can fulfill demanded obligation and maintain order therein, and to refrain from supporting any excessive grants made by provisional government.	198
1033	Mr. Conger to Mr. Hay.....	....do....	Decree disarming natives of Chihli. Transmits..	254
541	Mr. Hay to Mr. Conger.....	....do....	Vicarious punishment of relatives in China of Chinese naturalized citizens of the United States. Recites charges made by Bow Wong Society against Chinese consul at Honolulu, dwells at length upon facts as substantiated by investigation, and instructs to present to the earnest and favorable consideration of the Chinese Government.	244
231	Mr. Hay to Mr. Wu.....	....do....	Same subject. Representations on line of above instruction.	248
251	Mr. Wu to Mr. Hay.....	July 8	Same subject. States that resignation of consul at Honolulu has been accepted, and charges are being investigated.	249
1046	Mr. Conger to Mr. Hay.....	July 15	Restoration of Tientsin to Chinese authorities. Transmits copy of conditions named by powers.	198
	Same to same (telegram)....	July 18	Same subject. Reports that greatly modified conditions have been accepted by Chinese Government, and that transfer will take place in a month.	200
	Mr. Hay to Mr. Conger (telegram.)	....do....	Same subject. Extends congratulations on conclusion of matter.	200
545	Same to same.....	....do....	Student interpreters in China. Incloses rules adopted for.	230
1051	Mr. Conger to Mr. Hay.....	July 19	Restoration of Tientsin to Chinese authorities. Confirms his telegram of 18th instant, refers to dispatch No. 1046 for text of conditions, and incloses notes from and to Prince Ch'ing as to acceptance of conditions and gratitude for good offices of United States.	200
234	Mr. Hill to Mr. Wu.....	July 22	Arguments against United States laws for the exclusion of Chinese. Quotes letter of Treasury Department replying to allegations of harsh and unjustified enforcement of law made in Chinese minister's note No. 247, May 19, 1902, and declining to modify existing regulations.	218
235	Same to same.....	July 31	Exclusion of Chinese. Refusal of Treasury Department to modify certain regulations. Replying to minister's No. 248, June 14, 1902. Incloses opinion of Attorney-General that the circular in question is warranted by treaty and laws.	238
1061	Mr. Conger to Mr. Hay.....	Aug. 6	Riots, uprisings, massacres, etc., in Szechuan. Reports, and incloses correspondence.	170
1063	Same to same.....	Aug. 7	Same subject. Reports changes among provincial officials. Incloses decrees.	173
551	Mr. Adee to Mr. Conger....	Aug. 8	Vicarious punishment of relatives in China of Chinese naturalized citizens of the United States. Incloses report of collector at Honolulu on charges against Chinese consul, showing that same were well founded.	249

No.	From and to whom.	Date.	Subject.	Page.
1067	Mr. Conger to Mr. Hay.....	1902. Aug. 11	Monopoly of camphor trade in Fukien granted to a Japanese company. Incloses regulations virtually granting, and correspondence with consul at Amoy, who has been instructed to protest under French treaty of 1858.	255
1070	Same to same	Aug. 16	Vicarious punishment of relatives in China of Chinese naturalized in the United States. Incloses copy of his note to Prince Ch'ing making representations against.	251
	Mr. Adee to Mr. Wu.....	.....do	Protection of Chinese at Panama by United States officials. Incloses copy of latest instruction to United States consul-general on subject, and offers to repeat same.	262
13	Mr. Fesler, consul at Amoy, to Mr. Hill.	Aug. 18	Monopoly of camphor trade in Fukien granted to a Japanese company. Incloses copy of his protest, and reply to same.	260
	Mr. Wu to Mr. Adee.....	Aug. 20	Protection of Chinese at Panama by United States officials. Requests that instructions be repeated to United States officials.	262
254	Same to same .....	.....do	Admission of Chinese into Cuba. Incloses order of military governor denying, comments on its legality and the hardships imposed on Chinese, and asks that the matter be submitted to the President.	263
255	Same to same .....	.....do	Arguments against United States laws for the exclusion of Chinese. Comments on Treasury Department's views, communicated in Department's No. 234, July 23, 1902, and expresses regret thereat.	220
1072	Mr. Conger to Mr. Hay.....	Aug. 21	Proclamation denouncing Boxer practices as heresy transmitted.	266
556	Mr. Adee to Mr. Conger.....	Aug. 27	Student interpreters in China. Advises of appointment of four, and incloses their instructions.	231
1077	Mr. Conger to Mr. Hay.....	Aug. 29	Same subject. Comments on inadequacy of appropriation for, and suggests that houses be provided and tuition paid by Government.	233
1079	Same to same	Sept. 2	Riots, uprisings, massacres, etc., at Ch'en-Chow, in Hunan, reported. Imperial decree inclosed.	174
1084	Same to same	Sept. 9	Vicarious punishment of relatives in China of Chinese naturalized citizens of the United States. Reports that orders have been issued to local officials to stop. Incloses correspondence with foreign office.	252
258	Mr. Wu to Mr. Adee.....	Sept. 11	Exclusion of Chinese. Refusal of Treasury Department to modify certain regulations. Acknowledges Department's No. 235, July 31, 1902, and remarks that Attorney-General's opinion therein makes it useless to elaborate further his objections, as it proclaims again a denial of the ordinary principles of law and equity.	240
239	Mr. Adee to Mr. Wu.....	Sept. 12	Admission of Chinese into Cuba. States that the Cuban Congress is free to act in the matter.	266
1091	Mr. Conger to Mr. Hay.....	Sept. 17	Riots, uprisings, massacres, etc., at Ch'en-Chow. Refers to dispatch No. 1079, Sept. 2, 1902, and incloses decree announcing execution of two of the leaders and directing punishment of two officials.	175
1099	Same to same.....	Sept. 25	Same subject. Reports that rioting in Szechuan continues, but does not appear to be as serious as reported. Incloses correspondence.	176
	Same to same (telegram)....	Sept. 26	Commencement of evacuation of Manchuria by Russia reported.	281
569	Mr. Adee to Mr. Conger.....	Sept. 27	Vicarious punishment of relatives in China of Chinese naturalized citizens of the United States. Acknowledges dispatch No. 1070, Aug. 16, 1902, and approves minister's action.	254
1100	Mr. Conger to Mr. Hay.....	Oct. 1	Commencement of evacuation of Manchuria by Russia. Confirms his telegram of Sept. 26, 1902. Incloses report from vice-consul at Niuchwang, and as that place is to be evacuated within six months, under the agreement, suggests that a gunboat be stationed there.	281
1104	Same to same.....	Oct. 3	Riots, uprisings, massacres, etc., in Szechuan. Incloses note from foreign office.	180
1107	Same to same.....	Oct. 7	Student interpreters in China. Gives estimate of cost of tuition.	233
1109	Same to same.....	.....do	Death of Viceroy Liu K'un-yi. Reports, and incloses imperial edict.	267
	Mr. Hay to Mr. Conger (telegram).	Oct. 10	Same subject. Instructs to convey sympathy of United States Government.	270

LIST OF PAPERS.

XLV

CHINA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
574	Mr. Hay to Mr. Conger	1902. Oct. 13	Monopoly of camphor trade in Fukien granted to a Japanese company. Approves minister's representations to consul at Amoy.	261
1121	Mr. Conger to Mr. Hay	Oct. 16	Death of Viceroy Liu K'un-yi. Has conveyed sympathy of the United States to Chinese Government. Incloses correspondence.	270
580	Mr. Hay to Mr. Conger	Oct. 28	Student interpreters in China. States that appropriation for building and tuition has been asked for.	234
1135	Mr. Conger to Mr. Hay	Oct. 30	Commencement of evacuation of Manchuria by Russia. Incloses note from Chinese foreign office advising of.	282
583	Mr. Hay to Mr. Conger	Nov. 13	Same subject. States that Navy Department has been advised of the expediency of sending a war vessel to Ninchwang in the early spring.	283

COLOMBIA.

	Mr. Hay to Mr. Hart (telegram).	1902. Jan. 22	Seizure of vessels and alleged discriminations against American enterprises. Instructs to bring matter to attention of Colombian Government, and request fair treatment of United States companies.	284
	Mr. Hart to Mr. Hay (telegram).	Feb. 1	Same subject. Acknowledges above telegram and inquires as to amount of indemnity to be demanded.	284
	Mr. Hay to Mr. Hart (telegram).	Feb. 8	Same subject. Directs to make firm demand without specifying amount of indemnity.	285
	Mr. Hart to Mr. Hay (telegram).	Feb. 15	Same subject. Reports that representations have been made to Colombian Government in accordance with Department's instructions.	285
	Mr. Hay to Mr. Hart (telegram).	Feb. 20	Same subject. Instructs to demand restitution of vessels of Fluvial Company and indemnity; also indemnity for damages to Cartagena-Magdalena Railway Company.	285
573	Mr. Hart to Mr. Hay	Feb. 25	Protection of Roberto Beck, a Swiss citizen, by United States officials in Colombia. Incloses correspondence and reports efforts.	289
584	Mr. Beaupré to Mr. Hay	Mar. 22	Death of President Sanclemente reported	292
385	Mr. Hay to Mr. Hart	Mar. 26	Reopening of United States missionary schools at Barranquilla, Bogotá, and Medellín, closed by Colombian authorities. Incloses correspondence and directs to endeavor to effect.	293
599	Mr. Beaupré to Mr. Hay	Apr. 23	Right of United States citizens in Colombia as to expropriation of property, discussed in light of quoted articles of treaty of 1866 with Great Britain and Colombian law of 1890.	301
394	Mr. Hay to Mr. Beaupré	Apr. 28	Death of President Sanclemente. Expresses regret of Department.	292
605	Mr. Beaupré to Mr. Hay	May 5	Right of United States citizens in Colombia as to expropriation of property. Comments on arbitrariness and partiality shown by officers of Colombian Government; reports particularly cases of Albert B. Dod and Amsinck & Co., and incloses text of instructions of Colombian Government to its officers regarding aliens.	302
607	Same to same	May 12	Reopening of United States missionary schools at Barranquilla, Bogotá, and Medellín, closed by Colombian authorities. Reports that matter is under investigation, and permission to open schools at Bogotá and Medellín has been secured.	306
	Same to same (telegram)	May 15	Seizure of vessels and alleged discriminations against American enterprises. Substance of reply of Colombian Government to representations made as directed by Department's telegram of Jan. 22.	285
611	Same to same	do	Same subject. Incloses text of note condensed in above telegram.	286
	Mr. Hay to Mr. Hart	May 31	Protection of Roberto Beck, a Swiss citizen. Refers to dispatch No. 573, of Feb. 25, and requests a more complete report.	290
397	Mr. Hay to Mr. Beaupré	June 5	Right of United States citizens in Colombia as to expropriation of property. States that rights are established under article 8 of treaty of 1846 between United States and New Granada, and that treaty of Colombia with Great Britain can not be invoked.	304

COLOMBIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
622	Mr. Beaupré to Mr. Hay....	1902. June 8	Neutrality of aliens. Reports order of minister of war considering foreigners as enemies and denying them passports for travel in the interior, superseded by another requiring them to be provided with a certificate of neutrality issued by their respective legations.	313
	Mr. Hart to Mr. Hay	June 10	Protection of Roberto Beck, a Swiss citizen. Reports regarding.	291
400	Mr. Hay to Mr. Beaupré....	June 20	Same subject. Incloses Department's memorandum of June 10 to Swiss legation.	291
407	Mr. Hill to Mr. Beaupré....	June 28	Rights of United States citizens in Colombia as to expropriation of property. Incloses dispatch from consul at Barranquilla reporting seizure without compensation of property of American citizen and instructs to notify that the United States will hold Colombian Government responsible.	305
632	Mr. Beaupré to Mr. Hay....	July 11	Reopening of United States missionary schools at Barranquilla reported.	301
410	Mr. Hill to Mr. Beaupré....	July 22	Neutrality of aliens. Discusses and takes exceptions to order reported in dispatch No. 622, June 8, and to subsequent compromise by which "certificates" of neutrality were issued upon which foreigners received permission to travel, and instructs to acquaint Colombian Government with the position of the United States.	314
412	Same to same.....	July 31	Rights of United States citizens in Colombia as to expropriation of property. Takes exception to position of Colombian Government that "animals of foreign private individuals may be seized if necessary for the maintenance of public order," as a state of public war does not exist.	306
414	Mr. Adee to Mr. Hart	Aug. 4	Same subject. Incloses copy of report of commanding officer of the U. S. S. <i>Ranger</i> .	307
	Mr. Hart to Mr. Hay (telegram).	Aug. 10	Protection of Cuban interests by United States consular officials. Reports assent of Colombia.	318
	Same to same (telegram) ..	Aug. 21	Rights of United States citizens in Colombia as to expropriation of property. Inquires if instruction No. 407, June 28, means that compensation must be made at time of seizure.	308
650	Same to same.....	Aug. 23	Same subject. Reports conversation with under minister for foreign affairs, points out futility of merely demanding "due compensation," and urges that he be given positive instructions.	308
	Mr. Adee to Mr. Hart (telegram).	Aug. 27	Same subject. States that treaty stipulates for indemnification, but not time of payment; and that receipts should be given at time of seizure.	310
420	Same to same	Aug. 30	Protection by United States consular officers of Chinese on Isthmus of Panama. Incloses correspondence with Chinese minister regarding.	318
421	Same to same	Sept. 6	Rights of United States citizens in Colombia as to expropriation of property. Incloses dispatch from vice-consul-general at Panama reporting instances occurring near Cali.	310
660	Mr. Hart to Mr. Hay	Sept. 9	Neutrality of aliens. Incloses note to minister for foreign affairs, in accordance with instruction No. 410, July 22, and explains why certificates heretofore required were issued.	315
427	Mr. Hay to Mr. Hart.....	Oct. 6	Rights of United States citizens in Colombia as to expropriation of property. Replying to dispatch No. 650, Aug. 23, refers to Department's telegram of Aug. 27.	312
678	Mr. Hart to Mr. Hay.....	Oct. 23	Same subject. Assumes that claims should be submitted to Department in usual way.	313
433	Mr. Hill to Mr. Hart	Oct. 31	Neutrality of aliens. Approves Mr. Hart's presentation of views of United States to Colombian minister for foreign affairs.	317
	Mr. Hart to Mr. Hay (telegram).	Nov. 30	Seizure of vessels and alleged discriminations against American enterprises in Colombia. Reports that Colombian Government has ordered return of vessels to owners.	289
441	Mr. Hay to Mr. Hart.....	Dec. 18	Rights of United States citizens in Colombia as to expropriation of property. States that claims circulars have been sent to consul-general at Panama.	313

CUBA.

No.	From and to whom.	Date.	Subject.	Page.
	Order of the military governor of Cuba.	1900. July 25	Relations between Cuba and the United States. Providing for an election of delegates to a convention to frame a constitution and provide for and agree upon future relations with the United States.	358
	Same	Nov. 9	Same subject. Outlining duties of the constitutional convention.	359
	Message from the President of the United States.	1902. Mar. 27	Establishment of independent government in Cuba. Commending timely consideration of measures for maintaining diplomatic and consular representatives in Cuba and for carrying out the provisions of the act making appropriation for the support of the Army for the fiscal year ending June 30, 1902.	320
	The military governor of Cuba to the Adjutant-General of the Army (telegram).	May 20	Same subject. Reports the transfer to the President and Congress of Cuba of the government and control of the island.	320
	Señor de Zaldo, Cuban secretary of state, to Mr. Hay (telegram).	May 22	Protection of Cuban interests by United States consular officials. At instance of President of Cuba, requests.	329
4	Mr. Hay to Señor de Zaldo.	May 24	Same subject. Assents to above request	329
	Mr. Hay to Mr. Squiers.....	May 26	Resolution of United States Senate congratulating Cuban Republic on its appearance among the nations of the world. Instructs to communicate to the foreign office.	324
	Mr. Squiers to Mr. Hay (telegram).	May 27	Reception of minister of the United States to Cuba reported.	322
1	Same to same	do	Same subject. Reports in detail	323
5	Same to same	June 2	Messages of the President of Cuba to Cuban Congress. Transmits message of May 26, 1902.	333
7	Same to same	June 3	Ceremonies attending hauling down of United States flag at Matanzas. Incloses resolution of citizens.	350
	Same to same (telegram)....	June 10	Amnesty granted American citizens who committed crimes in Cuba during intervention period reported.	351
17	Same to same	June 11	Same subject. Incloses copy of act of Cuban Congress.	351
	Mr. Hay to Mr. Squiers (telegram).	June 13	Exclusion of Chinese from Cuba. Calls attention to detention of a steamer carrying Chinese.	352
	Mr. Squiers to Mr. Hay (telegram).	June 16	Same subject. Reports that Cuban authorities decline to allow Chinese to land.	352
23	Same to same	do	Announcement of establishment of Cuban Republic inclosed.	326
25	Same to same	do	Exclusion of Chinese from Cuba. Reports reasons advanced by Cuban Government for.	353
3	Señor Quesada to Mr. Hay..	June 17	Resolution of Cuban House of Representatives thanking Government and people of the United States for assistance transmitted.	325
28	Mr. Squiers to Mr. Hay.....	June 18	Exclusion of Chinese from Cuba. Refers to previous correspondence and again reports attitude of Cuban Government.	353
8	Señor Quesada to Mr. Hay..	June 28	Protection of Cuban interests by United States consular officials. Requests to be informed of scope and purport of authority given by United States Government for.	329
	Proclamation by the President of the United States. President Palma to President Roosevelt (telegram).	July 3	Suspending tonnage dues on Cuban vessels	354
	Mr. Squiers to Mr. Hay (telegram).	July 4	Courtesies of Cuban Government on occasion of anniversary of independence of the United States. Sends greetings and good wishes.	327
	Mr. Hay to Mr. Squiers (telegram).	do	Same subject. Transmits message of good will from President of Cuba.	327
	Mr. Hay to Mr. Squiers (telegram).	July 5	Same subject. States that President Palma's message of congratulation was received with much gratification.	327
59	Mr. Squiers to Mr. Hay.....	July 7	Same subject. Incloses his note to foreign office.	327
60	Same to same.....	do	Same subject. Incloses note from foreign office advising of adjournment of Cuban House of Representatives on July 4.	328
43	Mr. Hay to Mr. Squiers.....	July 15	Same subject. Instructs to convey appreciation of United States for action reported in above dispatch.	329
10	Mr. Hay to Señor Quesada .	July 16	Protection of Cuban interests by United States consular officials. States that consuls are not permitted to act as agents of Cuban Government, but only to use good offices.	330
12	Mr. Adee to Señor Quesada.	Aug. 2	Resolution of Cuban House of Representatives thanking Government and people of the United States for assistance. Expresses appreciation of.	326

CUBA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Señor Quesada to Mr. Adee.	1902. Aug. 12	Protection of Cuban interests by United States consular officials. Requests that it be extended in Colombia.	330
149	Mr. Squiers to Mr. Hay.....	Aug. 22	Diplomatic immunities. Testimony of United States diplomatic representatives in foreign courts. Reports that he caused deposition of secretary to be taken at legation.	355
79	Mr. Adee to Mr. Squiers....	Aug. 30	Same subject. Approves course reported in above dispatch.	356
	President Palma to President Roosevelt (telegram).	Sept. 4	Accident to President Roosevelt. Good wishes for restoration of health.	356
	President Roosevelt to President Palma (telegram).	....do....	Same subject. Thanks for above message.....	356
13	Mr. Adee to Señor Quesada.	Sept. 13	Protection of Cuban interests by United States consular officers. States that instructions have been sent to consuls in Colombia, as well as others, to extend. Incloses circular.	331
88	Mr. Adee to Mr. Squires.....	....do....	Exclusion of Chinese from Cuba. Incloses correspondence with Chinese minister regarding.	354
42	Señor Quesada to Mr. Hay...	Oct. 27	Protection of Cuban interests by United States consular officials. Notifies that Cuban consuls have been appointed at various places.	332
280	Mr. Squires to Mr. Hay.....	Nov. 8	Messages of the President of Cuba to Congress. Transmits message of Nov. 1, 1902.	338
282	Same to same.....	....do....	Same subject. Transmits message of Nov. 3, 1902.	346
291	Same to same.....	Nov. 13	Law establishing procedure for obtaining Cuban citizenship, transmitted.	356
28	Mr. Hay to Señor Quesada.	Nov. 15	Protection of Cuban interests by United States consular officials. Incloses circular to consular officers, issued in view of Señor Quesada's note of Oct. 27, 1902.	332
298	Mr. Squiers to Mr. Hay.....	Nov. 21	Relations between Cuba and the United States. Transmits report of committee appointed by constitutional convention.	360

DENMARK.

	Mr. Hay to Mr. Brun.....	1901. Oct. 18	Protection of Danish interests in Salvador. States that United States officials will be instructed to extend.	365
	Mr. Brun to Mr. Hay.....	Oct. 19	Same subject. Requests that United States Government obtain assent of Government of Salvador to.	365
351	Mr. Hay to Mr. Brun.....	Oct. 25	Same subject. States that United States minister has been instructed in sense of above request.	366
	Mr. Brun to Mr. Hay.....	Dec. 2	Same subject. Wishes to know if assent of Government of Salvador has been received.	366
356	Mr. Hay to Mr. Brun.....	Dec. 10	Same subject. States that no report has been received from the minister, and that his attention has been recalled to the matter.	366
391	Same to same.....	1902. Mar. 7	Same subject. States that Government of Salvador consents to exercise of good offices by United States officers in same form as is permitted respecting Chinese subjects.	367
	Treaty between the United States and Denmark.	Apr. 17	For the extradition of fugitives from justice. Text.	368
254	Mr. Swenson to Mr. Hay....	May 2	Liability of naturalized citizens of the United States to military service in Denmark. Report on case of Severin Jacobsen.	372
	Mr. Brun to Mr. Hay.....	May 5	Protection of Danish interests in Salvador. Expresses thanks of his Government for assumption of, by the United States.	367
261	Mr. Swenson to Mr. Hay....	June 6	Protection of Cuban interests by United States consular officials. Reports assent of Denmark.	373
275	Same to same.....	Sept. 6	Accident to President Roosevelt. Reports solicitude caused by.	373
279	Same to same.....	Sept. 30	Courtesies to U. S. S. Chicago and Albany reported.	373
284	Same to same.....	Dec. 13	Military-service case of James Nelson reported...	375
286	Same to same.....	Dec. 16	Effect of the continued residence of naturalized United States citizens in the country of origin. Reports on in connection with case of C. Ravn.	377
287	Same to same.....	Dec. 17	Military-service cases of James John Hansen and Anton Miller reported.	378
163	Mr. Hay to Mr. Swenson....	1903. Jan. 5	Effect of the continued residence of naturalized United States citizens in the country of origin. Approves minister's views, as reported in dispatch No. 286, Dec. 16, 1902.	378

DOMINICAN REPUBLIC.

No.	From and to whom.	Date.	Subject.	Page.
306	Mr. Powell to Mr. Hay	1902. Feb. 24	Visit of Gen. Maximo Gomez to Santo Domingo, during which relics of Christopher Columbus were exhibited, reported.	381
349	Same to same	Apr. 12	Protection denied Porto Ricans engaged in insurrection against Dominican Government. Reports in regard to.	382
146	Mr. Hay to Mr. Powell	May 1	Same subject. Approves action reported in above dispatch.	383
389	Mr. Powell to Mr. Hay	Aug. 13	Protection of Cuban interests by United States consular officials. Reports assent of Dominican Government.	383
	Mr. Yasquez to Mr. Hay (telegram).	Sept. 24	Accident to President Roosevelt. Expresses regret on account of.	384
19	Mr. Adee to Mr. Vasquez . . .	Sept. 26	Same subject. Acknowledges above telegram, with appreciation.	385

ECUADOR.

269	Mr. Sampson to Mr. Hay . . .	1901. Dec. 20	Passports and protection of naturalized citizens. Discusses question at length, denounces abuses, points out defects of existing laws and regulations, and offers suggestions for their amendment.	386
192	Mr. Hay to Mr. Sampson . . .	1902. Jan. 21	Same subject. Explains Department's attitude, and defines limits within which naturalization certificates are recognized.	388
300	Mr. Sampson to Mr. Hay . . .	May 28	Protection of Cuban interests by United States consular officials. Reports assent of Ecuador.	389
311	Same to same	Sept. 7	Accident to President Roosevelt. Reports congratulations of Ecuador on the President's escape from serious injury.	390
214	Mr. Hay to Mr. Sampson . . .	Oct. 13	Same subject. Acknowledges above, with appreciation.	390

FRANCE.

	Mr. de Margerie to Mr. Hay.	1901. Nov. 7	Complaints of alleged violation at Pacific coast ports of consular convention between the United States and France. Refers to attempt by local officials to serve summons on French consul-general at San Francisco, and requests that steps be taken to put an end to such occurrences.	391
426	Mr. Hay to Mr. de Margerie.	Nov. 15	Same subject. Acknowledges above note and states that matter has been referred to the Attorney-General and the governor of California.	392
	Mr. de Margerie to Mr. Hay.	Nov. 24	Same subject. Recites various instances of laches on part of authorities on Pacific coast in rendering to French consuls the assistance provided for by the convention, in regard to difficulties on board French vessels, and asks that efficient measures be taken.	393
429	Mr. Hay to Mr. de Margerie.	Dec. 2	Same subject. Acknowledges above note and states that matter has been referred to governors of California and Oregon and the Secretary of the Treasury.	394
	Same to same	Dec. 10	Same subject. States that Treasury Department has taken steps to obviate further complaints.	394
433	Same to same	Dec. 21	Same subject. States that governor of California has brought matter to attention of local officials to the end that further complaints may be obviated.	395
434	Same to same	Dec. 24	Same subject. Same statement as above in regard to governor of Oregon.	395
	Mr. de Margerie to Mr. Hay.	Dec. 27	Same subject. Expresses thanks for extension of Department's good offices, and cites further instances of laches on the part of United States officials.	395

No.	From and to whom.	Date.	Subject.	Page.
945	Mr. Porter to Mr. Hay.....	1902. Jan. 2	Passports. Question of declaration of intention to return to the United States within a stipulated period. Submits petition of American Chamber of Commerce of Paris.	407
439	Mr. Hay to Mr. Cambon.....	Jan. 3	Complaints of alleged violation at Pacific coast ports of consular convention between the United States and France. States that Mr. de Margerie's note of Dec. 27, 1901, has been referred to the Attorney-General, the Secretary of the Treasury, and the governors of California and Oregon.	396
440	Same to same.....	Jan. 14	Same subject. Mentions instructions to officers of Department of Justice on Pacific coast, and incloses reports received with governor of California's letter of Jan. 3, 1902.	397
969	Mr. Hay to Mr. Porter.....	Jan. 17	Passports. Defines attitude of Department on question of declaration of intention to return to the United States within a stipulated period.	407
441	Mr. Hay to Mr. Cambon.....	Jan. 22	Complaints of alleged violation at Pacific coast ports of consular convention between the United States and France. Communicates action taken by governor of Oregon.	398
443	Same to same.....	Jan. 26	Same subject. Incloses report of United States district attorney for district of Oregon.	398
976	Mr. Hay to Mr. Porter.....	Jan. 29	Restoration of Tientsin to Chinese authorities. Incloses note of Chinese minister applying for good offices of United States in securing. Expresses views of the United States on the subject, and instructs to ascertain views of the French Government.	185
	Same to same.....	Feb. 3	Agreement between Russia and China relative to Manchuria. Incloses for communication to French Government memorandum of Feb. 1 expressing views of the United States.	26
444	Mr. Hay to Mr. de Margerie.	Feb. 4	Complaints of alleged violation at Pacific coast ports of consular convention between the United States and France. Incloses report of United States district attorney for district of Washington.	399
445	Same to same.....	Feb. 5	Same subject. Governor of California has again called attention of local authorities to matter.	400
965	Mr. Porter to Mr. Hay.....	Feb. 17	Restoration of Tientsin to Chinese authorities. Reports that France concurs in views of the United States, and her representative in China has been instructed to cooperate with his colleagues. Incloses note verbale of minister of foreign affairs.	186
969	Same to same.....	Feb. 20	Agreement between Russia and China relative to Manchuria. Reports interview with minister for foreign affairs, who evidently believes in good faith of Russia.	408
450	Mr. Hay to Mr. Cambon.....	Mar. 1	Complaints of alleged violation, at Pacific coast ports, of consular convention between the United States and France. Refers to Mr. de Margerie's note of Nov. 7, 1901, and gives substance of answer made by governor of California. The Department concurs in view expressed by the sheriff, that the convention only gives the consul the right to decline to receive summonses, but does not absolve United States officers from the duty of offering to serve them.	400
	Mr. Cambon to Mr. Hay.....	Mar. 10	Same subject. Acknowledges above note and comments on necessity for representations to authorities at San Francisco to bring about a proper observance of the convention.	401
1000	Mr. Hay to Mr. Porter.....	Mar. 27	Dedication of monument to Marshal de Rochembeau at Washington. Incloses joint resolution and invitation to President Loubet, Comte de Rochembeau, and Mr. de Lafayette to participate in.	409
	Mr. Porter to Mr. Hay (telegram).	Apr. 16	Same subject. Advises of acceptance of above invitations.	410
1006	Same to same.....	Apr. 18	Same subject. Confirms above telegram, with details, and incloses correspondence.	410
	President Roosevelt to President Loubet (telegram).	May 10	Volcanic eruption at Martinique. Expresses sympathy on account of.	412
	President Loubet to President Roosevelt (telegram).	May 11	Same subject. Thanks for above telegram.....	412
	The French minister for foreign affairs to Mr. Cambon (telegram).	....do....	Same subject. Request that United States send means of transportation to aid the sufferers.	412

LIST OF PAPERS.

LI

FRANCE—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Cambon to Mr. Hay....	1902. May 12	Complaints of alleged violation, at Pacific coast ports, of consular convention between the United States and France. Refers to previous correspondence; calls attention to fresh instances of disregard of the convention by authorities in San Francisco, and asks that effective measures be taken to put an end to the laches of the Federal and State authorities, and the practices of the boarding masters.	402
	Mr. Cambon to President Roosevelt.	May 15	Volcanic eruption at Martinique. By instruction of President of France, conveys thanks for assistance rendered by the United States to sufferers from.	413
469	Mr. Hay to Mr. Cambon....	May 21	Complaints of alleged violation, at Pacific coast ports, of consular convention between the United States and France. States that Mr. Cambon's note of May 12 has been brought to attention of the governor of California.	404
	President Loubet to President Roosevelt (telegram).	May 22	Volcanic eruption at Martinique. Expresses thanks for assistance rendered by the United States to sufferers from.	413
	President Roosevelt to President Loubet (telegram).	May 23	Same subject. Acknowledges above telegram and conveys assurance of sentiments of esteem.	413
1035	Mr. Vignaud to Mr. Hay....	June 3	Protection of Cuban interests by United States consular officials. Reports assent of France.	417
1039	Mr. Hill to Mr. Vignaud....	June 26	Volcanic eruption at Martinique. Transmits report of officer in charge of supplies donated to sufferers from.	414
	Mr. de Margerie to Mr. Hay.	July 24	Same subject. Conveys thanks for assistance rendered to sufferers from.	415
492	Mr. Hill to Mr. de Margerie.	July 31	Same subject. Above note has been made known to persons who rendered assistance.	416
	Mr. de Margerie to Mr. Hay.	Aug. 3	Complaints of alleged violation, at Pacific coast ports, of consular convention between the United States and France. Calls attention to fresh infractions of the convention by police authorities at San Francisco.	404
	Same to same (telegram)...	Aug. 7	Protection of French cable in Haiti by United States officials. Requests that instructions be given for.	417
496	Mr. Adee to Mr. de Margerie.	Aug. 11	Same subject. States that Navy Department has issued proper instructions.	418
497	Same to same.....do....	do	Complaints of alleged violation, at Pacific coast ports, of consular convention between the United States and France. States that complaint of Aug. 3 has been brought to attention of the Attorney-General and the governor of California.	405
	Mr. Hay to Mr. Porter.....do....	do	Jews in Roumania. Discriminations against, condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons. In connection with pending naturalization treaty with Roumania, discusses at length the foregoing questions, and appeals to the principles laid down in the treaty of Berlin for amelioration of said conditions. Instructs to present above considerations to the minister for foreign affairs.	42
	Amendatory and additional agreement.	Aug. 22	To the commercial agreement of May 28, 1898. Text.	418
	Mr. de Margerie to Mr. Hay.	Aug. 28	Complaints of alleged violation, at Pacific coast ports, of consular convention between the United States and France. Incloses newspaper item relating to an action brought in the Federal court at San Francisco to have the convention declared unconstitutional, and asks that steps be taken for its vindication in the courts.	405
	President Loubet to President Roosevelt (telegram).	Sept. 4	Accident to President Roosevelt. Felicitations on escape from injury.	419
	President Roosevelt to President Loubet (telegram).	do	Same subject. Expresses appreciation for above message.	419
500	Mr. Adee to Mr. de Margerie.	do	Complaints of alleged violation, at Pacific coast ports, of consular convention between the United States and France. States that Mr. de Margerie's note of Aug. 28 has been referred to the Attorney-General.	406
506	Same to same.....do....	Sept. 17	Same subject. States that note above referred to has been placed on files of Department of Justice, and will receive proper consideration.	406

FRANCE—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1902.		
	Mr. de Margerie to Mr. Hay.	Sept. 25	Volcanic eruption at Martinique. Reiterates thanks of his Government for assistance rendered sufferers from.	416
1090	Mr. Porter to Mr. Hay	Sept. 26	Jews in Roumania. Discriminations against; condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons. Reports that Department's circular of Aug. 12 has been handed to the minister for foreign affairs, who evinced interest.	420
509	Mr. Adce to Mr. de Margerie.	Sept. 30	Volcanic eruption at Martinique. Acknowledging note of Sept. 25.	416
1071	Mr. Hay to Mr. Porter	Oct. 14	Passport erroneously issued to G. L. Rosenbaum without proof of his father's naturalization. Special passports not to be issued by diplomatic representatives abroad. Calls attention to.	420

GERMANY.

		1902.		
	Emperor William to President Roosevelt (telegram).	Jan. 10	Visit of Prince Henry of Prussia to the United States announced—	422
	President Roosevelt to Emperor William (telegram).	Jan. 10	Same subject. Expresses gratification and personal esteem.	422
1836	Mr. White to Mr. Hay.....	Jan. 27	Passport application of Schabsel Reif. Reports grounds for withholding.	448
1837	Same to same	Jan. 28	Visit of Prince Henry of Prussia to the United States. Reports favorable attitude of German officials.	422
1287	Mr. Hay to Mr. White.....	Jan. 29	Restoration of Tientsin to Chinese authorities. Incloses note of Chinese minister applying for good offices of United States in securing; expresses views of the United States on the subject, and instructs to ascertain views of German Government.	185
	Same to same	Feb. 3	Agreement between Russia and China relative to Manchuria. Incloses, for communication to German Government, memorandum of Feb. 1, expressing views of United States.	26
1844	Mr. White to Mr. Hay.....	Feb. 7	Expulsion of Peter Mikolainis, and reasons therefor, reported.	450
1299	Mr. Hay to Mr. White.....	Feb. 15	Passport application of Schabsel Reif. Approves course reported in dispatch No. 1836, Jan. 27.	448
1865	Mr. White to Mr. Hay.....	Feb. 26	Passport application of Joseph Duff. Reports grounds for refusal to issue.	448
1866	Same to same	do	Restoration of Tientsin to Chinese authorities. Reports that minister for foreign affairs declares that he concurs in views of the United States, but that China should first give pecuniary guarantee that the improvement of the Peiho River shall be carried out.	187
1868	Same to same	do	Same subject. Refers to above dispatch, and incloses note from foreign office confirming views therein reported.	188
1876	Mr. White to Mr. Hay	Mar. 5	Foreign policy of Germany. Résumé of speeches of Chancellor Count Bülow relative to China, visit of Prince Henry of Prussia to the United States, war in South Africa, etc.	425
1886	Mr. Jackson to Mr. Hay....	Mar. 12	Visit of Prince Henry of Prussia to the United States. Incloses article from the North German Gazette, reports generally favorable impression, and comments on probable effect of.	423
1899	Same to same.....	Mar. 19	Same subject. Reports impressions in Government circles, and quotes telegram of the Prince to the embassy.	424
1312	Mr. Hay to Mr. White	Mar. 22	Passport application of Joseph Duff. Approves action reported in dispatch No. 1865, Feb. 26.	449
	Promemoria from German embassy.	Apr. 3	Foreign debt of Guatemala. Invites concurrence of the United States in new arrangement proposed by the committee of bondholders in London.	426
	Mr. Hay to Mr. von Holleben.	Apr. 5	Same subject. Communicates memorandum to effect that the United States is averse to joining in any coercive action, but will reserve for United States citizens all rights secured by any such action.	426
1926	Mr. Jackson to Mr. Hay....	Apr. 17	Expulsion of Albert and Nathan Eisemann. Gives particulars of case and reports that a postponement was all that embassy could obtain.	451

LIST OF PAPERS.

LIII

GERMANY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1902.		
	Memorandum from German embassy.	May 20	Protection of German interests at Bocas del Toro by United States naval officials requested.	427
	Mr. Hay to Mr. von Holleben.	.....do.....	Same subject. States that Navy Department has given proper instructions.	428
	Mr. White to Mr. Hay (telegram).	May 30	Protection of Cuban interests by United States consular officials. Reports assent of German Government.	428
1961	Same to same.....	.....do.....	Same subject. Confirms above telegram.....	429
	Memorandum from State Department.	May 31	Protection of German interests at Bocas del Toro by United States naval officials. States that Navy Department has given proper instructions.	428
	Mr. Hay to Mr. White (telegram).	June 4	Expulsion of Albert and Nathan Eisemann. Instructs to request revocation of order if there is probability of its being granted.	452
1347	Same to same.....	June 5	Same subject. Instructs to endeavor to obtain from German Government, if decree of expulsion is to stand, some statement which will relieve the Eisemanns of imputation of improper conduct.	452
	Mr. White to Mr. Hay (telegram).	June 6	Same subject. Reports efforts of embassy and probability of nothing but an extension of permission to remain being secured. Adverts to feeling already aroused when matter was made known to the embassy.	452
1966	Same to same.....	.....do.....	Same subject. Confirms above telegram and goes into details of his efforts.	453
	Same to same (telegram) ..	June 14	Same subject. Reports that application for extension of time until April, 1903, has been made.	454
	Same to same (telegram) ..	June 20	Death of King Albert of Saxony. Reports, and inquires if he shall attend funeral.	429
	Mr. Hay to Mr. White (telegram).	.....do.....	Same subject. States that Mr. White may attend funeral.	429
1981	Mr. White to Mr. Hay.....	June 26	Same subject. Reports in detail.....	429
1358	Mr. Hill to Mr. White.....	.....do.....	Expulsion of Albert and Nathan Eisemann. Approves efforts to obtain revocation of.	455
1987	Mr. White to Mr. Hay.....	June 30	Military-service cases of Rene Huttler, Eugene Herr, and Meyer Schwartz reported.	460
1992	Same to same.....	July 2	Expulsion of Johann Wilhelm Lohmann. Reasons reported.	457
1998	Mr. Jackson to Mr. Hay.....	July 5	Expulsion of Albert and Nathan Eisemann. Reports that permission to remain until April 1, 1903, has been granted.	455
1368	Mr. Hay to Mr. White.....	July 15	Defilement of United States coat of arms at Bamberg. Incloses reports of consul-general at Frankfurt.	430
1369	Same to same.....	July 17	Expulsion of Albert and Nathan Eisemann. Incloses letter from Senator Lodge asking that phrase "for police reasons" be stricken from order of expulsion.	455
	Count von Quadt to Mr. Hay	July 21	Death of King Albert of Saxony. Conveys thanks for expressions of sympathy of United States.	430
1377	Mr. Hill to Mr. White.....	July 29	Defilement of United States coat of arms at Bamberg. Incloses dispatch from commercial agent at Bamberg regarding.	433
1361	Mr. Adee to Mr. White.....	Aug. 2	Same subject and tenor.....	435
2019	Mr. White to Mr. Hay.....	Aug. 4	Military-service case of Eugene Herr, report on..	461
2020	Same to same.....	.....do.....	Expulsion of Leo Hess reported.....	457
2024	Mr. Jackson to Mr. Hay.....	Aug. 5	Defilement of United States coat of arms at Bamberg. Reports conversation at foreign office regarding the incident, and states that a new shield will be admitted duty free and ceremoniously put in place.	436
2026	Same to same.....	Aug. 7	Expulsion of Albert and Nathan Eisemann. Reports that the disparaging words in order of expulsion will probably be expurgated.	456
	Mr. Hay to Mr. White.....	Aug. 11	Jews in Roumania, discriminations against; condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons. In connection with pending naturalization treaty with Roumania, discusses at length the foregoing questions, and appeals to the principles laid down in the treaty of Berlin for amelioration of said conditions. Instructs to present above considerations to minister for foreign affairs.	42
2031	Mr. Jackson to Mr. Hay....	Aug. 12	Defilement of United States coat of arms at Bamberg. Reports that new coat of arms has been admitted duty free and will be held at embassy until arrangements are made for the replacing of it.	437

GERMANY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
2033	Mr. Jackson to Mr. Hay	1902. Aug. 12	Restrictions on sojourn in their country of origin of Germans naturalized in the United States. Reports conversation had at the foreign office in support of their rights under the treaty.	440
	Count von Quadt to Mr. Hay.	Aug. 20	Protection of German interests at Bocas del Toro by United States naval officials. Conveys thanks for.	428
2039	Mr. White to Mr. Hay	do	Expulsion of Albert and Nathan Eisemann. Reports publication of official announcement that expulsion was for no other reason than non-performance of military service, and that the Eisemanns will be permitted to remain at Frankfort until April next.	456
2040	Same to same	do	Expulsion of Charles von Oehsen (Carl), Christian Markhoff and family, and Henry Blohm reported.	458
1391	Mr. Adee to Mr. White	Aug. 22	Defilement of United States coat of arms at Bamberg. Department is gratified at friendly spirit shown by German Government in adjustment of matter.	438
2041	Mr. Jackson to Mr. Hay	Aug. 23	Expulsion of Charles von Oehsen reported	459
2045	Mr. White to Mr. Hay	Aug. 26	Jews in Roumania, discriminations against: condition of helplessness to which they are reduced, and objections of United States Government to immigration of such persons. Reports having delivered instruction of Aug. 11 to foreign office.	442
1394	Mr. Adee to Mr. White	Aug. 30	Restrictions on sojourn in their country of origin of Germans naturalized in the United States. Approves action in bringing matter to attention of foreign office, and points out limitations of right of expulsion.	441
	The German Emperor to President Roosevelt (telegram).	Sept. 4	Accident to President Roosevelt. Congratulations on escape from injury.	442
	President Roosevelt to the German Emperor (telegram).	do	Same subject. Acknowledges above, with appreciation.	442
1398	Mr. Adee to Mr. Jackson	Sept. 5	Expulsion of Albert and Nathan Eisemann. Acknowledges dispatch No. 2039, Aug. 20, and states that incident may be considered closed.	456
2061	Mr. Jackson to Mr. Hay	do	Passport application of Gustav Frank Eichborn. Reports refusal to issue.	449
2070	Same to same	Sept. 10	Relations of Germany with Haiti. Reports impression made by and comments on the sinking of the insurgent vessel Crête à Pierrot by a German war vessel.	442
1403	Mr. Adee to Mr. White	Sept. 20	Passport application of Gustav Frank Eichborn. Approves refusal to issue.	450
1410	Same to same	Sept. 27	Relations of Germany with Haiti. Recites correspondence with United States minister to Haiti in regard to closure of Haitian ports, and states that Navy Department will be requested to protect neutral vessels if blockade is found ineffective.	443
2090	Mr. White to Mr. Hay	Sept. 30	Military-service cases of Ferdinand Herman Grenzer, Henry Honebein, George Soelhke, Gustav Meincke, and George Dickmann (Dieckmann) reported.	461
27	Mr. Bardel, commercial agent, to the Department of State.	Oct. 16	Defilement of United States coat of arms at Bamberg. Reports ceremonies attending installation of new coat of arms.	438
2115	Mr. Jackson to Mr. Hay	Oct. 18	Same subject and tenor	439
278	Mr. Thomas, minister to Sweden and Norway, to Mr. Hay.	do	Claims on account of military operations conducted in Samoa in 1899. Preliminary decision of the King of Sweden and Norway as arbitrator.	444
2122	Mr. Jackson to Mr. Hay	Oct. 25	Expulsion of Mads Peder L. Fysant reported	459
1423	Mr. Hill to Mr. White	Nov. 3	Defilement of United States coat of arms at Bamberg. Expresses gratification at satisfactory closing of incident.	440
2158	Mr. Dodge to Mr. Hay	Dec. 8	Expulsion of Samuel Samuel reported	460

GREAT BRITAIN.

468	Mr Hay to Mr. Choate	1900. Oct. 16	Prisoners of war, American citizens, held in British colonies. Instructs to investigate status of, with a view to effecting their release.	463
469	Same to same	do	Same subject. Incloses correspondence relative to case of F. M. Hearn.	463

GREAT BRITAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
418	Mr. Choate to Mr. Hay	1900. Oct. 27	Same subject. Incloses copy of his note to foreign office, making representations in accordance with instruction No. 463, Oct. 16, 1900.	464
482	Mr. Hay to Mr. Choate	Nov. 1	Same subject. Incloses correspondence relative to case of William Smith.	465
	Mr. Choate to Mr. Hay	Nov. 21	Same subject. Reports that American consul at Colombo will be permitted to communicate with prisoners.	467
	(Telegram.)			
431	Same to same	do	Same subject. Confirms above telegram and incloses note from foreign office.	467
500	Mr. Hay to Mr. Choate	do	Same subject. Incloses correspondence relative to case of Edward C. Janse.	468
434	Mr. Choate to Mr. Hay	Nov. 24	Same subject. Reports that it is inexpedient to request release of William Smith.	469
506	Mr. Hay to Mr. Choate	Dec. 6	Same subject. Incloses correspondence relative to case of William F. Versluis.	469
		1901.		
525	Same to same	Jan. 3	Same subject. Incloses correspondence relative to case of Dirk J. Dubber.	470
473	Mr. Choate to Mr. Hay	Jan. 7	Same subject. Reports release of Edward J. Janse.	470
504	Same to same	Feb. 9	Same subject. Reports refusal to release Dirk J. Dubber.	471
620	Mr. Hill to Mr. Choate	Apr. 30	Same subject. Incloses correspondence relative to case of Harry Wood.	471
636	Same to same	May 22	Same subject. Instructs to report on case of William F. Smith.	473
641	Same to same	May 27	Same subject. Incloses correspondence relative to case of Francis Connelly.	473
647	Mr. Hay to Mr. Choate	June 4	Same subject. Incloses correspondence relative to case of William F. Versluis.	474
592	Mr. Choate to Mr. Hay	June 15	Same subject. Reports refusal to release Harry Wood.	474
610	Same to same	July 3	Same subject. Reports refusal to release William F. Smith and Francis Connelly.	475
621	Same to same	July 11	Same subject. Reports that it is inexpedient to request release of William F. Versluis.	475
241	Mr. Lowther to Mr. Adee	Sept. 2	Discourtesy to British flag at Skagway, Alaska. Recites circumstances, and requests that inquiry be made and offender punished.	546
2251	Mr. Adee to Mr. Lowther	Sept. 7	Same subject. Quotes report of special Treasury agent, and suggests that Governments mutually discontinue practice of flying their customs flags within the jurisdiction of the other.	546
735	Mr. Adee to Mr. Choate	Sept. 30	Prisoners of war, American citizens, held in British colonies. Incloses dispatch from consul at Colombo showing that certain prisoners have been released, and instructs to approach British Government on subject of American prisoners.	475
736	Mr. Adee to Mr. Choate	Oct. 1	Same subject. Incloses correspondence relative to case of Patrick Lennon.	477
687	Mr. White to Mr. Hay	Oct. 19	Same subject. Reports representations made in accordance with instruction No. 735, Sept. 30, 1901.	478
749	Mr. Hill to Mr. White	Oct. 22	Same subject. Incloses correspondence relative to case of James L. Molloy.	479
692	Mr. White to Mr. Hay	Oct. 28	Same subject. Reports that only prisoners who are certified to be dangerously ill will be released.	479
758	Mr. Hay to Mr. White	Oct. 30	Same subject. Acknowledges dispatch No. 687, Oct. 19, 1901, and commends matter to further attention.	480
699	Mr. White to Mr. Hay	Nov. 6	Same subject. Reports having requested release of James L. Molloy.	480
710	Same to same	Nov. 22	Same subject. Reports refusal to release James L. Molloy.	480
732	Same to same	Dec. 28	Same subject. Incloses report in case of Patrick Lennon.	481
		1902.		
3	Lord Pauncefote to Mr. Hay	Jan. 2	Discourtesy to British flag at Skagway, Alaska. States that Canadian government agrees to suggestion that practice of flying the flag of either country on territory of the other shall be discontinued, and consider the incident closed.	548
2330	Mr. Hay to Lord Pauncefote	Jan. 7	Same subject. States that above views have been communicated to Treasury Department.	548
8	Lord Pauncefote to Mr. Hay	Jan. 13	Special embassy of the United States to coronation of Edward VII. Incloses proclamation fixing date of coronation.	498

GREAT BRITAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
748	Mr. White to Mr. Hay.....	1902. Jan. 18	Prisoners of war, American citizens, held in British colonies. Transmits copy of oath taken by Patrick Lennon before British commander in chief in South Africa.	482
2343	Mr. Hay to Lord Pauncefote.	Jan. 25	Discourtesy to British flag at Skagway, Alaska. States that United States customs officers on northern frontier have been instructed not hereafter to display official flags if their offices are located on British North American territory.	548
24	Lord Pauncefote to Mr. Hay.	Jan. 29	Title of King Edward VII. Incloses proclamation defining.	507
823	Mr. Hay to Mr. Choate.....do	do	Restoration of Tientsin to Chinese authorities. Incloses note of Chinese minister applying for good offices of United States in securing, expresses views of the United States on the subject, and instructs to ascertain views of the British Government.	185
	Same to same.....	Feb. 3	Agreement between Russia and China relative to Manchuria. Incloses for communication to British Government memorandum of Feb. 1 expressing views of the United States.	26
36	Lord Pauncefote to Mr. Hay.	Feb. 8	Protection of British interests in Colombia by United States officials. Incloses letter of T. and J. Harrison, and expresses gratification at cooperation of United States and British officers.	509
39	Same to same.....	Feb. 11	Discourtesy to British flag at Skagway, Alaska. States that Canadian customs officers have been instructed not to display their flag on United States territory. Incloses minutes of Canadian privy council.	549
778	Mr. Choate to Mr. Hay.....	Feb. 12	Restoration of Tientsin to Chinese authorities. Reports that British Government is in complete accord with views presented by the United States, and has sent instructions to its representatives in Peking.	187
780	Same to same.....do	do	Agreement between Russia and China relative to Manchuria. Reports that views of British Government are identical with those of the United States.	511
781	Same to same.....do	do	Defensive agreement between Great Britain and Japan. Incloses text, comments thereon, and on its bearing on the open-door policy and the announced intention of Great Britain not to fortify Weihaiwei.	518
839	Mr. Hay to Mr. Choate.....	Feb. 14	Prisoners of war, American citizens, held in British colonies. Incloses correspondence relative to case of Harry M. Wood.	482
2365	Mr. Hay to Lord Pauncefote.....do	do	Protection of British interests in Colombia by United States officials. Acknowledges with appreciation note of Feb. 8, 1902.	510
	Treaty between the United States and Great Britain.	Feb. 22	To facilitate the construction of a ship canal. Text.	517
890	Mr. Choate to Mr. Hay.....do	do	Agreement between Russia and China relative to Manchuria. Incloses correspondence with foreign office relative to.	512
59	Lord Pauncefote to Mr. Hay.	Feb. 27	British protectorates in East Africa placed under zone of total prohibition of alcoholic liquors, under Article XCI of the Brussels act. Notification of.	520
806	Mr. Choate to Mr. Hay.....	Mar. 11	Prisoners of war, American citizens, held in British colonies. Reports refusal of British Government to make concessions in case of Harry M. Wood.	483
856	Mr. Hay to Mr. Choate.....	Mar. 12	Same subject. Incloses correspondence relative to case of Charles H. Toe Water	484
1	Mr. Hay to Mr. Reid.....	Mar. 18	Special embassy of the United States to coronation of Edward VII. Appointment and instructions as ambassador extraordinary on special mission.	498
861	Mr. Hay to Mr. Choate.....do	do	Same subject. Gives personnel of special embassy.	499
74	Lord Pauncefote to Mr. Hay.	Mar. 21	Same subject. Inquires as to personnel of special embassy, and incloses order of precedence.	500
866	Mr. Hay to Mr. Choate.....	Mar. 24	Abduction of Miss Stone. Instructs to convey thanks for assistance in rescue rendered by British officials in Turkey and Bulgaria.	520
2401	Mr. Hay to Lord Pauncefote.	Mar. 25	Special embassy of the United States to coronation of Edward VII. Gives personnel of.	500
883	Mr. Hay to Mr. Choate.....	Apr. 5	Prisoners of war, American citizens, held in British colonies. Incloses correspondence relating to case of James L. Molloy.	485

LIST OF PAPERS.

LVII

GREAT BRITAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1902.		
833	Mr. Choate to Mr. Hay.....	Apr. 12	Same subject. Reports refusal to release H. McGaw Wood.	487
895	Mr. Hill to Mr. Choate.....	Apr. 14	Same subject. Incloses correspondence relative to case of F. M. Hearn.	488
840	Mr. Choate to Mr. Hay.....	.....do.....	Special embassy of the United States to coronation of Edward VII. Incloses note from foreign office stating that His Majesty will be pleased to receive Mr. Whitelaw Reid as special ambassador.	501
841	Same to same.....	Apr. 18	Prisoners of war, American citizens, held in British colonies. Incloses correspondence showing that C. H. Toe Water was a burgher of the South African Republic and carried arms.	489
	Mr. Raikes to Mr. Hay.....	May 3	Protection of American interests in Bulgaria by British representatives. Suggests that formal request be made for.	521
909	Mr. Hay to Mr. Choate.....	May 8	Prisoners of war, American citizens, held in British colonies. Incloses correspondence in case of Harry McGaw Wood.	490
	Mr. Hay to Lord Pauncefote.....	May 9	Protection of American interests in Bulgaria by British representatives. States that United States ambassador at London has been instructed to formally request.	521
911	Mr. Hay to Mr. Choate.....	.....do.....	Same subject. Instruction in line with above note.	521
857	Mr. Choate to Mr. Hay.....	May 12	Prisoners of war, American citizens, held in British colonies. Reports that permission has been secured for consul at Hamilton to interview J. L. Molloy.	491
	Mr. Hay to Mr. Choate (telegram).	.....do.....	Volcanic eruption at St. Vincent. Instructs to express sympathy and desire of United States to share work of aid and rescue.	523
122	Mr. Raikes to Mr. Hay.....	May 13	Protection by United States officials of British interests in Bolivia. Conveys thanks of British Government to Dr. Bridgman, United States minister, for.	528
	Mr. Choate to Mr. Hay (telegram).	May 15	Volcanic eruption at St. Vincent. Reports thanks for, and acceptance of offer of aid.	523
	Same to same (telegram)...	May 17	Same subject. Communicates formal reply of foreign office.	524
861	Same to same.....	.....do.....	Same subject. Incloses correspondence in regard to offer of aid by the United States.	524
922	Mr. Hay to Mr. Choate.....	May 21	Prisoners of war, American citizens, held in British colonies. Instructs to obtain a list of.	492
	Mr. Choate to Mr. Hay (telegram).	May 22	Volcanic eruption at St. Vincent. Report in regard to needs of sufferers from.	527
862	Same to same.....	.....do.....	Same subject. Confirms above telegram and incloses note from foreign office.	527
	Mr. Raikes to Mr. Hay.....	May 24	Death of Lord Pauncefote, British ambassador to the United States. Announces.	530
	Mr. Hay to Mr. Raikes.....	.....do.....	Same subject. Offers to send remains home in a national vessel.	530
	Mr. Raikes to Mr. Hay.....	.....do.....	Same subject. States that above offer has been communicated to the British Government.	530
	Mr. Hay to Lord Lansdowne (telegram).	.....do.....	Same subject. Expresses sympathy and sorrow on account of.	530
	Lord Lansdowne to Mr. Hay (telegram).	May 25	Same subject. Thanks for the above message...	530
	Mr. Raikes to Mr. Hay.....	.....do.....	Same subject. Accepts offer to send remains home on a national United States vessel.	531
138	Same to same.....	May 31	Same subject. Conveys appreciation of the King for respect shown memory of Lord Pauncefote in United States.	531
868	Mr. Choate to Mr. Hay.....	June 3	Protection of American interests in Bulgaria by British representatives. Incloses request for and consent of British Government to.	522
	Same to same (telegram)...	June 6	Protection of Cuban interests by United States consular officials. Reports consent of British Government to.	532
874	Same to same.....	June 7	Same subject. Confirms above telegram and incloses note from foreign office.	532
941	Mr. Hay to Mr. Choate.....	June 14	Protection of American interests in Bulgaria by British representatives. Instructs to convey thanks for.	523
883	Mr. Choate to Mr. Hay.....	June 19	Scholarships under will of Cecil John Rhodes. Transmits documents giving details of.	532
	Mr. Raikes to Mr. Hay.....	June 24	Coronation of Edward VII. Notification of postponement of.	501
	Mr. Choate to Mr. Hay (telegram).	.....do.....	Same subject and tenor.....	502
	President Roosevelt to King Edward VII (telegram).	.....do.....	Condolences on illness of King Edward VII.....	537

GREAT BRITAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
886	Mr. Choate to Mr. Hay.....	1902. June 25	Prisoners of war, American citizens, held in British colonies. List of will be furnished as soon as possible.	492
165	Mr. Raikes to Mr. Hay.....	June 27	Protection by United States consul of British interests at Martinique. Expresses thanks of his Government for.	537
2485	Mr. Hay to Mr. Raikes.....	July 3	Same subject. States that a copy of above note has been sent to United States consul at Martinique.	538
	Queen Alexandra to President Roosevelt (telegram).	July 4	Condolences on illness of King Edward VII. Expresses gratitude for.	537
894	Mr. Choate to Mr. Hay.....	July 5	Prisoners of war, American citizens, held in British colonies. Reports that they will be allowed to leave at their own expense or turned over to their consuls; otherwise must wait until British Government is ready to repatriate them. None will be permitted to return to South Africa.	493
171	Mr. Raikes to Mr. Hay.....	July 7	Volcanic eruption at St. Vincent. Conveys thanks of his Government for assistance rendered by United States to sufferers from.	528
952	Mr. Hay to Mr. Choate.....	July 9	Scholarships under will of Cecil John Rhodes. Acknowledges dispatch No. 883 of June 19, and incloses copy of circulars sent to governors of the various States.	536
	Same to same (telegram).....	do	Prisoners of war, American citizens, held in British colonies. Instructs to suggest that instructions be telegraphed to governor of Bermuda as to how to deal with.	493
	Mr. Choate to Mr. Hay (telegram).	July 10	Same subject. Replying to above telegram, states that governor of Bermuda has been instructed, and refers to dispatch No. 894, July 5.	493
953	Mr. Hay to Mr. Choate.....	July 11	Protection of an American citizen by British vice-consul at Van, Turkey. Incloses correspondence regarding, and instructs to express appreciation of United States Government for.	540
956	Same to same.....	July 12	Protection of American interests at Habana by British consul-general. Instructs to express appreciation of United States Government for.	543
1	Mr. Reid to Mr. Hay.....	July 14	Special embassy of the United States to coronation of Edward VII. Detailed report of.	502
2	Same to same.....	do	Interview in London of United States Special Ambassador Reid with Prince Chen, Chinese special envoy, reported.	543
900	Mr. Choate to Mr. Hay.....	July 19	Special embassy of the United States to coronation of Edward VII. Reports that British Government deprecates the sending of to the postponed coronation.	506
184	Mr. Raikes to Mr. Hill.....	July 21	Condolences on illness of King Edward VII. Conveys King's appreciation of sympathy expressed, and regret for his inability to thank the envoys to the coronation for the compliment their appointment conveyed.	537
2502	Mr. Hill to Mr. Raikes.....	July 25	Protection by United States consul of British interest at Martinique. Incloses dispatch from consul at Guadeloupe relative to.	538
903	Mr. Choate to Mr. Hay.....	July 28	Prisoners of war, American citizens, held in British colonies. Incloses lists of those detained in Ceylon and Bermuda.	494
	Mr. Raikes to Mr. Hill.....	July 30	Protection by United States consul of British interests at Martinique. Expresses thanks for report contained in Department's No. 2502, July 25.	539
	Mr. Adee to Mr. Raikes (telegram).	Aug. 6	Protection of British interests in Colombia by United States officials. Communicates report of commander of U. S. S. <i>Ranger</i> that he is informed that Colombian Government contemplates seizing British steamer <i>Quito</i> .	510
	Same to same.....	Aug. 9	Same subject. Supplementary to above telegram; incloses report of commanding officer of U. S. S. <i>Philadelphia</i> .	510
	Mr. Hay to Mr. Choate.....	Aug. 11	Jews in Roumania. Discriminations against, condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons. In connection with pending naturalization treaty with Roumania, discusses at length the foregoing questions, and appeals to the principles laid down in the treaty of Berlin for amelioration of said conditions. Instructs to present above considerations to the minister for foreign affairs.	42 †

GREAT BRITAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
914	Mr. Choate to Mr. Hay	1902. Aug. 11	Prisoners of war, American citizens, held in British colonies. Reports inquiry of foreign office whether United States desires to make special arrangement for return of 10 from Ceylon.	495
923	Same to same	Aug. 21	Same subject. Incloses list of those detained at St. Helena.	495
	Mr. Adee to Mr. Raikes.....	Aug. 22	Release of British subject from involuntary military service in Venezuela, secured by United States naval officials. Advises of.	545
215	Mr. Raikes to Mr. Adee.....	Aug. 30	Death of Lord Pauncefote, British ambassador to the United States. Conveys thanks of British Government for military honors and transportation of remains to England on board the U. S. S. <i>Brooklyn</i> , which was met and escorted by two British war vessels.	531
933	Mr. Choate to Mr. Hay.....	Sept. 3	Jews in Roumania. Discriminations against, condition of helplessness to which they are reduced, and objections of United States Government to immigration of such persons. Reports that British Government joins in views expressed by the United States Government, and will address other powers parties to the Berlin treaty on the subject. Incloses note from foreign office.	549
	Mr. Raikes to Mr. Adee (telegram).	Sept. 5	Accident to President Roosevelt. Conveys his Government's congratulations on escape from injury.	550
	Mr. Adee to Mr. Raikes (telegram).	....do....	Same subject. Appropriately acknowledges above telegram.	550
999	Mr. Adee to Mr. Choate.....	....do....	Prisoners of war, American citizens, held in British colonies. Adverts to inability of Department or consuls to send the prisoners home and, in view of the fact that the men were confined by the British Government in distant places to serve its interested policy, expresses the hope that it will soon make arrangements to return them to the United States or remove them to some place where better opportunities for their transportation are afforded.	496
	Mr. Adee to Mr. Raikes.....	Sept. 6	Release of British subject from involuntary military service in Venezuela secured by United States naval officials. Quotes from report of commanding officer of U. S. S. <i>Cincinnati</i> .	545
6	Mr. Adee to Mr. Reid	Sept. 23	Special embassy of the United States to coronation of Edward VII. Commends manner in which Mr. Reid represented the President.	507
	Mr. Raikes to Mr. Adee	Oct. 1	Protection of British interests in Colombia by United States officials. Requests that thanks of his Government be conveyed to the commander of the U. S. S. <i>Philadelphia</i> on account of.	511
245	Same to same.....	....do....	Protection by United States officials of British interests in Bolivia. Requests continuation of.	529
	Same to same.....	....do....	Release of British subject from involuntary military service in Venezuela secured by United States naval officials. Requests that thanks of his Government be conveyed to commander of the U. S. S. <i>Cincinnati</i> on account of.	545
2538	Mr. Hay to Mr. Raikes	Oct. 4	Protection by United States officials of British interests in Bolivia. States that instructions have been issued for continuation of.	529
	Treaty between the United States and Great Britain.	Oct. 17	Concerning the establishment of import duties in Zanzibar.	551
1034	Mr. Hay to Mr. Choate	Oct. 18	Protection of American interests by British vice-consul at Bitlis, Turkey. Instructs to express appreciation for.	553
959	Mr. Carter to Mr. Hay.....	Oct. 22	Commercial treaty between Great Britain and China. Text.	553
964	Mr. Choate to Mr. Hay.....	Oct. 29	Prisoners of war, America citizens, held in British colonies. Reports that those in Ceylon will be sent to the United States by the first packet. Note from foreign office inclosed.	497
278	Mr. Raikes to Mr. Hay	Nov. 10	Protection by United States officials of British interests in Bolivia. Conveys thanks for continuation of.	529

GREECE.

No.	From and to whom.	Date.	Subject.	Page.
53	Mr. Francis to Mr. Hay.....	1902. Feb. 1	Courtesies at Piraeus to European squadron of the United States Navy, reported.	565
56	Same to same	Feb. 6	Same subject and tenor.....	565
21	Mr. Hay to Mr. Francis.....	Feb. 21	Same subject. Incloses correspondence with Navy Department relative to.	566
77	Mr. Wilson to Mr. Hay	June 21	Protection of Cuban interests by United States consular officials. Reports consent of Greece to.	567
104	Mr. Francis to Mr. Hay.....	Dec. 13 1903.	Courtesies to U. S. S. <i>Hartford</i> at Piraeus, reported.	567
4	Mr. Hay to Mr. Jackson	Jan. 6	Same subject. Incloses correspondence with Navy Department relative to.	568

GUATEMALA AND HONDURAS.

629	Mr. Hunter to Mr. Hay.....	1902. Feb. 26	Foreign debt of Guatemala. Transmits joint note of Belgian, British, French, German, and Italian representatives, inviting early measures for the satisfaction of arrangement with bondholders, and subsequent correspondence with minister for foreign affairs.	569
363	Mr. Hay to Mr. Hunter.....	Mar. 22	Same subject. Instructs to keep Department advised of negotiations.	578
365	Same to same	Apr. 10	Same subject. Incloses memoranda from and to German ambassador. States that the United States is indisposed to join with other powers in coercive action, but will reserve for United States citizens all rights secured by such action, and instructs to advise Government of Guatemala of this attitude.	578
	Convention between the United States and Guatemala.	Apr. 11	For the reciprocal protection of trade-marks and trade labels.	582
644	Mr. Bailey to Mr. Hay.....	June 5	Protection of Cuban interests by United States consular officials. Reports consent of Guatemala and Honduras.	583
373	Mr. Hay to Mr. Bailey.....	July 3	Foreign debt of Guatemala. Instructs to report correspondence between the legation and Guatemalan Government.	579
645	Mr. Bailey list to Mr. Hay.....	July 24	Same subject. Incloses list of paid claims, and reports that Guatemalan Government will attempt to pay American creditors at an early date.	579
646	Same to same	July 30	Same subject. Reports that Guatemalan Government will accord equal treatment to American creditors. Incloses correspondence with minister for foreign affairs.	581
	The President of Guatemala to the President of the United States (telegram).	Sept. 4	Accident to President Roosevelt. Congratulations on escape from.	584
	President Roosevelt to President Estrada (telegram).	Sept. 5	Same subject. Appropriately acknowledges above message.	584
	Convention between the United States and Guatemala.	Sept. 18	Relating to the tenure and disposition of real and personal property.	584

HAITI.

	Mr. Powell to Mr. Hay (telegram).	1902. May 11	Revolution. Reports situation critical and conflict for Presidency probable.	587
	Same to same (telegram)...	May 12	Same subject. Reports resignation of President, and requests presence of naval vessel.	587
	Same to same (telegram) ...do...	.....do...	Same subject. Reports rioting, and that former President is on the eve of departure.	587
	Same to same (telegram) ...do...	May 15	Same subject. Reports that provisional committees are in charge of cities.	588
	Same to same (telegram) ...do...	.....do...	Same subject. Urges presence of naval vessel...	588
	Mr. Hill to Mr. Powell (telegram).	May 16	Same subject. States that U. S. S. <i>Topeka</i> has sailed for Port au Prince.	588
	Mr. Powell to Mr. Hay (telegram).	.....do...	Same subject. Inquires if he shall recognize the "committee of safety."	588
	Mr. Hill to Mr. Powell (telegram).	.....do...	Same subject. Instructs to enter into necessary business relations with de facto government.	588

HAITI—Continued.

No.	From and to whom.	Date.	Subject.	Page.
1092	Mr. Powell to Mr. Hay	1902 May 17	Same subject. Full report of causes and incidents of. Incloses communications from committee of safety.	589
	Same to same (telegram)...	May 19	Same subject. Inquires if he may take U. S. S. <i>Topeka</i> to consult with commander of army of north and advise him not to go to Port au Prince.	595
	Mr. Hill to Mr. Powell (telegram).	....do....	Same subject. Replies in negative to above inquiry.	595
	Mr. Powell to Mr. Hay (telegram).	May 22	Same subject. Reports arrival of U. S. S. <i>Topeka</i> .	596
1095	Same to same.....	May 24	Same subject. Reports events to date, and states that Firmin's advance on Port au Prince was stopped at request of diplomatic corps.	596
	Same to same (telegram)...	May 27	Same subject. Reports establishment of a provisional government.	597
	Same to same (telegram)...	May 28	Same subject. Reports recognition of provisional government.	598
1098	Same to same.....	May 30	Same subject. Reports in detail on present situation, and incloses correspondence relative to recognition of provisional government.	598
1102	Same to same.....	June 4	Protection of Cuban interests by United States consular officials. Reports consent of Haiti to Revolution. Reports present condition of political affairs, forthcoming congressional and presidential elections, prospects of several candidates, etc.	678
1104	Same to same.....	June 19	Same subject. Reports intention of Haitian admiral to bombard Cape Haitian.	602
	Same to same (telegram)...	June 27	Same subject. Reports that Haitian Government styles admiral a pirate and disavows his action.	604
	Same to same (telegram)...	June 28	Same subject. Reports that Cape Haitian was fired upon, and that Firmin embarked from that place.	605
	Same to same (telegram)...	June 30	Same subject. Reports that Haitian Government has ordered arrest of admiral.	605
	Same to same (telegram)...	....do....	Same subject. Incloses correspondence with consul at Cape Haitian regarding troubles at that place.	605
1110	Same to same.....	....do....	Same subject. States that U. S. S. <i>Marietta</i> has been ordered to Cape Haitian.	605
	Mr. Hay to Mr. Powell (telegram).	July 3	Same subject. Reports events to date, bombardment of Cape Haitian, and progress of elections.	608
1111	Mr. Powell to Mr. Hay	July 7	Question of "right of asylum" in United States legations. Reports abuses, and suggests limitations.	609
1119	Same to same.....	July 17	Revolution. Reports in detail present status of affairs.	679
1121	Same to same.....	July 19	Same subject. Reports request of provisional government that Admiral Killick and his vessel be considered and treated as pirates by neutral powers, and expresses opinion that request is inadmissible; incloses correspondence.	611
1123	Same to same.....	July 25	Same subject. Reports request that foreign naval vessels be called upon to capture Admiral Killick.	614
	Same to same (telegram)...	July 26	Same subject. Reports that civil war has been declared; cabinet dissolved; Firmin marching with army on Port au Prince.	615
	Same to same (telegram)...	....do....	Same subject. States that rule as to piracy is stated in instruction to Mr. Powell's predecessor.	615
	Mr. Adee to Mr. Powell (telegram).	....do....	Same subject. Confirms above telegram and quotes portion of instruction referred to.	616
524	Mr. Hill to Mr. Powell	July 30	Same subject. Detailed report on condition of affairs, movements of opposing forces, and prospects of presidential election in the assembly.	616
1127	Mr. Powell to Mr. Hay	Aug. 1	Same subject. Transmits reports of commander of U. S. S. <i>Marietta</i> concerning conditions at Cape Haitian and Port de Paix.	620
526	Mr. Adee to Mr. Powell	Aug. 2	Same subject. Reports that Firmin set up a new government at Gonaives.	621
	Mr. Powell to Mr. Hay (telegram).	Aug. 5	Same subject. Exhaustive report on present and prospective conditions.	622
1132	Same to same.....	....do....	Question of "right of asylum" in United States legations; states that political reasons are not to be considered, but the merits of each individual case, in granting privilege of refuge; refers to previous instructions.	681
528	Mr. Adee to Mr. Powell	Aug. 6		

HAITI—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Powell to Mr. Hay (telegram).	1902. Aug. 9	Revolution. Reports request of provisional government that United States prevent shipment of arms to ports in rebellion, and that Petit Goave has been captured by Government troops.	626
	Same to same (telegram) ..	Aug. 10	Same subject. Reports that he has cabled Commander McCrea not to recognize blockade.	626
	Mr. Adee to Mr. Powell (telegram).	Aug. 11	Same subject. Instructs to disregard blockade unless it is effective.	627
	Mr. Powell to Mr. Hay (telegram).	....do....	Same subject. Reports destruction of Petit Goave, and has instructed consul at Cape Haitian to ignore blockade.	627
529	Mr. Adee to Mr. Powell	Aug. 12	Same subject. States that United States will duly observe obligations of neutrality.	627
1137	Mr. Powell to Mr. Hay	Aug. 15	Same subject. Gives full account of events already reported by cable; discusses present and prospective conditions; incloses notice of blockade of Cape Haitian by revolutionary government and his reply declining to acknowledge blockade or recognize that government. Incloses correspondence with consul at Cape Haitian and commander of the <i>Machias</i> , and text of protest of the captain of the <i>Paloma</i> .	627
530	Mr. Adee to Mr. Powell	Aug. 16	Same subject. Incloses instructions issued by Treasury Department to collectors in order to prevent violation of neutrality of United States, and states that diplomatic and consular officers of Haiti may bring facts to knowledge of local United States officers.	635
531	Same to same	Aug. 18	Same subject. States that blockade of Cape Haitian has been abandoned by Admiral Killick.	636
532	Same to same .....	....do....	Same subject. States that views reported in dispatch No. 1123, of July 25, concerning request of Haitian Government that insurgent vessel and admiral be considered as pirates, coincide with Department's previous instructions.	636
1141	Mr. Powell to Mr. Hay	Aug. 20	Same subject. Reports movements in the field and proceedings in the Congress during the week. Incloses letter from consular agent at Petit Goave.	636
533	Mr. Adee to Mr. Powell	Aug. 21	Same subject. Incloses letters of Aug. 18 from and Aug. 21 to Department of Justice touching preservation of neutrality of the United States.	639
	Mr. Powell to Mr. Hay (telegram).	Aug. 29	Same subject. Reports movements in the field ..	639
1146	Same to same .....	....do....	Same subject. Reviews events of the week; incloses correspondence with revolutionist leader Firmin, and states that provisional government has sought his mediation.	640
	Same to same (telegram) ..	Sept. 3	Same subject. Reports that Admiral Killick stopped and searched a German vessel.	644
	Mr. Léger to Mr. Hay	Sept. 4	Accident to President Roosevelt. Congratulations on escape from.	682
1150	Mr. Powell to Mr. Hay	Sept. 6	Revolution. Reviews events and conditions. Incloses proclamation of revolutionist leader Firmin and correspondence with provisional government relative to seizure of arms on German steamer <i>Markomannia</i> .	645
	Same to same (telegram) ..	Sept. 7	Same subject. Reports sinking of insurgent vessel <i>Crête</i> by German war ship <i>Panther</i> .	649
	Same to same (telegram) ..	....do....	Same subject. Reports that Admiral Killick and crew escaped.	649
1154	Same to same .....	....do....	Same subject. Transmits various reports of the sinking of the <i>Crête</i> .	649
	Mr. Adee to Mr. Léger	Sept. 8	Accident to President Roosevelt. Acknowledges note of Sept. 4, with appreciation.	682
	Mr. Powell to Mr. Hay (telegram).	Sept. 9	Revolution. States that it is reported that Admiral Killick and two officers went down with the <i>Crête</i> .	650
	Mr. Powell to Mr. Hay (telegram).	....do....	Same subject. Reports that Government has published decree closing ports of Gonaives, St. Marc, and Port de Paix.	650
	Mr. Adee to Mr. Powell (telegram).	Sept. 10	Same subject. States that United States Government does not recognize closure of ports by mere decree; that blockade must be effective.	650
538	Same to same .....	....do....	Same subject. Approves refusal to recognize a paper blockade.	651
540	Same to same.....	Sept. 11	Same subject. Confirms Department's telegram of 10th instant, and incloses instruction to consul-general at Santo Domingo relative to blockade by decree.	651
	Mr. Powell to Mr. Hay (telegram).	....do....	Same subject. States that French and German vessels have been permitted to enter closed port, and he has demanded same right for American vessels.	652

LIST OF PAPERS.

LXIII

HAITI—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Adee to Mr. Powell (telegram).	1902. Sept. 11	Same subject. States that refusal to recognize blockade should be based on grounds set forth in Department's telegram of Sept. 10.	652
1157	Mr. Powell to Mr. Hay	Sept. 12	Same subject. Incloses decree of blockade referred to in telegram of Sept. 9; reports interview with President Canal, and incloses correspondence.	653
541	Mr. Adee to Mr. Powell	Sept. 13	Same subject. Confirms Department's telegram of Sept. 11, and points out irrelevancy of argument presented in legation's telegram of Sept. 11.	655
1158	Mr. Powell to Mr. Hay	do	Same subject. Reports revolutionary movement and political conditions of the week.	655
	Same to same (telegram) ..	Sept. 19	Same subject. Reports that Government advises of blockade of Gonaives and St. Marc.	663
1167	Same to same	do	Same subject. Confirms above telegram	663
	Same to same (telegram) ...	Sept. 22	Same subject. Reports that Government states there is a chartered vessel cruising at each blockaded port.	664
1171	Same to same	do	Same subject. Weekly report of revolutionary and political conditions.	664
	Same to same (telegram) ...	Sept. 25	Same subject. Reports that there are no Haitian vessels at blockaded ports.	666
1175	Same to same	Sept. 27	Same subject. Weekly report of revolutionary and political conditions.	666
	Same to same (telegram) ...	Sept. 28	Same subject. Transmits request that naval vessel be sent to Port de Paix.	668
1176	Same to same	Oct. 2	Same subject. Reports on loans contracted by Government.	668
1178	Same to same	Oct. 3	Same subject. Reports interview with President Canal at which position of the United States on question of blockade by decree was stated.	669
	Same to same (telegram) ...	Oct. 6	Same subject. Reports that Government states it will place armed vessels at Gonaives and St. Marc.	670
	Same to same (telegram) ...	Oct. 7	Same subject. States that time of blockade has been changed to commence Oct. 12.	670
1181	Same to same	do	Same subject. Reports interviews with President Canal and presidential candidates relative to good offices of legation toward restoration of peace.	670
	Mr. Terres to Mr. Hay (telegram).	Oct. 16	Same subject. Reports that St. Marc has capitulated to provisional government.	673
	Same to same (telegram) ...	Oct. 17	Same subject. Reports surrender of Gonaives, and embarkation of Firmin and his followers.	673
1193	Same to same	Oct. 22	Same subject. Reports political conditions quiet and likely to remain so until election of President takes place.	673
	Same to same (telegram) ...	Nov. 5	Same subject. Reports that political refugees at Gonaives are claimed by General Nord, and that consul has been instructed not to deliver them.	673
1196	Same to same	do	Same subject. Reports that President of provisional government telegraphed orders not to use force in seizing refugees above referred to.	674
1197	Same to same	Nov. 7	Same subject. Reports conflict between returning volunteers and regular troops in Port au Prince.	674
550	Mr. Hay to Mr. Powell	Nov. 21	Same subject. Refers to dispatch No. 1196, Nov. 5, and states that the United States could object to political refugees being taken from its consulates by force, but could not shelter fugitives from orderly processes of courts.	675
1198	Mr. Terres to Mr. Hay	do	Same subject. Reports that political situation is unchanged, and arrival of General Nord and his army in about ten days is expected to decide presidential question.	675
1199	Same to same	Dec. 10	Same subject. Reports that quiet prevails, and anticipates that presidential election will soon take place.	676
	Same to same (telegram) ...	Dec. 16	Same subject. Reports great excitement over arrival of General Nord.	676
	Same to same (telegram) ...	Dec. 22	Same subject. Reports that General Nord has been elected President.	677
1204	Same to same	do	Same subject. Reports that General Nord took possession of palace on Dec. 18, was acclaimed President, the choice being sanctioned by the assembly on Dec. 21.	677

ITALY.

No.	From and to whom.	Date.	Subject.	Page.
71	Mr. Hay to Mr. Meyer.....	1902. Jan. 29	Restoration of Tientsin to Chinese authorities. Incloses note of Chinese minister applying for good offices of United States in securing, expresses views of the United States on the subject, and instructs to ascertain views of the Italian Government.	185
	Same to same.....	Feb. 3	Agreement between Russia and China relative to Manchuria. Incloses for communication to Italian Government memorandum of Feb. 1 expressing views of the United States.	26
145	Mr. Meyer to Mr. Hay.....	Feb. 24	Restoration of Tientsin to Chinese authorities. Reports that Italian Government is not opposed to, on principle, but will await action of other powers. Incloses note from minister for foreign affairs.	189
	Same to same (telegram)...	May 31	Protection of Cuban interests by United States consular officials. Reports assent of Italy.	683
162	Same to same.....	June 2	Same subject. Confirms above telegram and incloses note from minister for foreign affairs.	683
	Mr. Hay to Mr. Iddings....	Aug. 11	Jews in Roumania. Discriminations against, condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons. In connection with pending naturalization treaty with Roumania, discusses at length the foregoing questions, and appeals to the principles laid down in the treaty of Berlin for amelioration of said conditions. Instructs to present above considerations to minister for foreign affairs.	42
	Signor Mayor to Mr. Hay..	Sept. 5	Accident to President Roosevelt. Congratulations of King of Italy on escape.	683
	Mr. Iddings to Mr. Hay....	Sept. 6	Jews in Roumania. Discriminations against, condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons. Reports having left a copy of instruction of Aug. 11 with minister for foreign affairs.	684
70	Mr. Adee to Signor Mayor..	Sept. 11	Accident to President Roosevelt. Expresses appreciation of note of Sept. 5.	684
197	Mr. Iddings to Mr. Hay....	Oct. 7	Jews in Roumania. Discriminations against, condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons. Reports interview with minister for foreign affairs, and states that Italy is very little concerned in the question	684
204	Mr. Meyer to Mr. Hay.....	Nov. 6	Passport application of Antonio Basile. Reports refusal to grant.	685
125	Mr. Hay to Mr. Meyer.....	Dec. 9	Same subject. Approves action reported above..	685

JAPAN.

591	Mr. Buck to Mr. Hay.....	1901. Oct. 24	Taxation of buildings on perpetually leased ground in Japan. Incloses note from Japanese minister for foreign affairs stating position of Japanese Government in the matter.	687
599	Same to same.....	Nov. 15	Same subject. Incloses statement of foreign leaseholders, and discusses in light of diplomatic correspondence of the Japanese Government with other treaty powers.	688
601	Same to same.....	Nov. 22	Same subject. Incloses note to minister for foreign affairs reserving rights of United States citizens to eventual refund of taxes.	694
602	Same to same.....	Nov. 29	Same subject. Incloses note from minister of foreign affairs assuring that United States citizens will not be discriminated against; and reports that taxes are still opposed by representatives and citizens of France, Germany, and Great Britain.	694
377	Mr. Hay to Mr. Buck.....	Dec. 12	Same subject. Reserves expression of opinion until position and representations of other powers are known.	695
	Same to same (telegram)...	Dec. 18	Same subject. States that Americans should pay the tax under protest.	696
606	Mr. Buck to Mr. Hay.....	Dec. 20	Same subject. Reports that consuls have been instructed to advise payment under protest. Incloses letter to consul-general at Yokohama giving minister's views. States that to eizure for nonpayment of taxes has yet been made, but may be at any time, and that Japanese Government declines arbitration.	696

JAPAN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
611	Mr. Buck to Mr. Hay.....	1902. Jan. 4	Same subject. Incloses note from minister for foreign affairs stating that tax officials of Yokohama will be advised to accept payment under protest.	697
	Same to same (telegram)...	Jan. 18	Same subject. Reports that payment, even under protest, is still refused by many Americans; enforcement has been suspended until Jan. 25, and inquires if he shall officially suggest arbitration if representatives of other powers do so.	698
	Mr. Hay to Mr. Buck (telegram).	...do ...	Same subject. Instructs to officially suggest arbitration, and to endeavor to have enforcement of collection of tax suspended.	698
616	Mr. Buck to Mr. Hay.....	Jan. 20	Same subject. Incloses copies of representations of British, French, German, and Netherlands legations, protesting against tax, and states that other powers have not taken position. Reports that no opposition is made to collection of taxes on income from perpetual leases.	699
385	Mr. Hay to Mr. Buck.....	Jan. 29	Restoration of Tientsin to Chinese authorities. Incloses note of Chinese minister applying for good offices of United States in securing, expresses views of the United States on the subject, and instructs to ascertain views of the Japanese Government.	185
	Same to same.....	Feb. 3	Agreement between Russia and China relative to Manchuria. Incloses for communication to Japanese Government memorandum of Feb. 1, expressing views of the United States.	26
618	Mr. Buck to Mr. Hay.....	...do ...	Taxation of buildings on perpetually leased ground in Japan. Reports that foreign ministers will take no further official action pending receipt of instructions from their respective Governments, and that no steps have yet been taken by Japanese Government to enforce payment of tax.	704
623	Same to same.....	Mar. 7	Restoration of Tientsin to Chinese authorities. Reports that Japanese Government concurs in views of the United States. Incloses notes to and from minister for foreign affairs.	189
625	Same to same.....	Mar. 11	Taxation of buildings on perpetually leased ground in Japan. Reports that Japanese Government has decided to submit to arbitration.	705
	Same to same (telegram) ..	Mar. 17	Same subject. Inquires if he shall ask that the United States be made a party to the arbitration.	705
627	Same to same.....	Mar. 18	Same subject. Confirms above telegram, which was sent in consequence of inclosed resolutions of American citizens at Yokohama.	705
	Mr. Hay to Mr. Buck (telegram).	Mar. 19	Same subject. Instructs to propose an exchange of notes by which Japan and the United States will agree to abide by decision in the arbitration between Japan and other States touching both house and income tax, and that Japan will agree to apply the principle equally to nationals of the United States, France, Germany, and Great Britain. Should Japan decline this proposition Mr. Buck is to request that the United States become a party to the arbitration.	707
	Same to same (telegram) ..	Mar. 24	Same subject. Instructs to take no action on above telegram, the required assurance having been given through Japanese minister to the United States.	708
629	Mr. Buck to Mr. Hay.....	Mar. 26	Same subject. Incloses notes to and from minister for foreign affairs in accordance with Department's telegram of Mar. 19. Reports that Japan will not submit question of income tax to arbitration.	708
399	Mr. Hill to Mr. Buck.....	Apr. 12	Same subject. Incloses memoranda from and to British embassy, and instructs to suggest, in accordance therewith, that the question be decided in all its bearings by the contemplated arbitration.	709
400	Same to same.....	Apr. 14	Same subject. States that minister should not, without instructions, request that the United States be made a party to the arbitration.	710
402	Mr. Hay to Mr. Buck.....	Apr. 25	Same subject. Refers to instruction No. 399, Apr. 12, and incloses memoranda from and to British embassy.	711

JAPAN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
637	Mr. Buck to Mr. Hay.....	1902. Apr. 26	Same subject. States that proposal of Japanese Government to submit to arbitration is likely to be withdrawn on account of endeavors of British minister to have other questions included. Incloses correspondence between British minister and Japanese minister for foreign affairs.	712
405	Mr. Hay to Mr. Buck	May 7	Same subject. Explains apparent change of attitude of Department on question of arbitration.	716
642	Mr. Buck to Mr. Hay	May 14	Same subject. Incloses note to minister for foreign affairs declaring that the United States expect arbitration to decide all points in controversy, as directed in instruction No. 399, Apr. 12.	717
643	Same to same	May 16	Same subject. Incloses reply to note referred to in above dispatch, in which Japanese Government declines to submit to arbitration any other question than that of the house tax, which it contends is the only one that has been submitted to diplomatic discussion.	718
647	Same to same	June 2	Protection of Cuban interests by United States consular officials. Reports consent of Japan.	730
651	Same to same	June 9	Taxation of buildings on perpetually leased ground in Japan. Acknowledges instruction No. 405, of May 7, and states that Department's position has been carefully noted.	718
411	Mr. Hay to Mr. Buck	June 11	Same subject. Approves note transmitted in dispatch No. 642, May 14.	719
680	Mr. Buck to Mr. Hay.....	June 26	Same subject. Incloses correspondence of the British, French, and German ministers with the Japanese foreign office relative to scope of the contemplated arbitration.	720
414	Mr. Hay to Mr. Buck.....	July 18	Same subject. Gives reasons why the United States, while adhering to its promise not to become a party to the proposed arbitration, believes it to be for the best interests of all concerned that every question connected therewith should be adjusted by the tribunal.	724
671	Mr. Buck to Mr. Hay.....	Aug. 15	Same subject. Reports that scope of arbitration appears to have been determined, and protocol, substance of which is given, will likely be signed in a few days.	725
672	Same to same.....	Aug. 18	Same subject. Reports that collection of taxes will be suspended on the signing of the arbitration protocol.	726
	Minister for foreign affairs of Japan to Japanese minister to the United States (telegram).	Sept. 6	Accident to President Roosevelt. Congratulations of Emperor of Japan on escape from injury.	731
	Mr. Adee to Mr. Takahira (telegram).	....do....	Same subject. Acknowledges above, with appreciation.	731
424	Mr. Adee to Mr. Buck.....	Sept. 23	Taxation of buildings on perpetually leased ground in Japan. Expresses satisfaction at suspension of collection of taxes announced in dispatch No. 672, Aug. 18.	726
685	Mr. Wilson to Mr. Hay	Sept. 27	Same subject. Incloses note from minister for foreign affairs, accompanying copy of protocol of arbitration signed Aug. 18, with Great Britain, France, and Germany, submitting question to three members of the International Court of Arbitration.	727
	Mr. Ferguson to Mr. Hay (telegram).	Dec. 4	Death of Alfred E. Buck, United States minister to Japan, announced.	731
	Memorandum, Mr. Takahira to Mr. Hay.	....do....	Same subject. Conveys condolence of Imperial Government.	731
88	Mr. Hay to Mr. Takahira...	Dec. 11	Same subject. Acknowledges above, with appreciation.	732

KOREA.

445	Mr. Paddock to Mr. Hay ...	1902. Mar. 15	Amendment (proposed) to land regulations of foreign settlement at Chemulpo, which will admit all consuls to municipal council, reported.	733
456	Mr. Allen to Mr. Hay.....	May 7	Same subject. Submits Japanese amendment, under which only consuls of treaty powers holding land directly or through citizens or subjects would sit in municipal council.	735

KOREA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
472	Mr. Allen to Mr. Hay	1902. June 3	Protection of Cuban interests by United States consular officials. Reports consent of Korea. Amendment to land regulations of foreign settlement at Chemulpo. States that amendment proposed by Japanese Government may be agreed to.	736
196	Mr. Hay to Mr. Allen.....	June 12		735
	The Emperor of Korea to President Roosevelt (telegram).	Sept. 16	Accident to President Roosevelt. Congratulations on escape.	737
	President Roosevelt to the Emperor of Korea (telegram).	....do ...	Same subject. Acknowledges above telegram...	737

MEXICO.

563	Mr. Wharton to Mr. Ryan ..	1891. Aug. 3	Claim of the Catholic Church of California (Pious Fund) v. Mexico. Instructs to invite attention of Mexican Government to, and request satisfactory adjustment.	738
737	Mr. Ryan to Mr. Blaine	Aug. 17	Same subject. Incloses his note to Mexican minister for foreign affairs regarding.	739
684	Mr. Blaine to Mr. Ryan	1892. Feb. 19	Same subject. Instructs to request reply to above-mentioned note.	740
820	Mr. Foster to Mr. Ryan.....	Sept. 15 1897.	Same subject and tenor.....	740
57	Mr. Day to Mr. Clayton	July 17	Same subject. Instructs to again bring matter to attention of Mexican Government.	741
96	Mr. Clayton to Mr. Sherman.	Sept. 1	Same subject. Incloses his note to Mexican minister for foreign affairs regarding.	741
152	Same to same	Oct. 21	Same subject. Incloses reply of minister for foreign affairs advancing opinion, for reasons stated, that diplomatic intervention is, at this time, premature.	742
169	Mr. Sherman to Mr. Clayton.	Oct. 30	Same subject. Incloses letter from Mr. Doyle giving a concrete statement of the circumstances and particulars of the claim.	744
331	Same to same.....	1898. Mar. 10	Same subject. Incloses letter from Mr. Doyle presenting arguments and observations in response to statements of Mexican minister for foreign affairs.	747
409	Mr. Clayton to Mr. Sherman.	May 4	Same subject. Reports having brought Mr. Doyle's communication, above referred to, to attention of Mexican minister for foreign affairs.	751
263	Mr. Hay to Mr. Clayton	1899. Dec. 4	Same subject. Disputes contention of Mexican Government that diplomatic intervention is premature, argues question, and instructs to urge payment of claim.	751
532	Mr. Clayton to Mr. Hay	1900. Feb. 9	Same subject. Incloses his note to minister for foreign affairs, transmitting instruction No. 263, Dec. 4, 1899.	753
369	Mr. Hay to Mr. Clayton	June 7	Same subject. States that the claim, having been once arbitrated, is considered res judicata.	753
703	Mr. McCreery to Mr. Hay ..	June 14	Same subject. Incloses his note to minister for foreign affairs, calling attention to above instruction.	754
848	Mr. Clayton to Mr. Hay	Dec. 14	Same subject. Incloses note from minister for foreign affairs questioning the right of the Commission to pass upon the original claim, arguing that the present claim is a new one that should first be tried in the Mexican courts, and discussing the point of res judicata alleged in Department's instruction No. 369, June 7, 1900.	754
543	Mr. Hay to Mr. Clayton	1901. July 18	Same subject. Takes up and controverts arguments advanced in note above referred to; instructs to suggest arbitration or compromise, and, if the former is accepted, lays down the bases and principles for arbitration. Incloses copies of briefs of Mr. Doyle and Ralston & Siddons.	760

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
1038	Mr. Clayton to Mr. Hay	1901. Aug. 8	Claim of Michael Brown <i>v.</i> Mexico, on account of illegal eviction and imprisonment. Reports action of embassy and incloses correspondence.	786
1052	Same to same	Aug. 21	Claim of the Catholic Church (Pious Fund) <i>v.</i> Mexico. Incloses note to minister for foreign affairs, transmitting documents forwarded with instruction No. 543, July 18, 1901.	775
1176	Same to same	Nov. 6	Same subject. Reports interview with minister for foreign affairs, who had not read the documents submitted to him.	776
1181	Same to same	Nov. 13	Same subject. Reports having informally discussed question of arbitration with minister for foreign affairs.	777
605	Mr. Hay to Mr. Clayton....	Nov. 21	Same subject. Approves course reported in above dispatch, and states that terms of arbitration and names of arbitrators should be reported in advance for approval of Department.	778
613	Same to same.....	Dec. 7	Enforced enlistment in and discharge from Mexican army of Francisco Cuero, an American Indian. Incloses correspondence and instructs to use good offices.	789
1215	Mr. Clayton to Mr. Hay	Dec. 16	Claim of the Catholic Church (Pious Fund) <i>v.</i> Mexico. Reports that agreement to submit to arbitration has been reached. Incloses notes exchanged with minister for foreign affairs.	778
1237	Same to same.....	1902. Jan. 16	Enforced enlistment in and discharge from Mexican army of Francisco Cuero, an American Indian. Reports that discharge has been ordered. Incloses correspondence.	791
635	Mr. Hay to Mr. Clayton	Jan. 23	Claim of the Catholic Church (Pious Fund) <i>v.</i> Mexico. Instructs to propose arbitration by The Hague International Tribunal.	780
244	Mr. de Azpiroz to Mr. Hay .	Jan. 24	Consular immunities in the absence of treaty stipulations. Submits case of Mexican consul at Pensacola, Fla., of whom personal taxes are demanded by the county.	792
	Mr. Hill to Mr. de Azpiroz .	Feb. 6	Passage through United States of remains of late Mexican minister to Austria-Hungary. States that courtesies will be extended on occasion of.	794
249	Mr. de Azpiroz to Mr. Hay .	Feb. 7	Same subject. Acknowledges above note and expresses appreciation.	794
1274	Mr. Clayton to Mr. Hay	Feb. 21	Arrest and imprisonment of American citizens, railway employees, in Mexico. Incloses correspondence and reports particularly case of Nathaniel F. Bonsall.	795
222	Mr. Hay to Mr. de Azpiroz..	Feb. 28	Consular immunities in the absence of treaty stipulations. States that Mexican consul at Pensacola, Fla., will be exempted from payment of personal taxes.	794
656	Mr. Hay to Mr. Clayton	Mar. 4	Arrest and imprisonment of American citizens, railway employees, in Mexico. Acknowledges dispatch No. 1274, Feb. 21, and states that it is unnecessary to pursue subject further.	808
664	Mr. Hill to Mr. Clayton	Mar. 13	Claim of the Catholic Church (Pious Fund) <i>v.</i> Mexico. Suggests that it would be to the credit of both countries to be the first States to submit an international controversy to The Hague Tribunal.	780
1311	Mr. Clayton to Mr. Hay	Mar. 27	Same subject. Reports acceptance by Mexico of the Arbitration Tribunal at The Hague. Incloses correspondence.	780
1348	Mr. McCreery to Mr. Hay ..	May 7	Treaty of compulsory arbitration between Mexico and Spain. Incloses text.	813
261	Mr. de Azpiroz to Mr. Hay..	May 10	Claim of the Catholic Church (Pious Fund) <i>v.</i> Mexico. States that he has received instructions to perfect the protocol for arbitration by the International Tribunal of The Hague.	782
1357	Mr. McCreery to Mr. Hay ..	May 16	Arrest and imprisonment of American citizens, railway employees, in Mexico. Incloses correspondence regarding case of Nathaniel F. Bonsall.	808
	Mr. Hay to Mr. de Azpiroz..	May 20	Claim of the Catholic Church (Pious Fund) <i>v.</i> Mexico. Submits draft of protocol for arbitration.	783
1394	Mr. McCreery to Mr. Hay ..	May 29	Protection of Cuban interests by United States consular officials. Reports consent of Mexico.	815
1413	Mr. Clayton to Mr. Hay	June 11	Arrest and imprisonment of American citizens, railway employees, in Mexico. Reports on and incloses correspondence regarding case of Nathaniel F. Bonsall.	810

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
1430	Mr. Clayton to Mr. Hay	1902. June 17	Treaty of commerce and navigation between Austria-Hungary and Mexico. Incloses text.	815
1434	Same to same	June 19	Claim of Michael Brown <i>v.</i> Mexico, on account of illegal eviction and imprisonment. Reports payment of indemnity of \$10,000 to Brown. Incloses correspondence.	788
727	Mr. Hay to Mr. Clayton	June 21	Arrest and imprisonment of American citizens, railway employees, in Mexico. Acknowledges dispatch No. 1413, June 11, and states that it is not perceived that any further action can be taken in the case of Nathaniel F. Bonsall.	812
730	Mr. Hill to Mr. Clayton	June 28	Claim of Michael Brown <i>v.</i> Mexico on account of illegal eviction and imprisonment. Expresses gratification at adjustment of.	789
736	Mr. Hay to Mr. Clayton	July 14	Jurisdiction of United States consuls over disputes and differences between masters, officers, and crews of American vessels in Mexican ports. Incloses letters from the Pacific Mail Steamship Co. regarding, and instructs to ask that Mexican Government accord to American vessels the usual treatment given in the United States by comity, and to suggest a supplemental treaty article on the subject.	816
1485	Mr. Clayton to Mr. Hay	July 26	Denials of justice to United States citizens. Submits proposed communication to consular officers relative to prompt action regarding, and requests Department's approval of same.	828
1529	Same to same	Aug. 15	Jurisdiction of United States consuls over disputes and differences between masters, officers, and crews of American vessels in Mexican ports. Incloses notes to minister for foreign affairs proposing additional treaty article and suggesting that matter be left in the meanwhile with consuls by comity.	819
762	Mr. Adee to Mr. Clayton ...	Aug. 18	Denials of justice to United States citizens. Approves course submitted in dispatch No. 1485, July 26.	829
1547	Mr. Clayton to Mr. Hay	Aug. 26	Jurisdiction of United States consuls over disputes and differences between masters, officers, and crews of American vessels in Mexican ports. Reports that proposal for additional convention has been referred to the law officers of the Mexican foreign office.	820
1555	Same to same	Aug. 28	Denials of justice to United States citizens. Incloses circular letter to consuls directing them to report to embassy cases of.	829
	President Diaz to President Roosevelt (telegram).	Sept. 4	Accident to President Roosevelt. Congratulations on escape.	830
	President Roosevelt to President Diaz (telegram).	Sept. 5	Same subject. Acknowledges above telegram with appreciation.	831
1567	Mr. Clayton to Mr. Hay.....	Sept. 6	Arrest and imprisonment of American citizens, railway employees, in Mexico. Reports that appeal in case of Nathaniel F. Bonsall has been rejected by the supreme court.	812
	Mr. Adee to Mr. Clayton ...	Sept. 9	Denials of justice to United States citizens. Approves action reported in dispatch No. 1555, Aug. 28.	830
1583	Mr. Clayton to Mr. Hay....	Sept. 19	Message of the President of Mexico to Congress. Passages relating to the Pious Fund claim and the silver question.	831
1614	Same to same	Oct. 24	Jurisdiction of United States consuls over disputes and differences between masters, officers, and crews of American vessels in Mexican ports. Reports that the law of Mexico recognizes, and the minister for foreign affairs deems an additional treaty article unnecessary. Incloses correspondence.	821
1618	Same to same	Nov. 4	Reception of General Carlos Garcia Velez, Cuban minister to Mexico, reported.	832
803	Mr. Hay to Mr. Clayton	Nov. 17	Jurisdiction of United States consuls over disputes and differences between masters, officers, and crews of American vessels in Mexican ports. Incloses Department circular to consuls in Mexico defining their rights and powers.	827

NETHERLANDS.

No.	From and to whom.	Date.	Subject.	Page.
453	Mr. Newel to Mr. Hay	1902. Jan. 9	Passport application of Juliaan Johan Becker. Submits for instructions.	884
306	Mr. Hay to Mr. Newel	Jan. 29	Same subject. Approves refusal to issue.....	884
	Same to same	Feb. 3	Agreement between Russia and China relative to Manchuria. Incloses for communication to Netherlands Government memorandum of Feb. 1, expressing views of the United States.	26
	Mr. Newel to Mr. Hay	June 20	Protection of Cuban interests by United States consular officials. Reports consent of Netherlands Government.	835

NICARAGUA, COSTA RICA, AND SALVADOR.

425	Mr. Hay to Mr. Merry	1901. Oct. 25	Protection of Danish interests in Salvador by United States officials. Instructs to request permission of Government of Salvador to extend.	836
	Mr. Penfield, Solicitor Department of State, to the Secretary of State.	.....	Claims of the Salvador Commercial Co. et al. v. Salvador. Transmits report containing statement of case and pointing out liability of Salvador.	838
429	Señor Zaldivar to Mr. Hay	Oct. 30	Same subject. Proposes arbitration.....	856
	Mr. Hay to Mr. Merry	Dec. 10	Protection of Danish interests in Salvador by United States officials. Advises that Danish Government will issue notice to its subjects informing them of.	836
	Protocol of agreement between the United States and Salvador.	Dec. 19	Claims of the Salvador Commercial Co. et al. v. Salvador. Providing for arbitration.	857
665	Mr. Merry to Mr. Hay	1902. Jan. 4	Treaty relations with Salvador. Termination of, and its possible effect on the status of consuls in Salvador. Reports that United States consul has been advised by legation to proceed as if treaties were still in operation.	880
438	Mr. Hay to Mr. Merry	Jan. 11	Claim of Rosa Gelbrunk v. Salvador. Instructs to suggest submission to arbitrators of claim of Salvador Commercial Co.	873
446	Same to same.....	Jan. 22	Treaty relations with Salvador. States that treaty of amity, etc., having been abrogated, legation's suggestion to consul-general, reported in dispatch No. 665, Jan. 4, was erroneous.	880
686	Mr. Merry to Mr. Hay	Feb. 9	Treaty between Central American States providing for the arbitration of differences. Transmits text.	881
691	Same to same.....	Feb. 20	Protection of Danish interests in Salvador by United States officials. Incloses note from minister for foreign affairs authorizing in the same manner and under the same conditions now applying to Chinese.	836
694	Same to same	Mar. 1	Treaty between Central American states providing for the arbitration of differences. Reports adhesion of Guatemala, and discusses effects of visit of President of Salvador to Guatemala, and of the treaty on the peace of Central America.	883
696	Mr. Merry to Mr. Hill.....	.....do.....	Claim of Rosa Gelbrunk v. Salvador. Reports that Government of Salvador accepts arbitration provided it be allowed thirty days from date of acceptance by the Department of State for preparation of its case.	874
457	Mr. Hay to Mr. Merry.....	Mar. 7	Protection of Danish interests in Salvador by United States officials. Directs that consuls be instructed to extend, with same restrictions as apply to Chinese subjects.	837
	Mr. Hill to Mr. Merry (telegram).	Mar. 14	Claim of Rosa Gelbrunk v. Salvador. Grants 30 days' delay, as requested, and states that this action closes agreement to arbitrate.	875
698	Mr. Merry to Mr. Hill	Mar. 15	Same subject. Incloses notes to minister for foreign affairs of Salvador in accordance with above telegram.	875
	Sir Henry Strong, Don M. Dickinson, and José Rosa Pacas, arbitrators.	Apr. 26	Same subject. Opinion in case.....	877
	Same	May 2	Same subject. Award.....	876
	Sir Henry Strong and Don M. Dickinson, arbitrators.	May 8	Claims of the Salvador Commercial Co. et al. v. Salvador. Award.	859
	Same .....	.....do.....	Same subject. Opinion	862

LIST OF PAPERS.

LXXI

NICARAGUA, COSTA RICA, AND SALVADOR—Continued.

No.	From and to whom.	Date.	Subject.	Page.
726	Mr. Merry to Mr. Hay.....	1902. May 31	Protection of Cuban interests by United States consular officials. Reports consent of Costa Rica.	883
733	Same to same	June 18	Same subject. Reports consent of Salvador.....	884
734	Same to same	June 20	Same subject. Reports consent of Nicaragua....	884
747	Same to same	July 19	Transit across the Isthmus of Panama under treaty of 1846. Incloses correspondence in regard to detention of arms destined for Nicaragua by Colombian authorities, and suggests that free transit be required by the United States.	884
492	Mr. Adee to Mr. Merry	Aug. 5	Same subject. States that treaty of 1846 was made for the benefit of the contracting parties, and does not impair the rights of Colombia to place an embargo on the traffic of other states.	886
757	Mr. Merry to Mr. Hay	Aug. 31	Same subject. Incloses further appeal from President of Nicaragua, and takes position that guaranty of the United States applies to all countries.	887
	President Regalado to President Roosevelt (telegram).	Sept. 10	Accident to President Roosevelt. Expresses sympathy.	889
	President Roosevelt to President Regalado (telegram).	Sept. 12	Same subject. Acknowledges above telegram, with thanks.	889
500	Mr. Adee to Mr. Merry .....	....do ...	Transit across the Isthmus of Panama. Guaranty of, by the United States under treaty of 1846. Acknowledges and discusses dispatch No. 757, Aug. 31; points out inapplicability of art. 17 to the stoppage of arms shipped to Nicaragua, and declares that so long as rights of American vessels and citizens are not interfered with the United States can not intervene.	888

PERSIA.

4	Mr. Griscom to Mr. Hay....	1902. Jan. 24	Railway construction monopoly in Persia held by Russia. Reports.	890
	The Shah of Persia to President Roosevelt (telegram).	Sept. 4	Accident to President Roosevelt. Expresses sympathy.	890
	President Roosevelt to the Shah of Persia (telegram).	....do ...	Same subject. Acknowledges above telegram with thanks.	890

PERU.

547	Mr. Neill to Mr. Hay	1901. Nov. 27	Arbitration protocol between Peru and Bolivia. Reports signing of.	891
550	Same to same	Dec. 16	Adoption of gold standard in Peru. Incloses law providing for.	893
564	Same to same	1902. Jan. 18	Same subject. Incloses decree providing for demonetization of 500,000 soles silver.	894
278	Mr. Hay to Mr. Neill	Jan. 27	Arbitration protocol between Peru and Bolivia. Instructs to forward copy to Department.	891
572	Mr. Neill to Mr. Hay	Feb. 18	Same subject. Forwards copy of	891
580	Same to same	Mar. 10	Adoption of gold standard in Peru. Incloses copy of arrangement for demonetization of 500,000 soles silver.	895
611	Mr. Dudley to Mr. Hay.....	June 3	Same subject. Incloses decree providing for demonetization of 500,000 soles silver.	897
612	Same to same	June 9	Protection of Cuban interests by United States consular officials. Reports consent of Peru.	898
621	Same to same	June 28	Same subject. Reports request of Cubans at Lima to have their names registered at the legation. Incloses for approval or correction his letter giving permission for provisional registration.	899
286	Mr. Hill to Mr. Dudley.....	July 24	Same subject. Approves course reported in above dispatch.	900
637	Mr. Dudley to Mr. Hay.....	July 30	Extracts from message of President of Peru to Peruvian Congress transmitted.	900
	Señor Calderon to the Acting Secretary of State (telegram).	Sept. 4	Accident to President Roosevelt. Congratulations on escape.	903
	Mr. Adee to Señor Calderon (telegram).	Sept. 5	Same subject. Acknowledges above telegram, with thanks.	903

PORTUGAL.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Loomis to Mr. Hay.....	1902. May 30	Protection of Cuban interests by United States consular officials. Reports consent of Portugal.	904
	The King of Portugal to President Roosevelt (telegram).	Sept. 4	Accident to President Roosevelt. Expresses sympathy and good wishes.	904
	President Roosevelt to the King of Portugal (telegram).	Sept. 5	Same subject. Acknowledges above telegram, with appreciation.	904

ROUMANIA.

20	Mr. Francis to Mr. Hay	1902. Mar. 10	Financial conditions in Roumania. Elaborate report on.	905
27	Mr. Wilson to Mr. Hay	June 16	Protection of Cuban interests by United States consular officials. Reports consent of Roumania.	909
14	Mr. Hay to Mr. Wilson.....	July 17	Jews in Roumania. Discusses proposed naturalization convention between the United States and Roumania; discriminations in the latter country against Jews; condition of helplessness to which they are reduced, and objections of United States Government to immigration of such persons.	910
	Mr. Wilson to Mr. Hay.....	Aug. 8	Same subject. Reports that naturalization treaty will not be considered by Roumania, the main objection being based on the Jewish question.	914
15	Mr. Adee to Mr. Wilson	Aug. 22	Same subject. Incloses copy of instruction to diplomatic officers of the United States in countries parties to the treaty of Berlin.	915

RUSSIA.

	Count Cassini to Mr. Hay ..	1901. Dec. 28	Mutual embarrassments of United States and Russian officials at Niuchwang. Complains of proceedings of United States consul at Niuchwang, antagonistic to Russian authorities in charge of the city. Requests that consul be suitably instructed.	916
	Mr. Hay to Count Cassini ..	Dec. 30	Same subject. States that Department has not given, nor will it give, instructions to consul which would cause conflict with Russian administration.	917
269	Mr. Hill to Mr. Tower.....	Dec. 31	Same subject. Incloses copies of above correspondence.	918
517	Mr. Tower to Mr. Hay.....	1902. Jan. 13	Same subject. Reports that the conflict between United States seamen and Russian soldiers at Niuchwang is regarded as an incident of local and minor importance by the minister for foreign affairs.	918
	Mr. Hay to Mr. Tower (telegram).	Feb. 1	Convention and arrangement between Russia and China respecting Manchuria. Represents that signing Manchurian convention and separate convention with Russian-Chinese Bank would contravene treaties of China, affect rights of United States citizens, impair sovereignty of China, and subserve "open-door" policy accepted by Russia and other powers.	926
	Same to same	Feb. 3	Same subject. Incloses for communication to Russian Government memorandum of Feb. 1 expressing views of the United States.	26
	Mr. Tower to Mr. Hay (telegram).	.....do....	Same subject. Reports that views of United States have been communicated to Russian Government.	927
523	Same to same .....	.....do....	Same subject. Confirms telegrams and incloses copy of his note to minister for foreign affairs.	927
275	Mr. Hay to Mr. Tower.....	Feb. 6	Mutual embarrassments of United States and Russian officials at Niuchwang. Directs investigation of reports of closing of telegraphic communication and, if facts warrant, to make remonstrance.	919

RUSSIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
529	Mr. Tower to Mr. Hay.....	1902. Feb. 12	Convention and arrangement between Russia and China respecting Manchuria. Incloses note from minister for foreign affairs declaring Russia's intention to withdraw troops from Manchuria.	928
278	Mr. Hay to Mr. Tower.....	Feb. 15	Mutual embarrassments of United States and Russian officials at Niuchwang. Incloses complaint of American Asiatic Association regarding restrictions by Russian authorities on telegraphic communication.	920
280	Same to same	Feb. 21	Same subject. Incloses correspondence regarding interference with telegraphic communication of United States consular and naval officers.	920
	Same to same (telegram)...	Mar. 1	Declaration of Russia and France concerning defensive agreement between Great Britain and Japan. States that the alliance was negotiated without the knowledge of the United States, and memorandum of February 1 expressing views of the United States relative to the convention between Russia and China respecting Manchuria was sent without consultation with Great Britain or Japan.	929
	Mr. Tower to Mr. Hay (telegram).	Mar. 3	Same subject. Reports that above telegram has been communicated to the Russian minister for foreign affairs.	930
540	Same to same.....	Mar. 4	Mutual embarrassments of United States and Russian officials at Niuchwang. States that reported restrictions on telegraphic communication will be investigated by the Russian Government.	923
541	Same to same.....	...do...	Declaration of Russia and France concerning defensive agreement between Great Britain and Japan. Incloses copy of his note to Russian minister for foreign affairs.	930
543	Same to same.....	Mar. 13	Mutual embarrassments of United States and Russian officials at Niuchwang. Reports that representations against restrictions on telegraphic communication have been orally made.	924
547	Same to same.....	Mar. 19	Same subject. Reports that Russian Government knows of but one instance when telegrams were dispatched by mail by reason of a break in the Russian line, but it is investigating the matter	925
	Memorandum from the Russian embassy.	...do....	Declaration of Russia and France concerning defensive agreement between Great Britain and Japan transmitted.	931
	Memorandum to the Russian embassy.	Mar. 22	Same subject. States that declaration has been received with gratification by the United States.	931
552	Mr. Tower to Mr. Hay.....	...do...	Same subject. Transmits explanatory remarks published in the St. Petersburg Journal.	932
293	Mr. Hay to Mr. Tower.....	Apr. 3	Same subject. Acknowledges above dispatch and incloses correspondence regarding.	933
565	Mr. Riddle to Mr. Hay.....	Apr. 12	Mutual embarrassments of United States and Russian officials at Niuchwang. Incloses note from Russian ministry for foreign affairs concerning reported delays in transmission of telegrams.	926
580	Same to same	June 14	Protection of Cuban interests by United States consular officials. Reports consent of Russia.	933
	Count Cassini to Mr. Hay ..	July 19	Visit of Russian Grand Duke Boris Wladimirovitch to the United States. Advises of contemplated.	934
592	Mr. Riddle to Mr. Hay.....	July 30	Partial removal of restrictions on travel and residence in central Asia reported.	936
	Mr. Adee to Count Cassini..	Aug. 9	Visit of Russian Grand Duke Boris Wladimirovitch to the United States. States that a vessel has been provided to convey the Duke from the steamer to the shore at San Francisco.	934
	Mr. Hay to Mr. Tower.....	Aug. 11	Jews in Roumania. Discriminations against condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons. In connection with pending naturalization treaty with Roumania, discusses at length the foregoing questions and appeals to the principles laid down in the treaty of Berlin for amelioration of said conditions. Instructs to present above considerations to the minister for foreign affairs.	42

RUSSIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Count Cassini to Mr. Adee (telegram).	1902. Sept. 16	Visit of Russian Grand Duke Boris Wladimirovitch to the United States. Conveys thanks for courtesies on occasion of.	935
601	Mr. Tower to Mr. Hay.....	Sept. 17	Jews in Roumania. Reports that instruction of Aug. 11 regarding has been delivered to the Russian minister for foreign affairs.	936
	Count Cassini to Mr. Adee..	Sept. 25	Visit of Russian Grand Duke Boris Wladimirovitch to the United States. Conveys thanks for courtesies on occasion of.	935
212	Mr. Adee to Count Cassini..	Oct. 1	Same subject. States that above note has been communicated to the President.	935
609	Mr. Tower to Mr. Hay.....	Oct. 2	Jews in Roumania. Reports that Department's note of Aug. 11 is receiving consideration at the Russian foreign office.	937

SERVIA.

	Treaty between the United States and Servia.	1902. May 17	For the mutual extradition of criminals	938
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SIAM.

111	Mr. King to Mr. Hay.....	1902. Feb. 6	Passports. Inquires if he may issue a passport to an American citizen residing in the jurisdiction of another United States official.	943
83	Mr. Hay to Mr. King.....	Mar. 19	Same subject. States that passports can be issued to persons applying from the district of another United States official only under special circumstances.	943
	Mr. King to Mr. Hay.....	June 17	Protection of Cuban interests by United States consular officials. Reports consent of Siam.	945
122	Same to same.....	July 10	Passports. States that question propounded in dispatch No. 111, February 6, arose out of application of Henry S. Wetherbee. Incloses correspondence.	944
	Mr. Akharaj to Mr. Hay....	July 31	Visit of the Crown Prince of Siam to the United States. Advises of, and incloses list of party and itinerary of proposed tour.	945
7	Mr. Adee to Mr. Akharaj...	Aug. 6	Same subject. States that above note has been forwarded to the President.	946
	Mr. Akharaj to Mr. Hay....	Sept. 4	Accident to President Roosevelt. Congratulations on escape.	948
8	Mr. Adee to Mr. Akharaj...	Sept. 11	Same subject. Acknowledges above note with appreciation.	948
	The King of Siam to President Roosevelt (telegram).	Oct. 13	Visit of the Crown Prince of Siam to the United States. Thanks for courtesies on occasion of.	947
	President Roosevelt to the King of Siam (telegram).	Oct. 15	Same subject. States that it was a pleasure to meet the Crown Prince.	947
	The Crown Prince of Siam to President Roosevelt (telegram).	Nov. 30	Same subject. Thanks for courtesies on occasion of.	947
96	Mr. Hay to Mr. King.....	Dec. 5	Same subject. Incloses copy of above telegram and instructs to appropriately acknowledge.	947

SPAIN.

	Mr. Hay to Mr. Storer.....	1902. Feb. 3	Agreement between Russia and China relative to Manchuria. Incloses for communication to Spanish Government memorandum of February 1 expressing views of the United States.	26
1	Mr. Hay to Mr. Curry.....	Feb. 13	Celebration of majority of Alfonso XIII. Appointment and instructions as special ambassador extraordinary to represent the United States at.	954
634	Mr. Storer to Mr. Hay.....	Feb. 26	Military-service case of Antonio Gisbert y Bayot. Reports grounds upon which enlistment is demanded, and that consul-general at Barcelona has been instructed to protest.	949

LIST OF PAPERS.

LXXV

SPAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
642	Mr. Storer to Mr. Hay	1902. Mar. 3	Same subject. Incloses report from consul-general at Barcelona.	950
423	Mr. Hay to Mr. Storer	Mar. 10	Same subject. Incloses, for proper action, dispatch from consul-general at Barcelona.	950
424	Mr. Hay to Mr. Sickles	Mar. 18	Same subject. Acknowledges dispatch No. 634, February 26, and refers to above instruction.	952
427	Same to same	Mar. 21	Same subject. States that requirement of Spanish Government appears to be unexceptionable, and that further action seems unnecessary for the present.	952
662	Mr. Sickles to Mr. Hay	May 20	Assumption of power by Alfonso XIII. Incloses announcement of.	959
	Mr. Curry to Mr. Hay	May 31	Celebration of majority of Alfonso XIII. Reports in detail regarding.	955
665	Mr. Sickles to Mr. Hay	June 5	Protection of Cuban interests by United States consular officials. Reports consent of Spain.	960
667	Same to same	June 12	Military-service case of Antonio Gisbert y Bayot. Incloses report of mixed commission declaring Gisbert exempt.	952
3	Mr. Hill to Mr. Curry	June 26	Celebration of majority of Alfonso XIII. Acknowledges report of May 31 with gratification.	979
447	Mr. Hay to Mr. Storer	July 1	Military-service case of Antonio Gisbert y Bayot. Expresses gratification at solution reported in dispatch No. 667, June 12.	954
	Señor Ojeda to Mr. Adee	Sept. 24	Accident to President Roosevelt. Expresses sympathy.	960
	Mr. Adee to Señor Ojeda	Sept. 25	Same subject. Acknowledges above telegram, with thanks.	961
	Señor Ojeda to Mr. Hay	Nov. 5	Jurisdiction over vessels and their crews. Complaint that local officials of Pensacola, Fla., made arrests aboard a Spanish vessel without notice to Spanish consul.	961
4	Mr. Hay to Señor Ojeda	Nov. 12	Same subject. Acknowledges above note, and states that the governor of Florida has been asked for a report.	962
20	Same to same	Dec. 12	Same subject. Incloses report of mayor of Pensacola, Fla.	963
	Señor Ojeda to Mr. Hay	Dec. 22	Same subject. Acknowledges above note and states that what is desired is a remedy against infraction of international usage in searching vessels and making arrests without consul's knowledge or consent.	965
26	Mr. Hay to Señor Ojeda	1903. Jan. 3	Same subject. States that mayor of Pensacola reports that notice of arrests will hereafter be given to consul when practicable.	966

SWEDEN AND NORWAY.

278	Mr. Thomas to Mr. Hay	1902. Oct. 18	Claims on account of military operations conducted in Samoa in 1899. Preliminary decision of the King of Sweden and Norway as arbitrator.	444
282	Same to same	Nov. 10	Protection of Cuban interests by United States consular officials. Reports consent of Sweden and Norway.	967

SWITZERLAND.

43	Mr. Hardy to Mr. Hay	1902. Feb. 13	Passport application of Helena Pecare. Reports grounds of refusal to issue.	968
27	Mr. Hay to Mr. Hardy	Feb. 28	Same subject. Approves action reported in above dispatch.	969
55	Mr. Hardy to Mr. Hay	May 2	Passport application of Bertha Knopf. Reports grounds of refusal to issue, and incloses correspondence.	969
56	Same to same	do	Passport application of William Strahlheim. Reports grounds of refusal to issue and incloses correspondence.	973
327	Mr. Hay to Mr. Pioda	May 6	Protection of Paul Dick, a Swiss citizen, by United States representative in Egypt. Incloses correspondence relative to.	979
32	Mr. Hay to Mr. Hardy	do	Referendum and initiative. Requests report on.	981

SWITZERLAND—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1902.		
35	Mr. Hay to Mr. Hardy	May 19	Passport application of Bertha Knopf. Sustains refusal to issue, as reported in dispatch No. 55, May 2.	971
36	Same to same	May 20	Passport application of William Strahlheim. Reviews circumstances and authorizes to grant.	975
	Mr. Hardy to Mr. Hay (telegram).	May 28	Protection of Cuban interests by United States consular officials. Reports consent of Swiss Government.	981
60	Same to same .....	.....do...	Same subject. Confirms above telegram and incloses note from foreign office.	981
	Memorandum from Swiss legation.	May 29	Protection of Robert Beck, a Swiss citizen, by United States officials in Colombia. Recites grievances of Beck resulting from seizure by Colombian Government of mules and other property, and asks that proper steps for redress be taken by United States legation.	979
	Memorandum to Swiss legation.	June 10	Same subject. States that United States minister reports that everything possible was done by him in the matter and calls attention to the fact that good offices only can be used.	980
62	Mr. Hardy to Mr. Hay.....	.....do...	Referendum and initiative. Exhaustive report on.	982
63	Same to same	June 13	Passport application of Meta Schwarz, born in Germany and residing without the United States at the time of her father's naturalization, submits for instructions.	976
40	Mr. Hay to Mr. Hardy.....	July 2	Referendum and initiative. Commends care shown in preparation of report on.	994
41	Same to same	July 15	Passport application of Meta Schwarz. Makes distinction between meaning of "dwelling" and "residing" in the United States.	977
70	Mr. Hardy to Mr. Hay.....	Aug. 22	Execution in Switzerland of judgment of a Massachusetts court. Reports that Swiss authorities will grant if the United States will guarantee reciprocal action in similar cases.	994
72	Same to same.....	Sept. 1	Passport application of Bernhard Kaufmann. Reports grounds of refusal to issue.	977
44	Mr. Adee to Mr. Hardy.....	Sept. 8	Execution in Switzerland of judgment of a Massachusetts court. States that assurance of reciprocity can not be given. Cites opinion of supreme court of Massachusetts in a similar case.	995
46	Same to same	Sept. 17	Passport application of Bernhard Kaufmann. Approves refusal to issue.	978

TURKEY.

	Mr. Leishman to Mr. Hay (telegram).	Sept. 5	Abduction by brigands of Miss Ellen M. Stone, an American missionary, reported.	997
73	Same to same	Sept. 13	Same subject. Reports in detail, and incloses correspondence.	997
75	Same to same	Sept. 20	Same subject. Reports that no word has been received from Miss Stone.	999
	Same to same (telegram) ..	Sept. 23	Same subject. Reports probability that brigands are Bulgarians, and states that he has advised United States consul-general at Constantinople to proceed to Sofia and take matter up with Bulgarian Government.	1000
79	Same to same	Sept. 24	Same subject. Reports on line of above telegram and incloses correspondence.	1000
	Mr. Eddy to Mr. Hay (telegram).	Sept. 28	Same subject. Reports receipt of a letter from Miss Stone stating that ransom of 25,000 Turkish pounds is demanded for her release.	1004
	Mr. Hill to Mr. Eddy (telegram).	.....do...	Same subject. States that Consul-General Dickinson has been instructed as to conduct of matter in its Bulgarian aspects, and directs legation to do all in its power with the Turkish Government.	1001
89	Mr. Eddy to Mr. Hay.....	Oct. 2	Same subject. Incloses letter from Miss Stone and reviews situation.	1004
	Mr. Adee to Mr. Eddy (telegram).	Oct. 3	Same subject. Directs to invoke good offices of Russian ambassador, or any other foreign minister who may be able to render assistance.	1007
	Same to same (telegram)....	Oct. 4	Same subject. Instructs to impress upon Turkish Government the extreme gravity of the affair, and to request aid of that Government in securing Miss Stone's release.	1007
	Same to same (telegram)....	.....do...	Same subject and tenor.....	1007

LIST OF PAPERS.

LXXVII

TURKEY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Eddy to Mr. Adece (telegram).	1901. Oct. 5	Same subject. Reports attitude of Turkish Government and efforts toward release of Miss Stone.	1007
	Same to same (telegram) ..	do ..	Same subject. Reports action of various foreign ministers.	1008
	Mr. Adece to Mr. Eddy (telegram).	do ..	Same subject. States that missionary board, nor United States, will pay ransom; that friends of Miss Stone are endeavoring to raise money.	1008
	Same to same (telegram) ..	do ..	Same subject. Instructs to say that United States expects Miss Stone's deliverance will be brought about by Turkish Government.	1008
	Same to same (telegram) ..	Oct. 6	Same subject. States that mission board reports that ransom will be raised, and expresses appreciation of efforts of legation and foreign ministers.	1008
	Mr. Eddy to Mr. Hay (telegram).	Oct. 7	Same subject. Reports progress of efforts of Turkish Government and foreign ambassadors.	1009
	Mr. Adece to Mr. Eddy (telegram).	Oct. 8	Same subject. Directs not to relax efforts for Miss Stone's release.	1009
	Mr. Eddy to Mr. Adece (telegram).	Oct. 9	Same subject. Reports action at Sofia of Consul-General Dickinson, which he fears may prove dangerous to Miss Stone's safety.	1009
	Same to same (telegram) ..	Oct. 11	Same subject. Reports that plan of Consul-General Dickinson has failed, and advises negotiations for payment of ransom.	1010
	Mr. Adece to Mr. Eddy (telegram).	do ..	Same subject. Instructs in regard to representations to be made to Turkish Government.	1010
	Same to same (telegram) ..	Oct. 12	Same subject. States that money raised amounts to \$56,000.	1011
	Mr. Hay to Mr. Eddy (telegram).	Oct. 16	Same subject. States that total amount raised is \$64,000.	1011
	Mr. Adece to Mr. Eddy (telegram).	Oct. 23	Same subject. States that total amount raised is \$66,000.	1011
112	Mr. Eddy to Mr. Hay.....	Dec. 4	Same subject. Incloses an account of manner in which Colonel Singe's ransom was paid and his release by Greek brigands effected some twenty-five years ago.	1011
	Same to same (telegram) ...	Dec. 12	Same subject. Reports that he intends to make another effort to effect Miss Stone's release for \$66,000.	1013
116	Same to same.....	Dec. 13	Same subject. Confirms above telegrams with details.	1013
117A	Same to same.....	Dec. 15	Same subject. Incloses and discusses memorandum of Dr. Washburn.	1015
	Same to same (telegram) ...	Dec. 26	Same subject. Reports favorable news from party sent to effect rescue.	1017
		1902.		
124	Mr. Leishman to Mr. Hay ..	Jan. 9	Passport application of Assadur H. Kludjian. Reports grounds of refusal, and incloses correspondence.	1023
93	Mr. Hay to Mr. Leishman..	Jan. 11	Abduction by brigands of Miss Ellen M. Stone, an American missionary. States that Department has not at its disposal any greater sum than that previously advised of, and would not advise the raising of more.	1017
	Mr. Leishman to Mr. Hay (telegram).	Jan. 19	Same subject. Reports resumption and progress of negotiations with brigands.	1018
129	Same to same.....	Jan. 20	Same subject. Reports that arrangements concluded with brigands by the commission have been approved as the best obtainable, and reports dispositions made for the forwarding of ransom. Incloses correspondence.	1018
	Same to same (telegram) ...	Jan. 28	Same subject. Reports temporary interruption of negotiations.	1020
	Same to same (telegram) ..	Feb. 3	Same subject. Reports resumption of negotiations.	1020
108	Mr. Hay to Mr. Leishman ..	Feb. 10	Passport application of Assadur H. Kludjian. Discusses question, and approves refusal to issue.	1024
	Mr. Leishman to Mr. Hay (telegram).	Feb. 12	Abduction by brigands of Miss Ellen M. Stone, an American missionary. Reports payment of ransom.	1021
	Same to same (telegram) ...	Feb. 18	Same subject. Explains difficulties which cause delay in release of Miss Stone.	1021
	Same to same (telegram) ...	Feb. 22	Same subject. Reports assuring message from brigands.	1021
	Same to same (telegram) ...	Feb. 23	Same subject. Reports release of Miss Stone.....	1021
	Mr. Hay to Mr. Leishman (telegram).	Feb. 26	Same subject. Extends congratulations on effected release of Miss Stone.	1022
143	Mr. Leishman to Mr. Hay..	Mar. 1	Same subject. Commends exceptional services of Interpreter Gargiulo and Second Dragoman Lemmi in the negotiations that culminated in Miss Stone's release, and acknowledges assistance rendered by the British embassy and consuls.	1022

TURKEY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Leishman to Mr. Hay (telegram).	1902. Mar. 20	Exchange of compliments between the President of the United States and the Sultan of Turkey on the recurrence of the Bairam. Conveys compliments of the Sultan.	1025
	President Roosevelt to the Sultan of Turkey (telegram).	Mar. 24	Same subject. Tenders felicitations	1026
	The Sultan of Turkey to President Roosevelt (telegram).	Mar. 25	Same subject. Acknowledges above telegram with thanks.	1026
158	Mr. Leishman to Mr. Hay..	...do....	Same subject. Reports that the President's congratulatory telegram to the Sultan was highly gratifying to the latter and will be productive of beneficial effects.	1026
143	Mr. Hay to Mr. Leishman..	Apr. 25	Restrictions on American life-insurance companies in Turkey. Incloses correspondence and instructs to report.	1026
153	Same to same	May 8	Abduction by brigands of Miss Ellen M. Stone, an American missionary. Instructs to express appreciation of services of persons mentioned in dispatch No. 143, Mar. 1.	1023
209	Mr. Leishman to Mr. Hay..	June 9	Protection of Cuban interests by United States consular officials. Incloses notes to minister for foreign affairs relative to.	1041
210	Same to same	June 10	Restrictions on American life-insurance companies in Turkey. Reports that restrictions are not discriminatory and have been represented against by European representatives, but without success. Incloses correspondence.	1030
218	Same to same	July 1	Same subject. Reports that matter could be arranged by foreign insurance companies agreeing to make slight concessions.	1036
	Mr. Hill to Mr. Leishman (telegram).	July 9	Same subject. Advises of seizure of policies of New York Life Insurance Co. and instructs to investigate and use good offices.	1036
	Mr. Leishman to Mr. Hay (telegram).	July 11	Same subject. Acknowledges above telegram and reports that demand has been made for return of policies.	1037
237	Same to same	July 24	Protection of American interests by British vice-consul at Bitlis. Incloses letter from United States consul at Erzerum requesting.	1042
	Same to same (telegram)...	Aug. 7	Friction between the United States minister and the grand vizier. Reports details of, and requests permission to demand passports unless affairs are satisfactorily adjusted.	1044
	Same to same (telegram)...	Aug. 11	Same subject. Reports advances made by the Sultan, and expresses conviction that good results will ensue from firm stand taken.	1044
	Mr. Hay to Mr. Leishman..	...do...	Jews in Roumania. Discriminations against, condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons. In connection with pending naturalization treaty with Roumania, discusses at length the foregoing questions, and appeals to the principles laid down in the treaty of Berlin for amelioration of said conditions. Instructs to present above considerations to the Government of Turkey.	42
	Mr. Adee to Mr. Leishman (telegram).	Aug. 14	Friction between the United States minister and the grand vizier. Instructs to insist upon adherence to agreements made with minister for foreign affairs.	1045
216	Same to same	Aug. 16	Protection of American interests by British vice-consul at Bitlis. Instructs to request authorization from foreign office for.	1043
	Mr. Leishman to Mr. Hay (telegram).	Aug. 18	Friction between the United States minister and the grand vizier. Reports details of differences and advocates a firm stand.	1045
	Same to same (telegram)...	Aug. 21	Same subject. Reports that the Sultan promises settlement of all pending questions.	1046
252	Same to same .....	...do...	Same subject and tenor	1046
	Mr. Adee to Mr. Leishman (telegram).	Aug. 22	Same subject. Expresses gratification at settlement reached and instructs as to future procedure.	1047
253	Mr. Leishman to Mr. Hay..	Aug. 23	Same subject. Acknowledges above telegram, and makes brief statement of difficulty and its settlement.	1047
256	Same to same.....	Aug. 26	Jews in Roumania. Reports that Department's instruction of August 11 will be communicated to the Sublime Porte.	1048

TURKEY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
258	Mr. Leishman to Mr. Hay ..	1902. Aug. 26	Restrictions on American life insurance companies in Turkey. Incloses correspondence with managers of the New York Life Insurance Company giving legation's view of the situation and of the extent to which it can afford assistance.	1037
228	Mr. Adee to Mr. Leishman ..	Aug. 27	Protection of American interests by British vice-consul at Bitlis. Instructs to apply to British ambassador for authorization of.	1043
	President Roosevelt to the Sultan of Turkey (telegram).	Sept. 1	Congratulations on anniversary of Sultan's accession to throne.	1048
	The Sultan of Turkey to President Roosevelt (telegram).	....do....	Same subject. Acknowledges above telegram with thanks.	1049
268	Mr. Leishman to Mr. Hay ..	Sept. 3	Treaty of 1830. Interpretation of Article IV. Incloses note verbale from the Porte complaining that consuls refuse to serve summonses on United States citizens and thus paralyze the action of justice, and his reply declaring inability to change or modify interpretation given to treaty by United States Government.	1049
	The Sultan of Turkey to President Roosevelt (telegram).	Sept. 4	Accident to President Roosevelt. Congratulations on escape.	1050
	President Roosevelt to the Sultan of Turkey (telegram).	Sept. 5	Same subject. Acknowledges above telegram with thanks.	1050
272	Mr. Leishman to Mr. Hay ..	Sept. 7	Restrictions on American life insurance companies in Turkey. Incloses correspondence with agents of New York Life Insurance Company regarding apparent discrimination in favor of English and German companies.	1039
281	Mr. Eddy to Mr Hay	Sept. 17	Protection of Cuban interests by United States consuls. Reports unsatisfactory interview with minister for foreign affairs regarding.	1042
238	Mr. Adee to Mr. Eddy	Sept. 20	Restrictions on American life insurance companies in Turkey. Acknowledges dispatch No. 258, August 26, and approves course reported.	1040
243	Same to same	Sept. 25	Treaty of 1830. Interpretation of Article IV. Acknowledges dispatch No. 268, September 3, and approves course reported.	1050
282	Mr. Eddy to Mr. Hay	Sept. 30	Protection of American interests by British vice-consul at Bitlis. Reports that authorization has been granted for.	1044

URUGUAY AND PARAGUAY.

507	Mr. Finch to Mr. Hay	1902. Jan. 11	Deposition of President Aceval and elevation of Vice-President Carvalho to Presidency of Paraguay. Transmits account of.	1051
520	Same to same	Feb. 18	Reception of officers of U. S. S. <i>Iowa</i> by the President of Uruguay. Reports.	1055
545	Same to same	June 20	Protection of Cuban interests by United States consular officials. Reports consent of Uruguay.	1055
570	Same to same	Aug. 26	Same subject. Reports consent of Paraguay.....	1056

VENEZUELA.

	Mr. Hay to Mr. Bowen (telegram).	1902. Apr. 7	Threatened seizure of the <i>Viking</i> . Instructs to inquire into.	1058
	Mr. Bowen to Mr. Hay (telegram).	Apr. 8	Same subject. Reports that Venezuelan Government denies knowledge of affair.	1058
85	Same to same	Apr. 20	Same subject. Incloses memoranda of the New York and Bermudez Company regarding.	1058
	Mr. Hill to Mr. Bowen (telegram).	Apr. 22	Same subject. Directs to investigate report that Venezuelan consul at Port of Spain refused to clear vessel.	1063
	Mr. Bowen to Mr. Hay (telegram).	Apr. 23	Same subject. Reports statement of minister for foreign affairs that Venezuelan war ships are compelled to capture any ship not duly cleared by Venezuelan consuls.	1063
	Mr. Hill to Mr. Bowen (telegram).	Apr. 25	Same subject. Takes exceptions to position of Venezuelan Government.	1063

VENEZUELA—Continued.

No.	From and to whom.	Date.	Subject.	Page
	Mr. Bowen to Mr. Hay (telegram).	1902. Apr. 30	Same subject. Reports that Venezuelan Government protests against clearance of the <i>Viking</i> by United States consul at Port of Spain.	1063
	Mr. Hill to Mr. Bowen (telegram).	....do....	Same subject. Instructs to inform Venezuelan Government that the United States declines to recognize the closure of a port unless supported by an effective blockade.	1064
	Mr. Hay to Mr. Bowen (telegram).	May 1	Same subject. For reasons stated, instructs to request that the vessel be cleared with innocent cargo.	1064
90	Mr. Bowen to Mr. Hay....	May 2	Same subject. Incloses correspondence with foreign office.	1064
92	Same to same.....	....do....	Renewal of diplomatic relations between Venezuela and France. Incloses text of protocol.	1067
	Same to same (telegram)...	May 4	Threatened seizure of the <i>Viking</i> . Reports that clearance will be issued by Venezuelan consul.	1065
93	Same to same.....	....do....	Same subject and tenor. Reports in detail.....	1066
99	Same to same.....	June 1	Protection of Cuban interests by United States consular officials. Reports consent of Venezuela.	1069
	Mr. Hay to Mr. Bowen (telegram).	June 13	Blockade by decree. Instructs to report if Orinoco River is blockaded.	1069
	Mr. Bowen to Mr. Hay (telegram).	June 19	Same subject. States that minister for foreign affairs advises that Orinoco River is not blockaded.	1070
	Same to same (telegram)...	June 29	Same subject. Reports that he has been notified of blockade of certain ports, but doubts its efficiency.	1070
105	Same to same.....	....do....	Same subject. Incloses decree on lines of above telegram.	1070
	Same to same (telegram)...	Aug. 15	Same subject. Reports that blockade is not effective.	1071
	Same to same (telegram)...	Aug. 19	Same subject. Reports having outlined policy of United States in regard to blockade by decree.	1071
122	Same to same.....	Sept. 7	Same subject and tenor.....	1071
81	Mr. Adee to Mr. Bowen....	Sept. 19	Same subject. Approves minister's course.....	1072
	Mr. Bowen to Mr. Hay (telegram).	Sept. 24	Improper use of United States flag by Venezuelan gunboat <i>Restaurador</i> . Reports incident.	1072
	Same to same (telegram)....	....do....	Same subject. Reports reparation made by Venezuelan Government.	1072
127	Same to same.....	....do....	Same subject. Reports in detail.....	1073
82	Mr. Adee to Mr. Bowen....	Oct. 3	Same subject. Incloses report of commanding officer of U. S. S. <i>Marietta</i> regarding.	1074

CORRESPONDENCE.

CIRCULARS.

PASSPORTS—INTENT TO RETURN TO THE UNITED STATES.

Circular.

DEPARTMENT OF STATE,
Washington, January 17, 1902.

To the Diplomatic and Consular Officers of the United States.

GENTLEMEN: The Department has from time to time received complaints from persons sojourning abroad that they have been refused passports because they were unable to state definitely when they intended to return to the United States. The renewed attention of diplomatic and consular officers is therefore called to the Department's circulars^a of instruction of March 27 and September 26, 1899, relative to "Passports for persons residing or sojourning abroad" and "Intent to return to the United States," which should be carefully studied and applied to the construction of the regulations governing the granting and issuing of passports, so that no one who has effectually expatriated himself from the United States shall receive the protection which he has forfeited a right to expect, and, on the other hand, no one shall be denied protection who is a loyal American citizen not permanently and voluntarily absent from this country.

I am, gentlemen, your obedient servant,

JOHN HAY.

PASSPORTS FOR PERSONS RESIDING OR SOJOURNING ABROAD.

Circular.

DEPARTMENT OF STATE,
Washington, March 27, 1899.

To the Diplomatic and Consular Officers of the United States.

GENTLEMEN: It has been represented to the Department that a greater uniformity than now prevails is desirable in the treatment of applications for passports from persons who allege American citizenship, and who have been absent from the United States for a prolonged period and are unable or refuse to give a definite promise of return.

^a See *infra*.

Diplomatic officers and consular officers having authority to issue passports will therefore follow the general principles of this instruction; but wherever a doubt arises as to the propriety of issuing or withholding a passport, they will communicate all the facts of the case to the Department and await its instructions.

This Government does not discriminate between native-born and naturalized citizens in according them protection while they are abroad, equality of treatment being required by the laws of the United States (secs. 1999 and 2000, Rev. Stats.). But in determining the question of conservation of American citizenship and the right to receive a passport, it is only reasonable to take into account the purpose for which the citizenship is obtained. A naturalized citizen who returns to the country of his origin and there resides without any tangible manifestation of an intention to return to the United States may therefore generally be assumed to have lost the right to receive the protection of the United States. His naturalization in the United States can not be used as a cloak to protect him from obligations to the country of his origin while he performs none of the duties of citizenship to the country which naturalized him. The statements of loyalty to this Government which he may make are contradicted by the circumstance of his residence, and are open to the suspicion of being influenced by the advantages he derives by avoiding the performance of the duties of citizenship to any country. It is not to be understood by this that naturalized American citizens returning to the country of their origin are to be refused the protection of a passport. On the contrary, full protection should be accorded to them until they manifest an effectual abandonment of their residence and domicile in the United States.

A passport is in its terms a statement that the person it names and describes is a citizen of the United States, and it is forbidden by law to issue one to any other than a citizen of the United States (sec. 4076, Rev. Stats.). The Secretary of State, and under him our diplomatic and consular officers, with certain restrictions, may grant and issue passports under such rules as the President prescribes (sec. 4076, Rev. Stats.). As a general statement, passports are issued to all law-abiding American citizens who apply for them and comply with the rules prescribed; but it is not obligatory to issue one to every citizen who desires it, and the rejection of an application is not to be construed as per se a denial by this Department or its agents of the American citizenship of a person whose application is so rejected.

A condition precedent to the granting of a passport is, under the law and the rules prescribed by authority of the law, that the citizenship of the applicant and his domicile in the United States and intention to return to it with the purpose of residing and performing the duties of citizenship shall be satisfactorily established. One who has expatriated himself can not, therefore, receive a passport.

Expatriation has been defined by Mr. Hamilton Fish as—

The quitting of one's country, with an abandonment of allegiance and with the view of becoming permanently a resident and citizen of some other country, resulting in the loss of the party's preexisting character of citizenship.

Thus, a person—

may reside abroad for purposes of health, of education, of amusement, of business, for an indefinite period; he may acquire a commercial or civil domicile there, but if he do so sincerely and bona fide animo revertendi, and do nothing inconsistent with his preexisting allegiance, he will not thereby have taken any step toward self-expatriation. But if, instead of this, he permanently withdraws himself and his

property and places both where neither can be made to contribute to the national necessities, acquires a political domicile in a foreign country, and avows his purpose not to return, he has placed himself in the position where his country has the right to presume that he has made his election of expatriation.

There being no legislative definition of what constitutes expatriation, it is a fact to be determined by the circumstances surrounding each case that arises.

But even where expatriation may not be established, a person who is permanently resident and domiciled outside of the United States can not receive a passport.

When a person *who has attained his majority* removes to another country and settles himself there, he is stamped with the national character of his new domicile; and this is so, notwithstanding he may entertain a floating intention of returning to his original residence or citizenship at some future period, and the presumption of law with respect to residence in a foreign country, especially if it be protracted, is that the party is there *animo manendi*, and it lies upon him to explain it. (Mr. Fish to the President, Foreign Relations 1873, 1186 et seq.)

If, in making application for a passport, he swears that he intends to return to the United States within a given period, and afterward, in applying for a renewal of his passport, it appears that he did not fulfill his intention, this circumstance awakens a doubt as to his real purposes, which he must dispel. (Foreign Relations 1890, 11).

The treatment of the individual cases as they arise must depend largely upon attendant circumstances. When an applicant has completely severed his relations with the United States; has neither kindred nor property here; has married and established a home in a foreign land; has engaged in business or professional pursuits wholly in foreign countries; has so shaped his plans as to make it impossible or improbable that they will ever include a domicile in this country—these and similar circumstances should exercise an adverse influence in determining the question whether or not a passport should issue. On the other hand, a favorable conclusion may be influenced by the fact that family and property connections with the United States have been kept up; that reasons of health render travel and return impossible or inexpedient; and that pecuniary exigencies interfere with the desire to return. But the circumstance which is perhaps the most favorable of all is that the applicant is residing abroad in representation and extension of legitimate American enterprises.

The status of American citizens resident in a semibarbarous country or in a country in which the United States exercises extraterritorial jurisdiction is singular. If they were subjects of said power before they acquired citizenship in the United States, they are amenable, upon returning, to the same restrictions of residence as are laid down in the beginning of this instruction, and for the same reasons; but if they are not in that category their residence may be indefinitely prolonged, since obviously they can not become subjects of the native government without grave peril to their safety. The Department's position with respect to these citizens has uniformly been to afford them the protection of a passport as long as their pursuits are legitimate and not prejudicial to the friendly relations of this Government with the government within whose limits they are residing; and the Department has even held that persons who are members of a distinctly American community in Turkey and avail themselves of the extraterritorial rights given by Turkey to such communities may inherit their rights as American citizens, and that section 1993 of the Revised Stat-

utes of the United States which provides that "the rights of citizenship shall not descend to children whose father never resided in the United States" is not applicable, such descendants being regarded, through their inherited extraterritorial rights recognized by Turkey herself, as born and continuing in the jurisdiction of the United States. (Foreign Relations, 1887, 1125.)

I am, gentlemen, your obedient servant,

JOHN HAY.

Circular.

DEPARTMENT OF STATE,
Washington, September 26, 1899.

To the diplomatic and consular officers of the United States.

GENTLEMEN: Information having reached the Department that some of the diplomatic and consular officers of the United States have refused to issue passports to applicants who were unable or unwilling to state that they intended to return to the United States within two years from the date of their applications, you are instructed that the Department does not hold that a passport can not be granted to a person who does not make such a statement. As explained in the Department's circular instruction of March 27, 1899, a passport should not be issued to any person who does not intend to return to the United States or whose expressed intention to return is negatived by circumstances attending his residence abroad, but it is not intended to fix a definite period of time beyond which the protection of a passport is to be refused to a citizen of the United States. A passport is good only for two years from the date of issuance, but a new one may be granted when a new and satisfactory application is made.

I am, gentlemen, your obedient servant,

DAVID J. HILL,
Acting Secretary.

**CHARGE OF DIPLOMATIC MISSION IN THE ABSENCE OF ITS
HEAD—CONSTRUCTION OF ARTICLE 19 OF "INSTRUCTIONS TO
DIPLOMATIC OFFICERS."**

Circular.

DEPARTMENT OF STATE,
Washington, March 25, 1902.

To the diplomatic officers of the United States.

GENTLEMEN: Your attention is called to that clause of article 19 of the "Instructions to diplomatic officers" reading as follows:

In the absence of the head of the mission the secretary acts *ex officio* as chargé d'affaires ad interim, and needs no special letter of credence. In the absence, however, of a secretary and second secretary, the Secretary of State may designate any competent person to act ad interim, in which case he is specifically accredited by letter to the minister for foreign affairs.

In framing this instruction it was contemplated by the Department of State that in all ordinary cases, in the absence of the head of the mission, its affairs should be placed in the temporary charge of the

actual first secretary of the mission, whose official title is "secretary." It is understood by the Department of State that the term "the secretary" of the mission designates the actual first secretary, the designation of the second and third secretaries, when they exist, being specifically noted in their commissions.

It is believed by the Department of State that a generous spirit of mutual consideration will permit questions of leave of absence from their posts to be arranged between the head of the mission and the secretaries under him in such a manner that the secretary of the mission shall always be present during the absence of its head, and vice versa, and such a course is expected by the Department under ordinary circumstances. When, however, an emergency arises requiring the affairs of the mission to be left under the temporary direction of the second or third secretary as chargé d'affaires ad interim, the Department should be first consulted, by telegraph if necessary.

While the Department relies upon the discretion of the head of the mission in determining the time at which the secretaries under him may take their leaves of absence under permission of the Secretary of State, it is to be observed that the secretary in his capacity of chargé d'affaires ad interim will, in the absence of the actual head of the mission, act as its temporary head, and as such should exercise his discretion as to the necessity of the presence of one or both of the other secretaries, if there be such, during the period of his service in that capacity.

I am, gentlemen, your obedient servant,

DAVID J. HELL,
Acting Secretary.

CHARGES AGAINST DIPLOMATIC AND CONSULAR OFFICERS.

Circular.

DEPARTMENT OF STATE,
Washington, April 26, 1902.

To the diplomatic and consular officers of the United States.

GENTLEMEN: I append for your information and guidance copy of an Executive order, dated April 25, 1902, prohibiting diplomatic and consular officers from preferring charges against or criticising any other officer in either service except confidentially to the Department of State.

I am, gentlemen, your obedient servant,

JOHN HAY.

Executive order.

Whereas the publication of alleged charges and criticisms against officers of the diplomatic and consular service, without an opportunity being given for due consideration of both sides of the questions at issue, has led to injustice to the persons attacked and to embarrassment to the Department of State in its disposition of the public business:

It is hereby ordered that hereafter no officer of the diplomatic or consular service of the United States shall attack, or prefer charges against, or publicly criticise, any other officer in either service, except in a communication to the Department of State.

Whenever any such officer deems that his duty compels him to prefer charges against any other officer in either service, he shall communicate such charges confidentially to the Department of State, which will, upon due consideration of all the circumstances, make such disposition of the case as in its discretion seems wise in the interest of the public business.

THEODORE ROOSEVELT.

WHITE HOUSE, *April 25, 1902.*

CESSATION OF MILITARY OCCUPATION OF CUBA BY THE UNITED STATES.

Mr. Hay to Mr. Lord.^a

DEPARTMENT OF STATE,
Washington, May 20, 1902.

SIR: I am directed by the President to inform you that the military occupation of the island of Cuba by the United States has this day ceased, and that an independent government, republican in form, has been inaugurated there, under the Presidency of His Excellency Señor Tomás Estrada Palma.

You are instructed to convey this information through the appropriate channel to the Government to which you are accredited.

I am, etc.,

JOHN HAY.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Hay to Mr. Lord.^b

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 24, 1902.

You are instructed, at the request of the President of Cuba, to ask the Government of Argentina to permit United States consular officers within its jurisdiction to use their good offices in representation of the interests of Cuba and of its citizens until Cuban consuls shall have been appointed.

If permission is granted, notify consuls.

JOHN HAY.

PASSPORTS TO RESIDENTS OF INSULAR POSSESSIONS OF THE UNITED STATES.

[Circular.]

DEPARTMENT OF STATE,
Washington, October 22, 1902.

To the Diplomatic and Consular Officers of the United States.

GENTLEMEN: The laws relating to the issuance of passports having been amended by the act of Congress approved June 14, 1902, so that

^aSame instruction, mutatis mutandis, to all United States diplomatic representatives.

^bSame telegram, mutatis mutandis, to all United States diplomatic representatives.

passports may be issued to loyal residents of the insular possessions of the United States, the President has prescribed rules governing the granting and issuing of passports in the insular possessions of the United States, and has issued an Executive order, dated July 19, 1902, so amending the instructions to the diplomatic officers of the United States and the United States Consular Regulations as to permit diplomatic and consular officers of the United States now authorized to issue passports to issue them to residents of the insular possessions of the United States who make satisfactory applications.

Inclosed is the prescribed form of application for a resident of an insular possession of the United States. The wording of the passports shall be the same in form as that now used for citizens of the United States, except that where the recipient is now described as a "citizen of the United States" he shall be described as a citizen of Porto Rico, or the Philippine Islands, or the island of Guam, as the case may be, owing allegiance to the United States. Blank passports for residents of our insular possessions are now being prepared and will be furnished to the diplomatic and consular officers of the United States having authority to issue them as soon as they have been printed. In the meantime the regular passport, amended to suit the occasion, may be used.

Your attention is invited to that part of the President's Executive order which specifies that the same fee shall be collected by diplomatic and consular officers of the United States for issuing passports to residents of the insular possessions of the United States as is now required for issuing passports to citizens of the United States.

Inclosed with this instruction are the following:

- (a) A copy of the President's Executive order of July 19, 1902.
- (b) A copy of the rules governing the granting and issuing of passports in the United States.
- (c) A copy of the rules governing the granting and issuing of passports in the insular possessions of the United States.
- (d) A form of application for a passport to be used by a resident of an insular possession of the United States.
- (e) The wording of a passport to be issued to a resident of an insular possession of the United States.

Returns of passports and fees shall include passports issued in accordance with this instruction and they shall be included in the same series in numbering.

I am, gentlemen, your obedient servant,

JOHN HAY.

[Inclosure 1.]

Executive order.

The act of Congress approved June 14, 1902, having amended the Revised Statutes of the United States so as to permit of the issuance of passports to persons owing allegiance to the United States, whether citizens of the United States or not, and under such rules as the President shall designate and prescribe on behalf of the United States, the Instructions to Diplomatic Officers of the United States and the United States Consular Regulations are hereby so modified and amended as to permit diplomatic and consular officers of the United States having authority to issue passports to issue them to residents of the insular possessions of the United States who make satisfactory applications. Each applicant under this provision must state, in addition to the information now required in the application of a citizen of the United States, that he owes allegiance to the United States and that he does not acknowledge

allegiance to any other government, and must submit an affidavit from at least two credible witnesses having good means of knowledge in substantiation of his statements of birth, residence, and loyalty. The same fee shall be collected by diplomatic and consular officers of the United States for issuing passports to residents of the insular possessions of the United States as is now required for issuing passports to citizens of the United States.

THEODORE ROOSEVELT.

OYSTER BAY, N. Y., July 19, 1902.

[Inclosure 2.]

Rules governing the granting and issuing of passports in the United States.

1. *By whom issued.*—No one but the Secretary of State may grant and issue passports in the United States. (Rev. Stats., secs. 4075, 4078.)

A person who is entitled to receive a passport if temporarily abroad should apply to the diplomatic representative of the United States in the country where he happens to be; or, in the absence of a diplomatic representative, to the consul-general of the United States; or, in the absence of both, to the consul of the United States. The necessary statements may be made before the nearest consular officer of the United States.

Application for a passport by a person in one of the insular possessions of the United States should be made to the chief executive of such possession.

2. *To whom issued.*—The law forbids the granting of a passport to any person who does not owe allegiance to the United States.

A person who has only made the declaration of intention to become a citizen of the United States can not receive a passport.

3. *Applications.*—A person who is entitled to receive a passport, if within the United States, must make a written application, in the form of an affidavit, to the Secretary of State.

The affidavit must be attested by an officer authorized to administer oaths, and if he has an official seal it must be affixed. If he has no seal his official character must be authenticated by certificate of the proper legal officer.

If the applicant signs by mark, two attesting witnesses to his signature are required.

The applicant is required to state the date and place of his birth, his occupation, and the place of his permanent residence, and to declare that he goes abroad for temporary sojourn and intends to return to the United States with the purpose of residing and performing the duties of citizenship therein.

The applicant must take the oath of allegiance to the Government of the United States.

The application must be accompanied by a description of the person applying, and should state the following particulars, viz: Age, —; stature, — feet — inches (English measure); forehead, —; eyes, —; nose, —; mouth, —; chin, —; hair, —; complexion, —; face, —.

The application must be accompanied by a certificate from at least one credible witness that the applicant is the person he represents himself to be, and that the facts stated in the affidavit are true to the best of the witness's knowledge and belief.

4. *Native citizens.*—An application containing the information indicated by rule 3 will be sufficient evidence in the case of native citizens.

5. *A person born abroad whose father was a native citizen of the United States.*—In addition to the statements required by rule 3, his application must show that his father was born in the United States, resided therein, and was a citizen at the time of the applicant's birth. The Department may require that this affidavit be supported by that of one other citizen acquainted with the facts.

6. *Naturalized citizens.*—In addition to the statements required by rule 3, a naturalized citizen must transmit his certificate of naturalization, or a duly certified copy of the court record thereof, with his application. It will be returned to him after inspection. He must state in his affidavit when and from what port he emigrated to this country, what ship he sailed in, where he has lived since his arrival in the United States, when and before what court he was naturalized, and that he is the identical person described in the certificate of naturalization. The signature to the application should conform in orthography to the applicant's name as written in his certificate of naturalization.

7. *Woman's application.*—If she is unmarried, in addition to the statements required by rule 3, she should state that she has never been married. If she is the wife of a native citizen of the United States the fact should be made to appear in her applica-

tion. If she is the wife or widow of a naturalized citizen, in addition to the statements required by rule 3, she must transmit for inspection her husband's certificate of naturalization, must state that she is the wife (or widow) of the person described therein, and must set forth the facts of his emigration, naturalization, and residence, as required in the rule governing the application of a naturalized citizen.

8. *The child of a naturalized citizen claiming citizenship through the naturalization of the parent.*—In addition to the statements required by rule 3, the applicant must state that he or she is the son or daughter, as the case may be, of the person described in the certificate of naturalization, which must be submitted for inspection, and must set forth the facts of emigration, naturalization, and residence, as required in the rule governing the application of a naturalized citizen.

9. *A resident of an insular possession of the United States who owes allegiance to the United States.*—In addition to the statements required by rule 3, he must state that he owes allegiance to the United States and that he does not acknowledge allegiance to any other government; and must submit an affidavit from at least two credible witnesses having good means of knowledge in substantiation of his statements of birth, residence, and loyalty.

10. *Expiration of passport.*—A passport expires two years from the date of its issuance. A new one will be issued upon a new application, and, if the applicant be a naturalized citizen, the old passport will be accepted in lieu of a certificate of naturalization, if the application upon which it was issued is found to contain sufficient information as to the naturalization of the applicant.

11. *Wife, minor children, and servants.*—When the applicant is accompanied by his wife, minor children, or servant who would be entitled to receive a passport, it will be sufficient to state the fact, giving the respective ages of the children and the allegiance of the servant, when one passport will suffice for all. For any other person in the party a separate passport will be required. A woman's passport may include her minor children and servant under the above-named conditions.

12. *Professional titles.*—They will not be inserted in passports.

13. *Fee.*—By act of Congress approved March 23, 1888, a fee of one dollar is required to be collected for every citizen's passport. That amount in currency or postal money order should accompany each application made by a citizen of the United States. Orders should be made payable to the disbursing clerk of the Department of State. Drafts or checks will not be accepted.

14. *Visés of passports.*—They will not be procured by the Department of State from the representatives of foreign governments.

15. *Blank forms of application.*—They will be furnished by the Department to persons who desire to apply for passports, but are not furnished, except as samples, to those who make a business of procuring passports.

16. *Address.*—Communications should be addressed to the Department of State, Passport Bureau, and each communication should give the post-office address of the person to whom the answer is to be directed.

17. *Rejection of application.*—The Secretary of State may refuse to issue a passport to anyone who he has reason to believe desires it for an unlawful or improper purpose, or who is unable or unwilling to comply with the rules.

Section 4075 of the Revised Statutes of the United States, as amended by the act of Congress approved June 14, 1902, providing that "the Secretary of State may grant and issue passports, and cause passports to be granted, issued, and verified in foreign countries by such diplomatic or consular officers of the United States, and by such chief or other executive officer of the insular possessions of the United States, and under such rules as the President shall designate and prescribe for and on behalf of the United States," the foregoing rules are hereby prescribed for the granting and issuing of passports in the United States.

The Secretary of State is authorized to make regulations on the subject of issuing and granting passports additional to these rules and not inconsistent with them.

THEODORE ROOSEVELT.

OYSTER BAY, N. Y., July 19, 1902.

[Inclosure 3.]

Rules governing the granting and issuing of passports in the insular possessions of the United States.

Section 4075 of the Revised Statutes of the United States, as amended by the act of Congress approved June 14, 1902, providing that "the Secretary of State may grant

and issue passports, and cause passports to be granted, issued, and verified in foreign countries by such diplomatic or consular officers of the United States, and by such chief or other executive officer of the insular possessions of the United States, and under such rules as the President shall designate and prescribe for and on behalf of the United States," the following rules are hereby prescribed for the granting and issuing of passports in the insular possessions of the United States:

1. *By whom issued.*—Application for a passport by a person in one of the insular possessions of the United States should be made to the chief executive of such possession.

A person who is entitled to receive a passport if temporarily abroad should apply to the diplomatic representative of the United States in the country where he happens to be; or, in the absence of a diplomatic representative, to the consul-general of the United States; or, in the absence of both, to the consul of the United States. The necessary statements may be made before the nearest consular officer of the United States.

2. *To whom issued.*—The law forbids the granting of a passport to any person who does not owe allegiance to the United States.

A person who has only made the declaration of intention to become a citizen of the United States can not receive a passport.

3. *Applications.*—A person who is entitled to receive a passport must make a written application in the form of an affidavit.

The affidavit must be attested by an officer authorized to administer oaths, and if he has an official seal it must be affixed. If he has no seal, his official character must be authenticated by certificate of the proper legal officer.

If the applicant signs by mark, two attesting witnesses to his signature are required.

The applicant is required to state the date and place of his birth, his occupation, and the place of his permanent residence, and to declare that he goes abroad for temporary sojourn, and intends to return to the United States or one of the insular possessions of the United States with the purpose of residing and performing the duties of citizenship therein.

The applicant must take the oath of allegiance to the Government of the United States.

The application must be accompanied by a description of the person applying, and should state the following particulars, viz: Age, —; stature, — feet — inches (English measure); forehead, —; eyes, —; nose, —; mouth, —; chin, —; hair, —; complexion, —; face, —.

The application must be accompanied by a certificate from at least one credible witness that the applicant is the person he represents himself to be, and that the facts stated in the affidavit are true to the best of the witness's knowledge and belief.

4. *Native citizens of the United States.*—An application containing the information indicated by rule 3 will be sufficient evidence in the case of native citizens of the United States.

5. *A person born abroad whose father was a native citizen of the United States.*—In addition to the statements required by rule 3, his application must show that his father was born in the United States, resided therein, and was a citizen at the time of the applicant's birth. The Department may require that this affidavit be supported by that of one other citizen acquainted with the facts.

6. *Naturalized citizens.*—In addition to the statements required by rule 3, a naturalized citizen must transmit his certificate of naturalization, or a duly certified copy of the court record thereof, with his application. It will be returned to him after inspection. He must state in his affidavit when and from what port he emigrated to this country, what ship he sailed in, where he has lived since his arrival in the United States, when and before what court he was naturalized, and that he is the identical person described in the certificate of naturalization. The signature to the application should conform in orthography to the applicant's name as written in his certificate of naturalization.

7. *Woman's application.*—If she is unmarried, in addition to the statements required by rule 3, she should state that she has never been married. If she is the wife of a native citizen of the United States the fact should be made to appear in her application. If she is the wife or widow of a naturalized citizen, in addition to the statements required by rule 3, she must transmit for inspection her husband's certificate of naturalization, must state that she is the wife (or widow) of the person described therein, and must set forth the facts of his emigration, naturalization, and residence, as required in the rule governing the application of a naturalized citizen.

8. *The child of a naturalized citizen claiming citizenship through the naturalization of the parent.*—In addition to the statements required by rule 3, the applicant must state that he or she is the son or daughter, as the case may be, of the person described in

the certificate of naturalization, which must be submitted for inspection, and must set forth the facts of emigration, naturalization, and residence, as required in the rule governing the application of a naturalized citizen.

9. *A resident of an insular possession of the United States who owes allegiance to the United States.*—In addition to the statements required by rule 3, he must state that he owes allegiance to the United States and that he does not acknowledge allegiance to any other government; and must submit an affidavit from at least two credible witnesses having good means of knowledge in substantiation of his statements of birth, residence, and loyalty.

10. *Expiration of passport.*—A passport expires two years from the date of its issuance. A new one will be issued upon a new application, and, if the applicant be a naturalized citizen, the old passport will be accepted in lieu of a certificate of naturalization, if the application upon which it was issued is found to contain sufficient information as to the naturalization of the applicant.

11. *Wife, minor children, and servants.*—When the applicant is accompanied by his wife, minor children, or servant who would be entitled to receive a passport, it will be sufficient to state the fact, giving the respective ages of the children and the allegiance of the servant, when one passport will suffice for all. For any other person in the party a separate passport will be required. A woman's passport may include her minor children and servant under the above-named conditions.

12. *Professional titles.*—They will not be inserted in passports.

13. *Rejection of application.*—The chief executive officers of the insular possessions of the United States are authorized to refuse to issue a passport to anyone who there is reason to believe desires it for an unlawful or improper purpose, or who is unable or unwilling to comply with the rules.

THEODORE ROOSEVELT.

OYSTER BAY, N. Y., July 19, 1902.

[Inclosure 4.]

[Fee for passport, \$1.00. Fee for filling out application in duplicate, 50 cents. Fee for administering oath in duplicate, 50 cents.]

Form for resident of an insular possession of the United States.

No. ____ Issued ____ ____, ____.
I, _____, a resident of _____, hereby apply to the _____ of the United States at _____ for a passport for myself, accompanied by _____, as follows: _____, born at _____, on the ____ day of _____, 1____, and _____.

I solemnly swear that I was born at _____, in the island of _____, on or about the ____ day of _____, 1____; that my father is a citizen of _____; that I am domiciled in the island of _____, my permanent residence being at _____, where I follow the occupation of _____; that I left the _____ on the ____ day of _____, 1____, and am now temporarily sojourning at _____; that I am the bearer of passport No. ____, issued by _____ on the ____ day of _____, 1____; that I intend to return to _____, with the purpose of residing and performing the duties of citizenship therein; that I owe allegiance to the United States, and do not acknowledge allegiance to any other government.

OATH OF ALLEGIANCE.

Further, I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely, without any mental reservation or purpose of evasion: So help me God.

____ of the United States at _____.

Sworn to before me this ____ day of _____, 1____.

DESCRIPTION OF APPLICANT.

Age, ____ years. Stature, ____ feet ____ inches, Eng. Forehead, _____. Eyes, _____.
Nose, _____. Mouth, _____. Chin, _____. Hair, _____. Complexion, _____. Face, _____.
_____.

FOREIGN RELATIONS.

SUPPORTING AFFIDAVITS.

I.

I, _____, a resident of _____, solemnly swear that I have known _____, the above-named applicant for a passport, for _____ years; that I know of my personal knowledge that he is a resident of _____, and that he is loyal to the Government of the United States; and to the best of my knowledge and belief the said _____ was born in _____, on or about _____, _____.

Sworn to before me this _____ day of _____, 19____.

II.

I, _____, a resident of _____, solemnly swear that I have known _____, the above-named applicant for a passport, for _____ years; that I know of my personal knowledge that he is a resident of _____, and that he is loyal to the Government of the United States; and to the best of my knowledge and belief the said _____ was born in _____, on or about _____, _____.

Sworn to before me this _____ day of _____, 19____.

[Inclosure 5.]

[Good only for two years from date.]

_____ of the United States of America at _____.

To all to whom these presents shall come, greeting:

Description.—Age, _____ years. Stature, _____ feet _____ inches, Eng. Forehead, _____, Eyes, _____, Nose, _____, Mouth, _____, Chin, _____, Hair, _____, Complexion, _____, Face, _____.

(Signature of the bearer.) _____.

I, the undersigned, _____, of the United States of America, hereby request all whom it may concern to permit _____, a citizen of _____, owing allegiance to the United States, _____, safely and freely to pass, and in case of need to give _____ all lawful aid and protection.

Given under my hand and the seal of the _____ of the United States at _____, the _____ day of _____ in the year 19____, and of the independence of the United States the one hundred _____.

No. _____.

ARGENTINE REPUBLIC.

EXTRACTS FROM MESSAGE OF PRESIDENT OF ARGENTINE REPUBLIC.

Mr. Lord to Mr. Hay.

No. 186.]

LEGATION OF THE UNITED STATES,
Buenos Aires, May 10, 1902.

SIR: I have the honor to transmit copies in Spanish of the message^a read by his excellency the President of the Republic, Lieut. Gen. Julio A. Roca, at the opening of the sessions of the Argentine Congress on the 8th instant, and to inclose herein copy in English of its most important passages taken from the Standard of the 9th instant.

The message is a plain document that deals in a general way with the affairs of the country. It is quite hopeful, even optimistic, in sentiment, but contains little but what was already known. Its delivery was awaited with much interest by the public in the expectation that it would be full and explicit on two points deemed of vital importance at this time, namely, international relations and the financial situation. Especially was there a good deal of curiosity to know the status of the negotiations carried on through the friendly mediation of the British Government to bring about an agreement for limitation of armaments between the Governments of Argentina and Chile, but the general way in which this matter is treated in the message was a great disappointment. It is probable that the President would have been more explicit as to the state of such negotiations had not the untimely death of Dr. Alcorta, minister of foreign relations, occurred, which doubtless had the effect to put its consideration temporarily in abeyance, rendering it inconvenient to do more than refer to such negotiations in a general way.

Upon the question of limitation of armaments, the President says:

Happily, it appears that a better and more cordial understanding will be established in our relations with the Chilean Republic, negotiations having been opened in Santiago through the friendly mediation of the British Government for the rational limitation of the armaments which are pressing on both countries, with great prejudice to their credit and well-being.

The circumstances which led to the suggestion for a mutual limitation of armaments seem to have arisen from conditions prevailing in Argentina and Chile materially affecting their credit and welfare. Both countries have incurred heavy expense for the equipment and maintenance of largely increased army and naval forces. Chile has recently contracted for two formidable warships involving a heavy cost with the object of putting her navy upon an equality with the

^a Not printed

Argentine navy, whereupon Argentina, not to be outdone, contracted for two war ships larger in size and perhaps more formidable at a like heavy cost in order to continue and maintain her naval superiority. The costly expenditures incurred on account of war and naval preparations is paralyzing industrial activity and commercial enterprise. Both countries are largely in debt and confronted with a deficit. Both have appropriated their conversion funds which had been set apart for a specific purpose, and which, it would seem, should have been preserved inviolable. Neither is able to make a foreign loan without paying a high rate of interest and giving guarantees to meet the additional expenses which their war policy is incurring, and both Governments know and their people know that the only remedy to which either can resort to meet existing financial conditions is to levy fresh taxes of some description, notwithstanding nearly everything that can be taxed is now taxed to the utmost limit. The weight of taxation already imposed bears heavily upon the energies and activities of the people. The outlook is not promising, business being dull, wage employment scarce, and failures frequent. With this condition of affairs confronting them, Argentina and Chile fully realize that their war policy is fraught with ruinous consequences to their credit, their Governments, and their people, and that the dictates of wisdom and common sense demand that some means should be devised of stopping costly expenditures.

In Chile as in Argentina, the British people own large and valuable property interests of various descriptions, much larger in the latter than in the former, * * * and they are anxious, even eager, to have a peaceful solution of pending difficulties, believing that its effect would be to relieve business depression and improve the financial condition of both countries.

Looking at this condition of things, it would be reasonable to suppose that Argentina and Chile would be in a favorable state of mind to listen to any suggestions having for their object the curtailment of expenses and leading to a better and more friendly understanding. The purchase of the two war ships by Chile, involving a heavy expense, was certain to be followed by a like increase in the naval force of Argentina, and this circumstance, in connection with those to which I have referred, seems to have led to the suggestion that the best way to stop further expenditures was for both countries to agree upon a mutual limitation of armaments.

It is supposed that the Chilean Government hinted to Mr. Lowther, the British minister at Santiago, that it would view with pleasure his intervention in favor of disarmament. Mr. Lowther, by letter, communicated this information to Sir William Barrington, the British minister in Buenos Aires, who at once tendered his good offices to the Argentine Government with a proposition for disarmament, embodying, it is said, the canceling of orders for the ironclads which the Argentine Government then had under consideration. It is understood that the Argentine Government refused to entertain this proposition. And, at this stage of the negotiations, it is also understood that the British Government had absolutely nothing to do with the proposition. These events occurred sometime between the 15th and 30th of April. In the meantime Mr. Concha, the Chilean minister, who had been on a leave of absence, returned to Buenos Aires and immediately placed himself in communication with the Argentine

Government and, as I understand, offered a proposition more restricted in its terms and to the effect that no further armaments should be made, and that the two countries should restrict themselves to those already ordered. At this time the Chilean Government had already ordered two ironclads, and it is supposed that, if the Argentine Government should accept the proposition to make no further armaments, Chile would have equal, if not greater, naval strength than Argentina. If this supposition is true, the Chilean Government was under a wrong impression, for the Argentine Government had already ordered the construction of two ironclads which would continue her naval supremacy.

About this time General Mitre, who now stands high in the councils of the Argentine Government, wrote an article for *La Nación*, an influential newspaper, edited by his son, taking the ground that the Argentine Government should not interfere in Pacific coast troubles.

This article exerted a great deal of influence, but considerable opposition was expressed to its views, as a lively feeling of sympathy has always existed here in favor of Peru and Bolivia since their war with Chile. The *Mercurio*, of Santiago, noticing this article, stated in substance that, if it should be the policy of the Argentine Government not to interfere in the affairs of the Pacific, it would open the road to good feelings and be a guaranty to better relations between both countries. The Chilean Government has always maintained that the Argentine Government should not meddle in the affairs of the West coast. * * *

Referring now to the negotiations pending, after the proposition for a limitation of armaments had been initiated as above mentioned, the British Government tendered its friendly mediation, and the negotiations since have been conducted by its respective ministers under its auspices, as appears in the Presidential message.

These are the facts and circumstances, as far as I am able to gather them, leading to the initiation and connected with the progress of these negotiations, which have been conducted with much reserve, rendering their ascertainment difficult. The result of such negotiations, which were temporarily interrupted by the death of Dr. Alcorta, are now awaited with much interest and curiosity.

The financial portion of the message fully sets forth all matters connected with the debt revenue, etc., and is decidedly optimistic in tone. The President evidently does not share the fears entertained by the people with reference to the financial condition of the country. This portion of the message has attracted a good deal of attention and provoked some criticism as to its statement. The President refers to the steps being taken toward the settlement of the boundary question, to the policy of the Government in favor of arbitration, and also refers in complimentary terms to the army and navy, and states that the ministry of agriculture intends to forward colonization and settlement of the country. Outside of the financial statement, there is nothing of particular importance in the message. The President has evidently held in reserve much that he would have more fully and definitely stated if the delivery of his message had come later.

As the message was so meager in its reference to the negotiations now pending for limitation of armaments, I concluded that it might be of interest to detail the facts and circumstances as I understand them.

I have the honor to be, etc.,

WM. P. LORD.

[Inclosure.—From the Standard, May 9, 1902.]

Extracts from the President's message.

Senators and Deputies:

I come to open your ordinary session under the sorrowful impression caused by the unexpected death of Dr. Amancio Alcorta, minister of foreign affairs, whose disappearance from among us has profoundly afflicted the whole country, which loses in him one of its noblest, most constant, and most disinterested servants.

The Republic is at peace with all sovereign states. The boundary questions have been already settled, or are in the way of being so, in the regular course established for the purpose in the respective conventions.

In order to draw closer our relations with the civilized world, and especially with the countries of America, we have celebrated several arbitration treaties which will, in due course, be submitted to you for consideration; and we have assisted at the second international congress, held in Mexico, all the States of the continent being there represented, and where the delegates of this country faithfully represented our international policy.

We have, in fact, a foreign policy sanctioned by a long tradition, in accordance with which we have invariably sought, either by direct agreement or by arbitration, a friendly settlement of all our differences and this policy has never been altered, even by the extreme exigencies of war or victory.

This invariable course of conduct should also have its influence in the pacific termination of all other differences, although they may arise from incidents or complications which, by arousing national sentiment and awakening natural distrust, force us to increase our military strength, as has happened on several occasions, putting the patriotism and vigor of the country to the test. No state has a right to consider this course in the light of hostility or offense, as it is simply dictated by self-defense, considering the precedents on record, our respect for the independence of others, and the sentiments of justice and international fraternity which we have always endeavored to diffuse in this part of America.

We can thus consider at an end the last boundary question which we had with Chile, which was submitted by both sides to His Britannic Majesty for arbitration. A distinguished expert sent by him is now surveying the territory in dispute, and his report will precede the award on this last territorial question bequeathed to us by the colonial régime.

The just expectations of the two peoples directly interested in this long boundary dispute and those of the nations that have large commercial interests at stake in them will be sorely defrauded if, once the award is given, all distrust and uncertainty do not vanish, and we can not have full enjoyment of the benefits of peace, thus reestablishing between the two countries the cordial and frank relations that should never be interrupted.

FINANCE.

The financial situation at the beginning of the presidential period toward the end of 1898 was difficult and complicated. At that time Congress passed a law authorizing the Executive to contract a loan of \$30,000,000 gold, guaranteed by the proceeds of the alcohol tax and without specified limits of interest and amortization, voting a lump sum of \$4,000,000 gold per annum to cover the service. The product of the loan was to cancel the floating debt.

The loan, however, was not carried through because the proposals did not satisfy the Government. Meantime, as it was indispensable to meet heavy obligations, a plan of unification of the public debt was laid before Congress, but I deemed it advisable to withdraw it, even after the sanction of the Senate had been obtained, in view of the opposition on the part of the public.

This plan having been replaced by the projects submitted to and approved of by you in the same year, the Executive has availed itself discreetly of the resources which accrued, thereby vanquishing the difficulties and attending to obligations which had their origin either in the past or proceeded from extraordinary circumstances. In order to appreciate with exactitude the actual situation it is necessary to consider the difficulties with which it was surrounded.

The revenue has been greater than in other years and greater than the estimates. The latter, according to the budget, were calculated at \$62,300,000 paper and \$37,991,718 gold, whereas the revenue returns were \$62,341,306 paper and \$38,244,638 gold, giving a surplus of \$600,000 paper over the estimates and of \$850,000 paper over the revenue of 1900.

The gold revenue for years past has shown almost a constant increase, but the paper revenue has fluctuated. The latter in 1897 stood at \$61,000,000, dropped to

\$50,000,000 in 1898, only to expand again to \$61,420,000 in 1899, which figure has been exceeded in the last two years.

The budget fixed the expenditure for 1901 at \$92,466,605 paper and \$26,025,175 gold, and the expenditure effected was \$23,835,847 gold and \$91,160,225 paper.

The surplus of gold revenue over the gold expenditure was sufficient to cover the deficit in paper and leave a net surplus revenue of about \$4,000,000 paper.

By decrees of the Executive \$380,327 paper was spent on post-office and telegraph service and on the Sociedad de Beneficencia de la Capital.

In the finance report you will find other data relating to sums paid in virtue of special laws.

The home consolidated debt on December 31, 1901, stood at \$89,610,983 paper and \$17,863,000 gold. But in the paper debt is included \$8,200,000, served by the National Bank (\$7,000,000) and by the province of Tucuman (\$1,200,000). The gold debt is almost purely nominal, comprising \$12,698,400 of the free banks law, which, held by the Banco Nacional, return neither interest nor amortization. As the Banco Nacional in liquidation is debtor of the National Government to a much larger amount, the Government can withdraw and burn these bonds, and it is advisable that this be done. In the gold debt also figures \$1,514,500, served by the National Mortgage Bank.

It is shown, therefore, that the home debt of the nation really amounts to \$81,410,983 paper and \$3,268,000 gold.

The amortization effected during the year amounted to \$7,689,500 paper and \$74,500 gold, but as some bonds were emitted corresponding to withdrawal of national-bank shares and consolidation of floating debt, the reduction really on the year only amounts to \$3,853,000 paper and \$74,500 gold.

The foreign debt apparently on December 31, 1901, stood at \$386,451,295 gold. In reality it is much smaller. In the above sum is included \$46,487,468 gold, of which the service is paid by the provinces of Buenos Ayres and Santa Fe and by the Banco Nacional. Furthermore there is included \$29,858,371 gold in bonds, the property of the nation. Besides this the provinces of Cordoba and Entre Rios contribute with the amounts specified by the budget to the service of their debts.

Discarding, therefore, these partial amounts which do not properly constitute a debt or national burden, it can be said that the total foreign debt of the nation is in round figures \$300,000,000, which will be constantly reduced by regular amortization.

The Executive has spared no effort to prepare and assure better credit for the nation, neglecting no economy which could be conciliated with proper administration and the exigencies of military organization. The service of our public debt has been most punctually attended to and will be continued as one of the most sacred compromises of the country. There are certain extraordinary items of expenditure which will require extraordinary appropriations, and the minister of finance will in due course lay before you the projects which have been prepared to this end. Every plan in this respect must be based upon the reduction, to utmost possible extent, of our ordinary expenditure. Our rule should be to suppress what is not necessary, to reduce even what is useful, and postpone what is not urgent and indispensable until the pressing difficulties of the moment pass.

* * * * *

COMMERCE.

Every day sees our commercial and industrial action extending, in spite of various calamities. Our production in all its branches is increasing considerably and the sources of public wealth are intact. The balance of our commercial and industrial movement is always favorable. Our imports and exports in 1900 totaled \$268,000,000 gold, and in 1901 they were \$281,675,000 gold—say a round increase of \$14,000,000 gold. In 1900 our exports were \$41,000,000 more than our imports, and last year the difference was \$53,700,000. Our exports in 1900 amounted to \$154,600,000. Last year they were \$167,700,000, an increase of \$13,000,000.

In the \$167,700,000 are included our estancia products, more than \$90,000,000—that is, \$20,000,000 more than in the preceding year. And this increase is all the more remarkable since the exportation of live stock was necessarily reduced in consequence of the closing of British ports. On the other hand, frozen and preserved meat exports rose and the export of wool shows an increase of \$16,675,000 gold over the figures of the preceding year.

The decrease in agricultural products is insignificant when compared with these figures. It is only \$5,800,000.

If our wheat exports show a considerable falling off, the exportation of other grain shows an increase that almost makes up for the falling off in question. Our total agricultural exports were \$71,596,000.

The returns for the first quarter of this year are not less favorable. Our exports and imports total \$84,296,000, our exports being \$29,000,000 more than our imports. In 1901 the surplus for the same period was not more than \$17,000,000. It is noticeable, in this first period of the year, that our cattle products more than make up for the passing falling off in our agricultural products, and principally wheat, owing to the bad harvests in Cordoba, Santa Fe, and Entre Rios. Notwithstanding, there has been a very perceptible improvement in the value of other agricultural products, particularly linseed.

Our inland, fluvial, and coasting trade shows a healthy increase. In 1900 it was \$50,221,000 gold. Last year this figure was \$64,621,000 gold. The increase of our trade with the South is deserving of special notice, for this trade was in 1901 \$4,160,000; that is, double the figures of the preceding year.

All these figures go to prove that the country possesses in its sources of expansion and development ample means to overcome those unavoidable crises to which young nations are exposed owing to their overconfidence in the vigor of their force and natural riches.

* * * * *

CHILEAN IMBROGLIO.

Of late years the Republic has been put to the severest tests in economic and financial matters and in affairs of an international character, and it has dominated them all or is doing so with prudence and energy.

The nation now rests on firm foundations and is easily recovering from the profound crises through which it passed, having acquired in them painful but useful experience for the future, for there is no evil nor public misfortune that does not teach an advantageous lesson. It was thought that the Argentine people had given itself up exclusively to commercial speculation, to the desire of lucre and gain, and that it had become enervated in those noble moral faculties that constitute the soul of a nation, but the threat or suspicion of a danger from abroad was sufficient to rouse it and to make it reveal all the energy and military strength which it is capable of displaying.

The economy of the country has not suffered from the great efforts made to acquire the armaments demanded by the circumstances.

Happily, it appears that a better and more cordial understanding will be established in our relations with the Chilean Republic, negotiations having been opened in Santiago through the friendly mediation of the British Government for the rational limitation of the armaments which are pressing on both countries with great prejudice to their credit and well-being.

The vigor of a people can be best appreciated in difficult moments, and as we have never weakened or retroceded in adverse circumstances, we ought to have more confidence than ever in the future destinies of the Republic.

With this conviction, and invoking the favors of Divine Providence for your deliberations, I declare open the legislative period of 1902.

JULIO A. ROCA.

ADJUSTMENT OF DIFFICULTY BETWEEN ARGENTINE REPUBLIC AND CHILE.

Mr. Lord to Mr. Hay.

No. 191.] LEGATION OF THE UNITED STATES,
Buenos Aires, June 3, 1902.

SIR: I have the honor to inclose herewith, in copy and translation, the texts of the peace agreements entered into and signed at Santiago on the 28th ultimo by the representatives of Chile and the Argentine Republic. These documents are four in number, namely:

1. A political convention declaring the international policy of the two Republics;
2. A treaty of general arbitration;
3. An agreement for the reduction of naval forces; and
4. An arrangement for having the boundary line between the two

countries, when determined by the arbitrator, carried into effect by engineers appointed by him.

The treaty of general arbitration is an agreement to submit to arbitration every dispute of whatever nature and from whatever cause that may arise, provided they do not affect the precept of the Constitution and can not be settled by direct negotiation. The agreement also includes the appointment of His Britannic Majesty as arbitrator, whose award is to be final, its execution being confided to the honor of the two Republics. The terms of this agreement are wide and comprehensive, and would appear to include all controversies that can possibly arise between the two Republics.

The reduction of the naval forces contemplated by the agreement will relieve both countries from a heavy outlay of expense which each was about to make in the acquisition of new iron-clads. It is also agreed in substance that a diminution of their respective fleets shall be effected within a year, and that neither Government is to increase them during the term of five years without giving notice eighteen months previously.

The agreement with reference to the boundary line between the two countries secures the execution of the award without the risk which might arise from differences of opinion between Chilean and Argentine experts.

Concerning international questions affecting Pacific coast matters the declarations of policy of the respective representatives of the two Governments in the preamble or convention was made an integral part of the agreement.

These agreements seem to give general satisfaction to the people here, and they will doubtless be ratified by the Argentine Congress.

It is stated that the President will not present them to the Senate for their consideration for a few days, owing to the necessity of having to wait until the messenger arrives with them and the papers connected therewith from Santiago.

I have, etc.,

WM. P. LORD.

[Inclosure.—Translation.]

The Chilean minister of foreign relations, Señor Don José Francisco Vergara Donoso, and the envoy extraordinary and minister plenipotentiary of the Argentine Republic, Señor Don José Antonio Terry, having met in conference in the Chilean ministry of foreign relations for the purpose of agreeing upon the rules to which shall be submitted such disputes of whatsoever nature as may disturb the friendly relations which exist between the two countries and of thus rendering permanent the peace so far preserved, notwithstanding the periodic alarms that have arisen from the protracted question of boundaries, the minister of the Argentine Republic declared:

That the intention of his Government, in conformity with international policy which it had always observed, was to endeavor in every instance to settle questions with other nations in a friendly manner; that the Government of the Argentine Republic had carried out this policy successfully, adhering to its own rights and respecting to the fullest extent the sovereignty of other nations without concerning itself in their internal affairs or their foreign questions; that, in consequence, it was incapable of entertaining thoughts of territorial expansion; that it would continue in this policy, and that he made these declarations, now that the moment had arrived for Chile and the Argentine Republic to remove all causes of disturbance in their international relations, with the belief that he was giving expression to the public sentiment of his country.

The minister of foreign relations declared, in return, that his Government had held and now holds the same high principles that the minister of the Argentine

Republic had just given expression to in the name of his Government; that Chile had given numerous proofs of the sincerity of its aspirations by incorporating in its international agreements the principle of arbitration as a means of settling questions with friendly nations; that, respecting the independence and integrity of other States, it, too, entertains no thoughts of territorial expansion except such as may result from the carrying out of treaties now in force or hereafter to be negotiated; that it would continue in this policy; that, happily, the question of boundaries between Chile and the Argentine Republic had ceased to be a menace to peace now that both countries were awaiting the speedy decision of His Britannic Majesty; that, in consequence, in the belief that he interpreted the public sentiment of Chile, he made these declarations, thinking, as did the Argentine minister, that the moment had arrived for removing all cause of disturbance in the relations between the two countries.

In view of this uniformity of principles, it has been agreed:

First. To draw up a general arbitration treaty which shall guarantee the fulfillment of the declarations cited.

Second. To include in the protocol the present conference, the import of which shall be considered an integral part of the arbitration treaty itself.

In witness whereof they have signed two copies of this document, the 28th day of May, 1902.

J. A. TERRY.

J. F. VERGARA DONOSO.

The Governments of the Argentine Republic and of the Republic of Chile, animated by the common desire of settling by friendly means any question that may arise between the two countries, have resolved to draw up a general treaty of arbitration, to which end they have constituted ministers plenipotentiary, viz:

His Excellency the President of the Republic of Chile, Señor Don José Francisco Vergara Donoso, minister of state in the department of foreign relations;

His Excellency the President of the Argentine Republic, Señor Don José Antonio Terry, envoy extraordinary and minister plenipotentiary of that country:

Who, having communicated their respective plenary powers, which they have found to be full and sufficient and executed in due form, have agreed to the stipulations contained in the following articles:

ARTICLE 1. The high contracting parties bind themselves to submit to arbitration every difficulty or question of whatever nature that may arise between them, provided such questions do not affect the precepts of the respective constitutions of the two countries and that they can not be solved through direct negotiation.

ART. 2. This treaty does not embrace those questions that have given rise to definite agreements between the two parties. In such cases the arbitration shall be limited exclusively to questions of validity, interpretation, or fulfillment of these agreements.

ART. 3. The high contracting parties designate as arbitrator the Government of His Britannic Majesty or, in the event of either of the powers having broken off relations with the British Government, the Swiss Government.

Within sixty days from the exchange of ratifications the British Government and the Swiss Government shall be asked to accept the charge of arbitrators.

ART. 4. The points of controversy, questions or divergencies shall be specified by the high contracting parties, who may determine the powers of the arbitrator or any other circumstance connected with the procedure.

ART. 5. In the case of divergence of opinion, either party may solicit the intervention of the arbitrator, who will determine the circumstances of procedure, the contracting parties placing every means of information at the service of the arbitrator.

ART. 6. Either party is at liberty to name one or more commissioners near the arbitrator.

ART. 7. The arbitrator is qualified to decide upon the validity of the obligation and its interpretation, as well as upon questions as to what difficulties come within the sphere of the arbitration.

ART. 8. The arbitrator shall decide in accordance with international law, unless the obligation involves the application of special rules or he have been authorized to act as friendly mediator.

ART. 9. The award shall definitely decide each point of controversy.

ART. 10. The award shall be drawn up in two copies.

ART. 11. The award legally delivered shall decide within the limits of its scope the question between the two parties.

ART. 12. The arbitrator shall specify in his award the term within which the award shall be carried out, and he is competent to deal with any question arising as to the fulfillment.

ART. 13. There can be no appeal from the award, and its fulfillment is intrusted to the honor of the signatory powers. Nevertheless, the recourse of revision is admitted under the following circumstances:

1. If the award be given on the strength of a false document;
2. If the award be the result, either partially or totally, of an error of fact.

ART. 14. The contracting parties shall pay their own expenses and each a half of the expenses of the arbitration.

ART. 15. The present agreement shall last for ten years from the date of the exchange of the ratifications, and shall be renewed for another term of ten years, unless either party shall give notice to the contrary six months before expiry.

The present treaty shall be ratified and the ratifications shall be exchanged in Santiago, Chile, within six months from date; in witness whereof the plenipotentiaries of the Argentine Republic and of the Republic of Chile have signed the present treaty and caused it to be sealed with their respective seals in duplicate in the city of Santiago, the 28th day of May, 1902.

J. A. TERRY.
J. F. VERGARA DONOSO.

The Chilean minister of foreign relations, Señor Don José Francisco Vergara Donoso, and Señor Don José A. Terry, envoy extraordinary and minister plenipotentiary of the Argentine Republic, met together in the Chilean ministry of foreign relations, have agreed to set forth in the following convention the various resolutions, adopted with a view to limiting the naval armaments of the two Republics, resolutions which have been made through the initiative and the good offices of the Government of His Britannic Majesty, represented in Chile by its envoy extraordinary and minister plenipotentiary, Mr. Gerard A. Lowther, and in the Argentine Republic by its envoy extraordinary and minister plenipotentiary, Sir W. A. C. Barrington:

ARTICLE 1. In order to remove every source of anxiety the Governments of Chile and the Argentine Republic desist from acquiring the war vessels they have in course of construction and from making fresh acquisitions.

Both Governments agree, moreover, to reduce their respective fleets, for which purpose they will continue to negotiate, until they arrive at an agreement productive of a discreet equipoise of their respective naval forces.

This reduction must be made within twelve months from the date of the present agreement.

ART. 2. The two Governments bind themselves not to increase their naval armaments, without previous notification of eighteen months, during a period of five years. This clause does not affect the fortification of coasts and ports, and either Government may acquire any floating machinery for that particular defense, such as submarines, etc.

ART. 3. The sales to which this agreement may give rise shall not be made to any country having questions pending with either of the contracting parties.

ART. 4. With a view to facilitating the transfer of pending contracts, both Governments bind themselves to extend for two months the term stipulated for the delivery of their respective vessels in construction, for which purpose they will give the necessary instructions on signing the present agreement.

ART. 5. The ratifications of the present agreement shall be exchanged within sixty days from date, and the exchange shall take place in Santiago.

In witness whereof the undersigned sign and seal in duplicate the present convention in the city of Santiago, the 28th day of May, 1902.

J. A. TERRY,
J. F. VERGARA DONOSO.

Agreement (for collocation of boundary marks).

Met together in the ministry for foreign relations of Chile, the minister of that department, Señor Don José Francisco Vergara Donoso, and the envoy extraordinary and minister plenipotentiary of the Argentine Republic, Señor Don José Antonio Terry, duly authorized and acting in accordance with the boundary treaty of July 23, 1881, the protocol of May 1, 1893, the agreement of April 17, 1896, and the acts

of September 15, 17, and 22, 1898, in order to avoid any difficulty in the actual demarkation of the boundary line between the two countries in the first part submitted to the decision of His Britannic Majesty, do agree, in the name of their respective Governments, to ask the arbitrator to name a commission which shall fix in the territory in question the boundary marks which he shall order in his decision. In witness whereof they sign this agreement in duplicate, in Santiago, the 28th day of May, 1902.

J. A. TERRY,
J. F. VERGARA DONOSO.

Supplementary communications.

SANTIAGO, May 26, 1902.

MR. MINISTER: In view of the advanced stage already arrived at in the process of settling by arbitration the boundaries between our respective countries, a stage which permits us to believe that the decision will soon be rendered, my Government, ever animated by the desire that this protracted question be settled as soon as possible, would be extremely gratified if your excellency's Government, in case it intends to avail itself of the right to present a new deposition, would do so in such form as will not prevent the arbitrator from rendering his decision within the present year.

Awaiting your excellency's reply with reference to this point, I take pleasure in renewing to your excellency the assurances of my most distinguished consideration.

JOSÉ FRANCISCO VERGARA DONOSO.

His Excellency Señor Don JOSÉ A. TERRY,
Envoy Extraordinary and Minister Plenipotentiary of the Argentine Republic.

SANTIAGO, May 28, 1902.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's note, dated the 26th instant, in which you are pleased to inform me that in view of the advanced stage already reached in the process of settling by arbitration the boundaries between our respective countries, your Government, ever animated by the desire that this protracted question be concluded as soon as possible, would be extremely grateful if the Argentine Government would cooperate in this connection in such manner as in its judgment seems most suited to facilitate the task of the arbitrator and to enable him to render his decision within the current year.

In reply, Mr. Minister, it gratifies me to inform you that I have received instructions from my Government which enable me to state that it is animated by the identical considerations with those given expression to by your excellency, and that it is disposed to facilitate the task of the arbitrator so that he may give his decision within the period already indicated, to which end it will take the necessary measures.

It also gratifies me, Mr. Minister, to improve this opportunity to reiterate to your excellency the assurances of my most distinguished consideration.

J. A. TERRY.

His Excellency the MINISTER OF FOREIGN RELATIONS OF CHILE.

SANTIAGO, May 28, 1902.

MR. MINISTER: The second part of article 1 of the agreement entered into for limiting the naval armaments of Chile and the Argentine Republic says:

"Both Governments agree, moreover, to decrease their respective fleets, to which end they will continue negotiations until they arrive at an arrangement that will bring about a suitable equality between said fleets. This decrease shall be effected within one year from the date of the exchange of ratifications of this agreement."

This Government understands that the differences which may arise with reference to the execution of the clause cited are to be settled by the arbitrator in conformity with the dispositions of article 1 of the general treaty of arbitration concluded on this date.

Hoping that your excellency will kindly inform me of your Government's opinion on this point, I take pleasure in renewing to your excellency the assurances of my high consideration.

JOSÉ FRANCISCO VERGARA DONOSO.

His Excellency Señor Don JOSÉ A. TERRY,
Envoy Extraordinary and Minister Plenipotentiary of the Argentine Republic.

SANTIAGO, May 28, 1902.

MR. MINISTER: I have had the honor to receive your excellency's note of even date, in which you inform me that your Government interprets the second part of article 1 of the agreement on limiting armaments to the effect that any difference of opinion which may arise and which can not be arranged within the year between the chanceries shall be a matter for general arbitration, conformably with the treaty this day concluded.

In reply, it gives me pleasure to inform your excellency that my Government gives the same interpretation to the clause in question.

I renew to your excellency the assurances of my distinguished consideration.

J. A. TERRY.

His Excellency the MINISTER OF FOREIGN RELATIONS OF CHILE.

Mr. Lord to Mr. Hay.

No. 200.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, September 1, 1902.

SIR: Referring to my No. 191, of June 3 last, I have the honor to inform you that on Sunday, August 24, an official Te Deum was celebrated in the cathedral of this city in commemoration of the signing by Chile and by the Argentine Republic of the peace agreements therein referred to. The Argentine war ship *San Martin* left yesterday the port of Bahia Blanca en route for Chile with the purpose of effecting the exchange of ratifications.

I have, etc.,

WM. P. LORD.

REFUSAL TO EXEMPT OPERATORS OF CENTRAL AND SOUTH AMERICAN TELEGRAPH COMPANY FROM MILITARY SERVICE.

Mr. Hay to Mr. Lord.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 21, 1901.

(Mr. Hay directs Mr. Lord to informally inquire if Argentine Government would exempt operators of Central and South American Telegraph Company, employed at stations on land lines between Buenos Ayres and Chilean frontier, from military conscription.

Such exemption would seem to be appropriate, the services of the operators being necessary and publicly useful.)

Mr. Lord to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, December 23, 1901.

(Mr. Lord reports that under the new military law recently enacted the minister of war is unable to grant the exemption of operators as suggested in Department's telegram of 21st instant. On account of abuses, the clause under which such exemptions were formerly authorized was omitted from the present law.)

Mr. Lord to Mr. Hay.

No. 161.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, January 7, 1902.

SIR: I have the honor to confirm your telegram^a of the 21st ultimo, and to inform you that, immediately upon its receipt, I called upon the minister of war, Col. Pablo Riccheri, and stated to him the substance of your cablegram, and inquired whether, in view of the nature of their services, the Argentine Government would exempt such operators of the Central and South American Telegraph Company from the conscription of men born in 1878 and 1879. The minister expressed the opinion that he did not think such exemption could be granted under the present law. He then stated in substance, after examining the law, that it was not possible to do so under any of the exemption clauses. I asked him if there was not some general clause investing the Government with the power to exempt in particular cases which could not be classified under exemption heads, and he answered that the clause under which such exemptions were formerly authorized was omitted from the present law on account of the abuses which had grown out of it. He expressed much regret that he was unable to be of service in the matter, and a willingness to render any aid in his power by way of leaves of absence to such operators to remain at their offices.

To-day I called at the ministry of war office to inquire with reference to the zones in the territory of the Republic to which the mobilization of the conscripts of 1878 and 1879 applied, and I was informed that such mobilization had been postponed until the 6th of March next. In view of the present peaceful solution of recent difficulties between the Argentine Republic and Chile, it is possible that such mobilization may be abandoned or indefinitely postponed.

I also confirm my telegram^a of the 23d ultimo in reply to yours of the 21st, above referred to.

I have, etc.,

WM. P. LORD.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Lord to Mr. Hay.

No. 192.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, June 16, 1902.

SIR: I have the honor to confirm the Department's cablegram^b of May 24 last, and to report that, in compliance therewith, I immediately communicated to the minister for foreign relations the request therein contained, and that the Argentine Government at once granted the desired permission.

I have the further honor to inform you that I have suitably acknowledged the courtesy of the Argentine Government and have instructed the United States consuls within its territory to use their good offices in behalf of the Government and citizens of Cuba until further notice.

I have, etc.,

WM. P. LORD.

^a Printed ante.^b Printed, page 6.

AUSTRIA-HUNGARY.

PASSAGE THROUGH UNITED STATES OF REMAINS OF LATE MEXICAN MINISTER TO AUSTRIA-HUNGARY.

Mr. McCormick to Mr. Hay.

UNITED STATES LEGATION,
Vienna, January 18, 1902.

SIR: I have the honor to acquaint you that the remains of the Mexican minister to this court, Don Jose de Teresa y Miranda, have been intrusted to the North-German Lloyd Steamship Company for transmission to Mexico, via Bremen and Galveston, on board the steamship *Breslau*.

They will leave the first-named port on the 23d instant, and are due to arrive in Galveston eighteen days thereafter.

I have deemed it proper to assure the chargé d'affaires, Mr. Lizardi, that the Department of State would request, and that the Treasury Department would issue to the collector of the port at Galveston, such instructions as will insure the entrance of the remains at the port of Galveston without let or hindrance, and their transmission without delay by such route as may be decided upon to the Mexican frontier.

I have also the honor to inform you that Madame de Teresa, widow of the late minister and sister-in-law of President Porfirio Diaz, sails with her family from Cherbourg on the steamship *Kronprinz Wilhelm*, and is due to arrive in New York on or about the 21st of February.

Believing that I would be carrying out the wishes of the Department, I have assured Mr. Lizardi that such instructions would be issued through the proper channels to the customs authorities in New York as would insure Madame de Teresa's receiving every possible courtesy at their hands on her arrival.

I have, etc.,

ROBERT S. MCCORMICK.

Mr. Hay to Mr. McCormick.

No. 32.]

DEPARTMENT OF STATE,
Washington, February 12, 1902.

SIR: Referring to your unnumbered dispatch of the 18th ultimo, I have now to inform you that the Mexican ambassador here, in his note No. 249^a of the 7th of this month, expresses the earnest thanks of his Government for your kindness and courtesy in informing the Department of the arrival of the remains of the late Mexican minister to

^a Printed, page 794.

Austria-Hungary and of the arrival of the wife and family of the deceased minister at New York, in order that the customary customs courtesies might be extended.

I am, etc.,

JOHN HAY

**AGREEMENT BETWEEN RUSSIA AND CHINA RELATIVE TO
MANCHURIA.^a**

Mr. Hay to Mr. McCormick.

DEPARTMENT OF STATE,
Washington, February 3, 1902.

SIR: I have to inclose herewith a copy of a memorandum expressing the views of the United States in regard to the proposed convention and arrangement between the Chinese and Russian Governments respecting Manchuria, which has been cabled to the American missions at Peking and St. Petersburg. You will take early occasion to acquaint the Government to which you are accredited with the text of this memorandum.

I am, etc.,

JOHN HAY.

[Inclosure.]

Memorandum respecting Manchuria.

DEPARTMENT OF STATE,
Washington, February 1, 1902.

An agreement by which China cedes to any corporation or company the exclusive right and privilege of opening mines, establishing railroads, or in any other way industrially developing Manchuria, can but be viewed with the gravest concern by the United States. It constitutes a monopoly, which is a distinct breach of the stipulations of treaties concluded between China and foreign powers, and thereby seriously affects the rights of American citizens; it restricts their rightful trade and exposes it to being discriminated against, interfered with, or otherwise jeopardized, and strongly tends toward permanently impairing the sovereign rights of China in this part of the Empire, and seriously interferes with her ability to meet her international obligations. Furthermore, such concession on the part of China will undoubtedly be followed by demands from other powers for similar and equal exclusive advantages in other parts of the Chinese Empire, and the inevitable result must be the complete wreck of the policy of absolute equality of treatment of all nations in regard to trade, navigation, and commerce within the confines of the Empire.

On the other hand, the attainment by one power of such exclusive privileges for a commercial organization of its nationality conflicts with the assurances repeatedly conveyed to this Government by the imperial Russian ministry of foreign affairs of the Imperial Government's intention to follow the policy of the open door in China, as advocated by the Government of the United States and accepted by all the treaty powers having commercial interests in that Empire.

It is for these reasons that the Government of the United States, animated now as in the past with the sincerest desire of insuring to the whole world the benefits of full and fair intercourse between China and the nations on a footing of equal rights and advantages to all, submits the above to the earnest consideration of the Imperial Governments of China and Russia, confident that they will give due weight to its importance, and adopt such measures as will relieve the just and natural anxiety of the United States.

^aIdentical instruction sent to United States representatives to Belgium, China, France, Germany, Great Britain, Italy, Japan, the Netherlands, Russia, and Spain. (Completely covered under China, p. 271, and Russia, p. 926, this volume.)

**RAISING OF UNITED STATES LEGATION TO AUSTRIA-HUNGARY
AND AUSTRIO-HUNGARIAN LEGATION TO THE UNITED STATES
TO EMBASSIES.**

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Vienna, March 6, 1902.

(Mr. McCormick reports that he has been officially notified that the Austro-Hungarian legation in the United States will be raised to an embassy so soon as the Delegations, which meet in May, vote the necessarily increased subventions for its support; that this step is dictated by the wish, on the part of Austria-Hungary, to manifest its friendship and recognition of the high position as a world power attained by the United States.)

Mr. McCormick to Mr. Hay.

No. 71.]

UNITED STATES LEGATION,
Vienna, March 7, 1902.

SIR: I have the honor to transmit herewith copy of telegram ^a of the 6th instant sent to the Department.

It conveys the announcement of the purpose of the Austro-Hungarian Government to raise its mission to ambassadorial rank, as made to me personally by His Excellency Count Lützow, first chief of section, who emphasized the desire on the part of his Government to express its friendship for, and its recognition of, the high position attained by the United States as a world power. He added that his Government considered it necessary to increase the appropriation for its mission in Washington that it might be maintained on a footing in keeping with its new rank, and for this reason it was not prepared to make the change until after the meeting of the Delegations in May, when the necessary formal proposals would be laid before the two bodies.

Count Lützow repeated the assurances given on a former occasion that the Austro-Hungarian Government had maintained an attitude of strict neutrality during the Spanish-American war, to which I replied that, aside from the facts as stated by him, the United States Government harbored no rancor on this score, and recognized the strong ties which bound Austria-Hungary to Spain, and the natural sympathy which existed between the reigning houses of the two monarchies. He expressed his gratification at this and the hope that the relations between this monarchy and the United States of America might grow closer as time went on, in which I joined him. He also intimated a wish that I cable the announcement with the sentiments which he had expressed in behalf of his Government. I will state here, in explanation of the fact that the first information to reach the Department on the subject was through the press, that the statement as cabled was given out in advance of any official communication, with my knowledge

^a Printed, ante.

and assent, to be sent to the United States, and not given to the Vienna press, which only published the announcement this morning.

Count Lützow further informed me that the present Austro-Hungarian minister at Washington, Mr. Hengelmüller von Hengervár, would remain in Washington and become the first Austro-Hungarian ambassador to the United States.

I have, etc.,

ROBERT S. McCORMICK.

Mr. McCormick to Mr. Hay.

No. 72.]

UNITED STATES LEGATION,
Vienna, March 8, 1902.

SIR: For the information of the Department, I have the honor to inclose herewith, with its translation, a cutting from the Vienna Fremdenblatt, the semiofficial organ of this Government, with reference to the proposed raising of the Austro-Hungarian mission at Washington to ambassadorial rank.

I would especially call the Department's attention to the "question arising out of the emigration movement" which "may have to be settled between this Monarchy and the United States"—a reference to the naturalization treaty and the difficulties growing out of the treatment accorded to naturalized citizens of Austro-Hungarian birth returning to the Monarchy for any purpose, involving at times a disregard of the character of passports of which such naturalized citizens may be the bearers.

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure—Translation.]

Leading article of the semiofficial Fremdenblatt of Friday, March 7, 1902.

In the estimates for the common expenses for 1903 the Delegations will find that the Imperial and Royal legation in Washington has been raised to the rank of an embassy, and that an increased amount is to be appropriated to meet the expenses. We are convinced that the Delegations will pass the sum without hesitation as it will enable our representative in the United States to maintain himself on an equal footing with those of other European powers and Mexico. As it is to be supposed that the Americans will reciprocate this action and make the Vienna legation an embassy, the relations existing between Austria-Hungary and the trans-Atlantic Republic will also in its outer forms bear witness to the importance which these relations have gradually assumed, and which it is hoped will be further developed as time goes on. It would be a solecism if we were to remain behind the other great powers in regard to the rank which our representative at Washington holds; not alone France and England but also Russia, Germany, and Italy attach importance to being fitly represented, which clearly shows that the cultivation of good relations with this growing power is not to be neglected, and Austria-Hungary is now following this lead. To-day, no country can remain isolated or pretend to ignore what is transpiring beyond its borders, the more so as "beyond its borders" has become a mere geographical expression. Points heretofore widely separated have been brought closer together to such an extent that one can no longer speak of distances, but rather of varying degrees of proximity. The consequence of this annihilation of distance and the increase of production and consequent competition is a continual, and rapid, and intense movement and countermovement among the innumerable bodies within this network, and therefore a continued conflict of interests at stake. The intercourse thus created, and the consequent development of political relations and growth of political aspirations, bring together states separated from each other by vast dis-

tances, and a commonwealth, such especially a one as the North American Republic with its ever active community of 75,000,000 people must occupy an ever-increasing space within this circle. A strong proof of this is the journey of Prince Henry and the enthusiastic reception with which he has met at the hands of the American people. The fact that Europe and America are called upon to act in the future more in common than heretofore has been made evident in the past few days.

Austria-Hungary has only a small coast line, and our political interest does not reach beyond the Mediterranean. This, however, does not prevent that questions arising out of the emigration movement may have to be settled between this Monarch and the United States. Few have been the cases which might have led to political animosity between the two countries, nor will there be any in the future as far as the human mind can foresee. We have no ground to interfere in its disputes and they have none to interfere in ours. But it becomes every day more important that we should cultivate friendly sentiments in order to facilitate the exchange of views when political questions do arise. Austria-Hungary has no wish and pursues no policy of expansion and has only commercial interests on the ocean, the waters of which wash the shores of the United States. Nevertheless, every power, even if determined not to trespass the limits within which it has moved heretofore, must come in contact with all the great powers and although it is true that at the present time even the smallest civilized nations have an economic policy of their own, it is because they are forced to do so, otherwise they would be driven ashore by the current while the others flourish. If we are desirous of developing our industry we must carefully watch every movement and keep in touch with all commercial nations. This is the more necessary at the present time in view of the impending change in the mercantile and political relations between Europe and the United States.

Mr. Hay to Mr. McCormick.

No. 40.]

DEPARTMENT OF STATE,
Washington, April 7, 1902.

SIR: Referring to your telegram of the 6th ultimo, and to your confirmatory dispatch of the following day's date, reporting the intention of the Austro-Hungarian Government to raise its mission at Washington to the rank of an embassy, you are instructed to express to the minister of foreign affairs the gratification with which the President has heard of this new proof of the Emperor's friendly disposition toward the United States, and to say that in due time it will give him pleasure to reciprocate by appointing, in token of his high regard and esteem for the person of the Emperor and of his good wishes for the people of Austro-Hungary, as ambassador to Vienna a gentleman who he is sure will be agreeable to His Majesty.

I am, etc.,

JOHN HAY.

Mr. McCormick to Mr. Hay.

UNITED STATES LEGATION,
Vienna, May 20, 1902.

SIR: I have the honor to acknowledge the receipt of your dispatch No. 40 of the 7th ultimo regarding the intention of the Austro-Hungarian Government to raise its mission at Washington to the rank of an embassy, and beg to inform you that I have, as per instructions therein contained, expressed to the minister of foreign affairs the gratification with which the President has heard of this

new proof of the Emperor's friendly disposition toward the United States, and to say that in due time it will give him pleasure to reciprocate by appointing, in token of his high regard and esteem for the person of the Emperor and of his good wishes for the people of Austria-Hungary, as ambassador to Vienna a gentleman who he is sure will be agreeable to His Majesty.

I have, etc.,

ROBERT S. McCORMICK.

Mr. Hay to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 29, 1902.

(Mr. Hay informs Mr. McCormick of his nomination and confirmation as ambassador of the United States to Austria-Hungary.)

Mr. McCormick to Mr. Hay.

No. 85.]

UNITED STATES LEGATION,
Vienna, May 30, 1902.

SIR: I have the honor to acknowledge your cable dispatch announcing my nomination and confirmation by the Senate as American ambassador at this court.

I appreciate most highly the confidence evinced in and the honor conferred upon me by this act, to merit which will be my constant endeavor.

I will add for the information of the Department that I have been able to elicit no information from the Austro-Hungarian foreign office with regard to a similar step on the part of this Government, beyond the extract from the speech of the foreign minister, Count Goluchowski, before the Delegations, under cover of my unnumbered dispatch of May 9, announcing that in the budget for the year 1903 provision was made for the elevation of their mission in Washington to ambassadorial rank. There would appear to be some reason for withholding this information until the change shall have become an accomplished fact.

I have, etc.,

ROBERT S. McCORMICK.

Mr. Hay to Mr. McCormick.

No. 46.]

DEPARTMENT OF STATE,
Washington, June 3, 1902.

SIR: The President having been advised that the Government of Austria-Hungary is about to be represented in the United States by an ambassador extraordinary and plenipotentiary, he has, under authority conferred upon him by the Congress of the United States

and in recognition of the friendly intention of the Austro-Hungarian Government, appointed you, by and with the advice and consent of the Senate, to be ambassador extraordinary and plenipotentiary of the United States to Austria-Hungary.

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I am, etc.,

JOHN HAY.

Mr. McCormick to Mr. Hay.

No. 1.]

UNITED STATES EMBASSY,
Vienna, June 30, 1902.

SIR: I have the honor to acknowledge the receipt of Department's No. 46 acquainting me, as previously done by cable of the 29th ultimo, that the President has appointed me, by and with the consent of the Senate, to be ambassador extraordinary and plenipotentiary of the United States to Austria-Hungary, and inclosing my commission in that capacity and the letter of credence, with office copy, addressed to His Majesty the Emperor, and also inclosing new letters of credit in duplicate and oath of office.

The office copy of the letter of credence I sent to the foreign office, at the same time asking that I be granted an audience with His Majesty for the purpose of presenting the original. In my note inclosing the office copy I embodied a copy of the address which I proposed to make to His Majesty the Emperor, and which reads as follows:

It is with peculiar pleasure and pride that I present my letter of credence to Your Majesty as the first ambassador of the United States near Your Majesty's court. Heretofore it has been considered possible to raise the rank of a legation of the United States to that of an embassy only after that step had been actually taken by the Government to which the representative thus promoted was accredited.

It having been found within the provisions of the law, the President has appointed and the Senate confirmed me as ambassador to Your Majesty's court, in recognition of the friendly intention of Your Majesty's Government, as expressed through Your Majesty's envoy extraordinary and minister plenipotentiary at Washington, without waiting for a similar action on its part, as well as to emphasize the wish for a continuance of the cordial relations existing between the two Governments, and to express the high regard and esteem in which Your Majesty is held by the people and Government of the United States.

I am charged by the President, Mr. Roosevelt, to convey to Your Majesty, as I conveyed on behalf of the late President, Mr. McKinley, the strongest assurances of his high personal esteem and best wishes, with the prayerful hope that Your Majesty may long be spared in health to rule over the peoples to whose welfare Your Majesty's reign has so notably contributed.

I was received in audience by the Emperor on the 26th instant, when I read the short address above quoted. The Emperor responded that he fully appreciated the sentiment expressed by the action of the President and the Senate in raising the rank of this mission to that of embassy in the exceptional manner which I had explained to him.

He also desired me to say that he heartily reciprocated the kind feelings manifested by this act, as well as the good wishes which I had expressed on behalf of the President and Government of the United States; that he was pleased that I had been chosen as the first ambassador to reside near his court; I was personally most acceptable to him, and he had learned that I had established most agreeable relations with the officials of his Government, which would be valuable in cementing the friendly ties which he hoped would continue to bind the two coun-

tries together; that he appreciated the high position to which the United States had attained as a world power and hoped that the blessing of peace and prosperity might long be continued to its people.

On this occasion the following gentlemen were presented to His Majesty:

Mr. Chandler Hale, first secretary of embassy.

Capt. Floyd W. Harris, military attaché.

Commander W. H. Beehler, naval attaché.

I have, etc.,

ROBERT S. McCORMICK.

Mr. Hill to Mr. Hale.

No. 55.]

DEPARTMENT OF STATE,
Washington, July 22, 1902.

SIR: The ambassador's No. 1, of the 30th ultimo, reporting his audience with the Emperor on the occasion of the delivery of Mr. McCormick's credentials as ambassador, has been received.

With reference to Mr. McCormick's Nos. 71 and 72, of March 7 and 8 last, the embassy is instructed to advise the Department of the result of the steps which have been taken to raise the Austro-Hungarian mission at this capital to the rank of an embassy.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. McCormick to Mr. Hay.

No. 6.]

UNITED STATES EMBASSY,
Vienna, August 12, 1902.

SIR: Replying to the Department's No. 55 of the 22d ultimo, I have the honor to advise you that "the steps which have been taken to raise the Austro-Hungarian mission at Washington to the rank of an embassy" were embodied in the budget for the year 1903, passed by the Delegations on June 9, 1902, copy of which was sent to the Department without covering dispatch, the intention thus expressed to take effect when the sum thus appropriated for the increased expenses of the mission in its new capacity would become available, namely, on the first day of January next. In his speech on the budget, delivered before the Delegations, Count Goluchowski spoke as follows, with reference to the raising of the rank of their representation at Washington to the rank of an embassy:

The gigantic progress and the ever-increasing importance of the United States, as far as international politics are concerned, as well as the growing interest which we have to take in regard to the numerous Austrian subjects living in the United States, do not admit of any delay in placing our representative on an equal footing with those of the other great powers. For this reason I consider it advisable to put down the amount thus rendered necessary in the estimates of this year, and trust that this measure will meet the approval of the honorable assembly, the more so as it is in conformity with a desire repeatedly expressed here as well as in America, and the compliance with which commends itself on political and economic grounds. A law has been in force in the United States for some time which gives to the President

the right to raise the rank of diplomatic representations abroad to embassies, thereby rendering unnecessary the passing of a special act by Congress in order to confer the same rank on the representative accredited to the Imperial and Royal court. The latter will take place as soon as an analogous measure has been adopted in regard to our mission in Washington.

By the adoption of the budget this Government considered that it had raised the rank of its mission to that of an embassy, the delay in the appointment of an ambassador, or the putting into effect the act of the Delegations until January 1 next, being in keeping with the law and custom of this Government. His Excellency, Count Lützw, first secretary of state, informed me that this information and explanation would be transmitted to the Department through Mr. Hengelmüller, the Austro-Hungarian minister in Washington.

I have, etc.,

ROBERT S. McCORMICK.

RIGHT OF WIDOW OF AUSTRO-HUNGARIAN SOLDIER TO PENSION.

Mr. Hill to Mr. McCormick.

No. 36.]

DEPARTMENT OF STATE,
Washington, March 14, 1902.

SIR: I inclose a copy of a letter asking whether the widow of a man who served in the Austrian army five years is entitled to a pension, or other gratuity, and, if so, what steps she must take to secure it.

You are instructed to obtain the desired information.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

[Inclosure.]

Mr. Flournoy to the Secretary of State.

KNOXVILLE, TENN., March 8, 1902.

SIR: I have the honor to make the following representation of facts to your Department, on behalf of a widow, a resident of the United States, viz:

Her deceased husband served five years in the Austrian army; two years in active service, three years in the reserves; receiving honorable discharge therefrom November 20, 1852. She desires to know, first, whether the Austrian Government grants for such service any bounty, pension, or other gratuity; second, if so, how much, and what steps must she take in order to secure payment to her as such widow.

Should your Department not be able to furnish the information desired at first hand, would respectfully request, if not impracticable or deemed discourteous, that the information sought be gleaned from the Austrian minister, resident at Washington, D. C., and the widow furnished with same through my office.

I have, etc.,

C. H. FLOURNOY.

Mr. McCormick to Mr. Hay.

No. 77.]

UNITED STATES LEGATION,
Vienna, April 22, 1902.

SIR: Replying to your No. 36 of the 14th ultimo, with a copy of a letter from C. H. Flournoy appended thereto asking whether the widow

of a man who served in the Austrian army five years is entitled to a pension or other gratuity, and, if so, what steps she must take to secure it, I have the honor most respectfully to inclose herewith a copy of a letter from the Imperial and Royal ministry of war to Capt. Floyd W. Harris, the United States military attaché at Vienna, in reply to a request made by the latter for the desired information in regard to this matter.

I further beg to say that I referred this case to Captain Harris instead of sending it through the foreign office, in order to expedite the obtaining of a reply.

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure.]

Mr. Benkiser to Mr. Harris.

IMPERIAL AND ROYAL MINISTRY OF WAR,
SECTION 9, No. 2896,
Vienna, April 14, 1902.

SIR: In reply to your esteemed inquiry of March 28, 1902, the Imperial minister of war has the honor to inform you that, as a general rule, a widow of a soldier is entitled to a pension in that case only in which her husband has acquired for himself a legal claim to a pension.

Since this is not the case in the present instance, on account of the short length of service of the husband, the widow has no right to the granting of a pension. See the Austrian act of April 27, 1887 (Article XX, Hungarian Statutes, 1887), concerning the provisions for widows and orphans of officers and soldiers.

For the Imperial minister of war:

BENKISER, G. M.

**POLITICAL, SOCIAL, AND COMMERCIAL RELATIONS BETWEEN
THE UNITED STATES AND AUSTRIA-HUNGARY.**

Mr. McCormick to Mr. Hay.

UNITED STATES LEGATION,
Vienna, April 1, 1902.

SIR: Finding that the inclosed communication of the *Neue Wiener Tagblatt* from a correspondent in New York had escaped the attention of the consul-general here, I have the honor to transmit it herewith for the information of the Department, believing that it contains sufficient matter of interest, especially as it pertains to the method of the customs officials in New York in applying and interpreting the tariff laws.

It is important that the consular officers in the United States should lose no opportunity to counteract the effect of such statements as are made in this article and contradict them when not in accordance with the fact.

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure.—Translation.]

AUSTRIA-HUNGARY AND THE UNITED STATES—NEW YORK, MIDDLE OF MARCH.

It would not be surprising if the voyage of Prince Henry were to benefit likewise the relations existing between Austria-Hungary and America. The German-speaking Austrian is here without distinction, put in one pot with the subjects of the German

Empire, and to make this distinction is not a matter which concerns the Americans in general. While the Prince was here, one could frequently see the American eagle side by side with the Austrian double-headed eagle, and your warship, which it is said will soon pay us a visit, will dispel many errors and teach the know-nothings the political difference existing between the two great German-speaking nations. The fault of this is greatly due to the amicable relations existing between Germans and Austrians, who are members without distinction of one and the same clubs, associations, and singing societies, cultivating the art of song which forms a strong tie between the native Americans and the immigrant Germans. The Germans who wish sincerely to live in friendship with the Austrians will certainly not object if the latter profit by the favorable combinations of the present hour. Whether the raising of the legation in Washington to an embassy will promote this end is somewhat doubted. Emigration from Germany to the United States has of late years decreased, thanks to the improved economic and industrial conditions, and there is no ground to believe that the number of emigrants will increase again. A vast contingent of emigrants, however, is still supplied by the Slavish districts of Hungary, and Pittsburg abounds with Slavs who there seek employment in the great steel works. The German-Austrians who come here through business or family relations soon become Americanized. The temptation held out is too great. Personal energy, which can not develop itself at home, soon develops here, success follows, and with it love of the adopted country, which is lacking, however, in the feeling which the old country inspired. And if once the bands of hymen twist themselves around the budding millionaire, then he and his offspring are forever the prey of the New World. An example of this is Mr. Charles Schwab, the clever director of the great steel trust, whom you recently had in Vienna.

Unfortunately, Austria, like all other European countries, suffers under the cruel tariff laws of the United States. It is not so much the height of the tariff rates of which European industries complain, as the provoking indiscrimination of the customs officials. To be prepared for the payment of high duties and to make one's calculations accordingly is no difficult matter. Wages in Austria are low, the American is accustomed to pay high prices, and Austrian manufacturers might work profitably even when paying high rates of duty. But it is the uncertainty which makes the manufacturer and the agent shrink back. With incredible disregard for the rights and interests of those concerned are the tariff laws construed by the customs authorities, to-day this way, to-morrow that way; to-day it classes merchandise under one heading, to-morrow under another heading; imposes fines and acts as if bound by no law. It has happened that competing American trusts have sent spies to Austria who transmitted false reports to their firms touching the cost of production of their goods.

On the strength of such reports the American customs officials suddenly declare that an undervaluation of the merchandise has been perpetual and subject the goods to fines and payment of higher rates of duty, protest against which, according to the incredible provisions of the law, is inadmissible, and redress can be obtained only by appeal to the collector of customs of the port, which is illusory.

Reductions of customs rates of duty can scarcely be expected because the State has need of the revenue derived from this source, but a more uniform and less arbitrary treatment must be demanded by way of diplomatic intervention.

No one doubts but that Austrian industry has a future in America. Its furniture, for instance, has many admirers, the so-called Vienna secession style, which had such a success at the late Paris Exhibition, has the sympathy of many Americans; its elegant, pleasing, and delicate forms will accommodate themselves easily to the modern American apartment house, and its English style will be sure to please at once. Vienna articles, such as fancy goods, bronzes, and terra-cotta ware, would certainly meet with favorable reception.

There is only this to be feared—that these articles, being carefully finished, will be too expensive for the great bazaars of Sixth avenue, which supply half of New York, and not sufficiently refined for the luxury of Fifth avenue. The cheapness of the German manufactories and the taste of the Parisian workshops naturally contract the Vienna ateliers within narrow limits. America is trying to create new industries and to manufacture all those articles herself which lack of skilled hands or want of raw material seemed to have denied her. It produces already excellent glassware for the table of the workman and for the drawing room. It is content to-day to import raw hides and manufactures them already into elegant and durable gloves. That in many cases (for instance beet-root sugar) Germans are the instructors is certainly a matter flattering to our national pride, just as the gradual decrease of the European export in the two last-named articles is humiliating to that of Austria. Many Austrian goods bear foreign names—cloth from Brünn is called French; numerous other

articles, sent down the river Elbe by reason of cheaper freight rates and shipped by way of Hamburg, pass off as German goods, and the Austrian export to America is perhaps considerably larger than the official statistics show. One should think that America, with its wealthy population not averse to a good glass of spirits, would be a splendid market for the excellent Austrian and Hungarian wines, the more so as the domestic article grown in California and Ohio can hardly be said to be a fair substitute. The manner of adulterating wine, and producing it by chemical processes, has increased rapidly. Wines are passed off in America as Tokayer and Burgundy which never grew on European soil, and it almost seems as if that which we cherish most and constitutes one of the characteristics of its genuineness, namely, the peculiar flavor of the soil on which it has grown, renders it disagreeable to the taste of an American to whom the terrapin, with its taste resembling shoe leather, is a delicacy, and who therefore prefers a chemical preparation composed of vile substances.

I hope Austria will not let pass the opportunity which offers itself in the impending exhibition at St. Louis in order to enlighten America as to the value of its products. Nor will it be inopportune for Austrian manufacturers to take into consideration certain peculiarities and demands of trans-Atlantic agents and merchants and the American public at large. The latter rely upon the greater facilities of the manufacturer insuring a prompt supply of the goods ordered. Waiting is not to its liking. One needs here either cheap things by the dozen or very costly articles of the first class. Articles possessing a certain air of artistic workmanship, such as the Vienna mechanic likes to give even to articles of everyday use, are not appreciated here. *Æsthetics* is a different science here in the New World from what it is in Europe. It springs from the adaptability of an article to its use, from well-proportioned plainness, and rejects the purely ornamental. With the Vienna baroque style you can make no headway here. The desire to replace immediately parts lost or injured render necessary the production of a certain number of standard patterns or forms as perfect as possible, the parts of which can easily be exchanged, replaced, and are everywhere obtainable. This apparent simplicity, however, renders necessary trials, experiments, and the making of models to an extent unknown in Europe, where enterprise and capital are frequently lacking. Millions are spent in America for making studies to produce a special machine before a single specimen is placed on the market, while the German manufacturer demands the new pattern ready for use and continues to work with an old imperfect machine, when more perfect machinery has been for some time already in the possession of his competitor. The American also divorces manufacturing from the distribution of the product, and the Germans were farsighted enough to adopt the same principle. The manufacturing and export of goods should be things as distinct from each other as framing laws and administering laws. The more pronounced the distinction between the banker, the manufacturer, and the merchant, the easier will be the development of each. The American is surprised to find that this maxim is so little known in Austria, and believes that the manufacturer would do better by sharing the profits from his products with the merchant, whose care it will be to look to the increase of the export, and looks upon this practice as the first condition for the increase of Austrian export to the United States.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. McCormick to Mr. Hay.

[Telegram—Paraphrase.]

LEGATION OF THE UNITED STATES,
Vienna, June 28, 1902.

(Mr. McCormick reports that the request of the President of Cuba that United States consuls be permitted to extend protection to Cuban citizens and interests, conveyed in Department's telegram ^a of May 24, has been granted by Government of Austria-Hungary.)

ADMISSION INTO AUSTRIA-HUNGARY OF PROPRIETARY PREPARATIONS OF AMERICAN MANUFACTURE.

Mr. Hill to Mr. McCormick.

No. 57.]

DEPARTMENT OF STATE,
Washington, July 28, 1902.

SIR: The Sterling Remedy Company, of Kramer, Ind., as will appear from inclosed copies of communications from that company and their agent at Vienna, Mr. Kris, allege and complain as follows:

That their trade-mark "Cascarets" has been registered in Austria and Hungary, and that they have made formal and due application through their said agent to obtain the necessary permit for importing "Cascarets" into Austria and Hungary, but that such permit is withheld upon the ground that the importation of American specialties for medicinal purposes to be sold in packages at retail is forbidden, the regulation of the ministry of the interior, dated December 17, 1894, (R. G. Bl. No. 239,) restricting the granting of such permits to cases in which those specialties have been prepared in accordance with the pharmacopœias of European states.

You are instructed to present this case to the Imperial Government, requesting an investigation and the ultimate abandonment of a course which appears to discriminate unjustly against an American export and to be inconsistent with the most-favored-nation provisions of the treaty of commerce and navigation concluded August 27, 1829, between the United States and Austria-Hungary.

In preparing this case for presentation you will avail yourself of so much of the material furnished in the inclosures as you may find appropriate for the purpose, and you may, in your discretion, consult with Mr. Kris, the company's agent, in respect to the matter.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

[Inclosure.]

Sterling Remedy Company to Hon. C. B. Landis, M. C.

KRAMER, IND., *July 1, 1902.*

SIR: In developing our foreign business we have encountered a difficulty in Austria and Hungary which seems to look like a direct discrimination against the United States. We have been negotiating for nearly a year with Mr. Kris, the manager of the Alte K. K. Feldapotheke, the best-known drug house in Vienna, with reference to introducing our goods in that Empire. The first suggestion to enter the territory referred to came from the other side. We have made efforts to meet every requirement and condition affecting the importation of our goods into those countries.

Our application for registering the trade-mark "Cascarets" in Austria and Hungary was filed first of all, and such trade-marks have been registered there.

We also prepared a formula showing contents of "Cascarets," properly sworn to and legalized by the general consulate at Chicago, and made application through our agent, Mr. Kris, to obtain the necessary permit for importing "Cascarets" into Austria and Hungary. To-day we are receipt of a letter from our agent, which I have translated and inclose you a copy, together with clipping^a referred to in the communication. Said clipping is necessarily printed in German, and the paragraph marked thereon authorizes the importation of preparations made in European States, which, if strictly construed, would be a very marked discrimination against the

United States and probably inconsistent with the favored-nation treaty undoubtedly in existence between the two countries.

We have already spent considerable time, work, and money in preparing for the sale of our goods in this territory, and we do not feel that we ought to abandon the enterprise on account of a ruling which certainly can not be based on equitable international principles.

You will notice Mr. Kris's suggestion to have our Department of State interpellate the Austrian embassy regarding this subject, and it occurred to Mr. Kramer and myself that you might be willing and able to take this matter up for us, as being one of great importance to the proprietary interests of America. We do not think this question has ever been brought to adjudication. If the condition which reveals itself in our negotiations is to be maintained, then the importation into Austria of any chemical goods put up in packages ready for retailing is prohibited as far as America is concerned, whereas all European countries have at least a chance to secure admission of their products.

Will you please advise whether you can take any action personally in this matter and see the Secretary of State with reference to it, or be kind enough to give us the correct advice in the premises?

* * * * *

Very truly, etc.,

STERLING REMEDY COMPANY,
A. B. SCHANZ, *Secretary.*

[Subinclosure.—Translation.]

Mr. Kris to the Sterling Remedy Company.

VIENNA, June 16, 1902.

HONORED SIR: Last week I spent the forenoon of every day in the sanitary department in connection with this matter, and herewith communicate to you the result of our consultations.

The importation of American specialities for medicinal purposes to be sold in packages at retail is forbidden under the rulings of the department. The United States are specifically excluded. In answer to my remark addressed to the sanitary referee, that the United States were supposed to be on earth, he pointed out to me that he was compelled to adhere strictly to the letter of the law. I am of the opinion that the clause referred to must be an oversight of our authorities, and inclose herewith a clipping^a of our medicinal tax schedule for your information. I have been compelled to withdraw our application in the form in which it was filed, and on Wednesday, June 18, shall call on the American consul here, and call his attention to this question. The importation by prescription—i. e., through the medical profession, A. B. S.—could be accomplished, but this method would be inadequate for a large commercial enterprise like this. I have no doubt but that, with your assistance, I shall be able to secure the right of retailing your goods, and beg you, immediately upon receipt of this letter, to have your proper authorities interpellate the Austrian embassy regarding this subject. It certainly can not be the case that you Americans are allowed to import our articles put up for the retail trade while the reverse privilege is denied us. Regarding my audience with the American consul-general, I shall report to you within a few days. I hope you will not hesitate in taking the necessary steps, as the sale in our country of this article is certain to be an extensive one, but these legal formalities must be gone through.

Respectfully,

M. KRIS.

Mr. Adee to Mr. Hale.

No. 60.]

DEPARTMENT OF STATE,
Washington, August 14, 1902.

SIR: Referring to the Department's No. 57, of the 12th ultimo, I inclose a copy of a letter from Hon. C. B. Landis, with inclosure, relating further to the attempt of the Sterling Remedy Company to establish itself in Vienna.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

*Mr. Landis to Mr. Hill.*DELPHI, IND., *August 11, 1902.*

DEAR MR. HILL: I transmit herewith a letter in the matter which I referred to you recently relative to the Sterling Remedy Company's attempt to establish itself in Vienna.

Kindly make it a part of the papers.

Very truly, yours,

C. B. LANDIS.

[Subinclosure.]

*Sterling Remedy Company to Mr. Landis.*KRAMER, IND., *August 9, 1902.*

SIR: I have a letter from our agent at Vienna in which he expresses the desire to have his name given to our officials, so that, if possible, he may appear before the proper authorities in Vienna in connection with the investigation of our claim of discrimination against American pharmaceuticals. The name of our agent is M. Kris, Alte, K. K. Feld-Apotheke, Wien, I., Stephansplatz 8.

Mr. Kris is the manager of a drug firm that has been in existence over six hundred years. He is a man of excellent standing and was deeply interested in securing a permit for importing our goods. I think his idea really is that our interests might be furthered by application to the Austrian ambassador in Washington—of course, necessarily, through the State Department. I assume, however, that this is simply a question of procedure, and that the proper action has been taken in transmitting the matter to the American embassy in Vienna.

Thanking you, etc.,

A. B. SCHANZ,
Secretary Sterling Remedy Company.

Mr. Hale to Mr. Hay.

UNITED STATES EMBASSY,
Vienna, August 27, 1902.

SIR: I have the honor to acknowledge the receipt of the Department's No. 60, of the 14th instant, inclosing a copy of a letter from Hon. C. B. Landis, with inclosure, relating further to the attempt of the Sterling Remedy Company to establish itself in Vienna.

Referring to the Department's original instruction in this matter, No. 57, of the 28th ultimo, I have the honor to inform you that on the 11th instant, as per instruction, the above case was presented to the Imperial and Royal Government, but as yet the imperial and royal ministry for foreign affairs has not replied to this embassy's protest.

I have, etc.,

CHANDLER HALE.

Mr. Hale to Mr. Hay.

No. 25.]

UNITED STATES EMBASSY,
Vienna, October 13, 1902.

SIR: Referring to the Department's No. 57, of July 28, 1902, inclosing therewith copies of communications from the Sterling Remedy Company, of Kramer, Ind., and from their agent at Vienna, Mr. Kris, alleging and complaining as follows:

That their trade-mark "Cascarets" has been registered in Austria and Hungary, and that they have made formal and due application through their said agent to

obtain the necessary permit for importing "Cascarets" into Austria and Hungary, but that such permit is withheld upon the ground that the importation of American specialties for medical purposes to be sold in packages at retail is forbidden, the regulation of the ministry of the interior, dated December 17, 1894 (R. G. Bl., No. 239), restricting the granting of such permits to cases in which those specialties have been prepared in accordance with the pharmacopœias of European States.

And instructing this embassy to present the above case to the Imperial Government, requesting an investigation and the ultimate abandonment of a course which appears to discriminate unjustly against an American export and to be inconsistent with the most-favored-nation provisions of the treaty of commerce and navigation concluded August 27, 1829, between the United States and Austria-Hungary, I have the honor to inform you that in reply to this embassy's note of August 13, 1902, presenting, as per instructions, the above case, the imperial and royal ministry for foreign affairs replies under date of the 8th instant that the ministry of the interior, having made the necessary investigations in this matter, reports that the above-named Kris petitioned the city council of Vienna on May 9, 1902, for a permit enabling him to introduce into Austria the above referred to "Cascarets," which permit was granted on June 11, 1902, but not before Mr. Kris had withdrawn said petition.

The imperial and royal ministry for foreign affairs further adds that foreign medical specialties, as well as domestic pharmaceutical preparations, may be sold in Austria, provided that the druggist who petitions for the right to sell such articles complies with the provisions of the laws of December 17, 1894, No. 239, and of April 16, 1901, No. 40 (copies of which, together with translation, are herewith inclosed), and after it has been shown by examination by a committee of experts that the medical preparation in question corresponds in form and ingredients with the respective regulations.

For the further information of the Department I beg most respectfully to inclose herewith a translation in full of the reply of the imperial and royal ministry for foreign affairs denying Mr. Kris's allegation that his request for a permit to sell "Cascarets" was refused.

I have, etc.,

CHANDLER HALE.

[Inclosure 1.]

Translation of the verbal note from the ministry for foreign affairs.

Referring to the esteemed note of August 13, 1902, in relation to the complaint made by the United States touching the sale of "Cascarets," manufactured by the Sterling Remedy Company in Kramer, Ind., and sold by Moritz Kris, druggist, in Vienna, the ministry for foreign affairs begs to say that the ministry of the interior has made the necessary investigations in this matter and now reports that the above-named Moritz Kris made a petition to the Vienna city council on May 9, 1902, requesting to be permitted to introduce this remedy, but that he (Kris) withdrew said petition, although the same was granted on June 11, 1902. Consequently there can have been no refusal to grant his petition.

The ministry for foreign affairs begs to say, in addition, that foreign medical specialties, as well as domestic pharmaceutical preparations, may be sold in the Austrian part of the Monarchy, provided that the Austrian druggist who petitions for the right to sell these articles complies with the provisions of the law of December 17, 1894 (No. 239), and of April 16, 1901 (No. 40), and after it is shown by examination on the part of a committee of experts that the medical preparation in question fully corresponds in form and ingredients with the respective regulations.

Vienna, October 8, 1902.

[Inclosure 2.]

Translation of law of December 17, 1894, touching retail sale of medical preparations and the manufacture of specialties.

1. The privileges granted to druggists in regard to the sale at retail of medical preparations is extended in so far as to allow not only the sale of medical preparations given in the seventh edition of the Austrian Pharmacopœia of 1889, but also in those of the three previous editions, except those which have experienced a change of preparation as given in the seventh edition, which can be sold only on the presentation of a physician's prescription.

Furthermore, it is permitted to druggists to sell at retail all articles and preparations made according to the pharmacopœias of European countries and not subject to sale only when prescribed by a physician.

All these preparations must be offered for sale only under their authentic names.

In cases where drugs come into consideration which are excluded from sale, such as B. Pulvis ipecacuanha opiatas, they will be handed over to parties only in single doses and in such daily portions as will never reach the maximum limit allowed for adults, and an approximate proportion for children. Aside from this, all necessary precautions must be taken to prevent any undue use of such drugs.

2. The law of December 12, 1889, touching the arbitrary multiplications of prescriptions remains in force, but it is permitted that prescriptions now on file in drug stores may continue to be prepared, on condition that they do not contain ingredients excluded from private sale.

All these and similar preparations must be labeled and known under a name signifying their nature and effect, rendering misconception or error impossible.

Misleading or improper names must not be given even to well-tried remedies. For instance, "pillulæ purgantis" are not to be named "Vienna blood-purifying pills of the holy Elizabeth," or spiritus sinapis (mustard plaster) be called algophon.

Inasmuch as the foregoing prohibition has not been fully complied with, druggists are held to act in conformity with this provision before the 31st of December, 1895.

3. Druggists are allowed to prepare specialties and name them under the conditions as given under paragraph 2, showing on the attached label the doses to be taken, and observing all other rules in connection with the preparation of medicines.

As specialties, however, can only be considered as remedies, containing materials universally recognized as possessing healing qualities, as, for instance, balsanum copaivæ, oleum santali, etc., or medical preparations, such as extractum filicis maris, extractum cubebæ, and other mixtures prepared in a manner to make them less obnoxious to sight, smell, or taste; for instance, capsulæ gelatinosæ, or amylaceæ, dragées varnished, or otherwise coated pills, gelatinæ medicatæ, suppositaria medicata, saponis medicata, etc.

4. All such preparations made and sold by druggists must be entered in a book kept for this special purpose, specifying the manner and length of time of preparation and the proportions of ingredients used in the composition.

Every wrapper inclosing a dose of a medical composition prepared in a drug store and kept on hand for retail sale must have a label on which is written the name of the drug store, the contents, the price, and the manner of using the article.

When selling a preparation as described in the foregoing to a party, such directions must be written on the label as are given in the respective regulations.

In regard to the prices to be charged for articles prepared in larger quantities and kept on hand to be sold for immediate use, the rates to be charged will not be calculated according to the tariff rates in the prescription tax, but will be made on a reduced scale, on the basis of the wholesale price of the articles and in proportion to the time consumed in their preparation.

A price list must be kept in every drug store of all medical preparations exposed for sale, the prices to be in accordance with the quantities of the medicinal ingredients and materials used in their composition, which price list shall be subject to approval by the political authorities.

5. Of all medical preparations of foreign manufacture as well as of specialties prepared in Austria coming under paragraph 1 of the ministerial decree of September 17, 1883, No. 152, the druggist must keep two complete and classified lists, one for those of domestic make and one for those made abroad, which must be produced when required by the authorities or shown to the examining board when making its visit.

Of all the labels, lithographed wrappers, directions for use, etc., used in the sale of medical preparations, a complete list of specimens and samples must be kept, as well as copies of advertisements and announcements, ready to be shown to the official authorities.

6. (Has become obsolete by its repeal, and the provisions of the new paragraph No. 6 will be found in inclosure No. 3.)

7. Violations of this law, if not coming under the criminal law, will be punished according to the provisions of the ministerial decree of September 30, 1857, No. 198.

BACQUEHEM.

[Inclosure 3.]

Translation of the law of April 16, 1901 (No. 40).

Modifying paragraph 6 of the law of December 17, 1894, touching retail sale of medical specialties and pharmaceutical preparations by druggists, which paragraph is to read henceforth as follows:

"The proper Government officials must supervise the manufacture and sale of pharmaceutical preparations, examine the lists, and prohibit the manufacture and sale of such preparations as are found to be not in compliance with the existing regulations, leaving to the plaintiff the right to make appeal against such decision.

"The owner or responsible manager of a drug store must report to the proper authorities the manufacture of any new article intended to be sold to the public, as well as any foreign-made pharmaceutical preparation or specialty for the sale of which he may act as agent.

"In case the authorities applied to decline to issue the permit desired, it then becomes necessary to send two samples of the article in question, in their original packages, to the provincial government, and in case the latter also declines, the case may be taken to the ministry of the interior.

"The sale of the article in question can not commence until three months after notification has been made, unless previous notice has been received by the druggist stating that the ministry of the interior has found no reason to issue an order prohibiting the manufacture and sale of said article.

"It is prohibited, when selling the article, to refer to this official communication.

"The expenses involved in the examination of a medical preparation or a foreign remedy or specialty must be borne by the druggist who made the petition.

"This law will take effect on the day of its publication."

KOERBER.

JEWS IN ROUMANIA—DISCRIMINATIONS AGAINST, CONDITION OF HELPLESSNESS TO WHICH THEY ARE REDUCED, AND OBJECTION OF UNITED STATES GOVERNMENT TO IMMIGRATION OF SUCH PERSONS."

Mr. Hay to Mr. McCormick.

DEPARTMENT OF STATE,

Washington, August 11, 1902.

SIR: In the course of an instruction recently sent to the minister accredited to the Government of Roumania in regard to the bases of a negotiation begun with that Government looking to a convention of naturalization between the United States and Roumania, certain considerations were set forth for the minister's guidance concerning the character of the emigration from that country, the causes which constrain it, and the consequences so far as they adversely affect the United States.

It has seemed to the President appropriate that these considerations, relating as they do to the obligations entered into by the signatories of the treaty of Berlin of July 13, 1878, should be brought to the attention of the Governments concerned and commended to their consideration in the hope that, if they are so fortunate as to meet the

"Identical instruction sent to representatives of the United States to France, Germany, Great Britain, Italy, Russia, and Turkey. See also under Roumania.

approval of the several powers, such measures as to them may seem wise may be taken to persuade the Government of Roumania to reconsider the subject of the grievances in question.

The United States welcomes now, as it has welcomed from the foundation of its Government, the voluntary immigration of all aliens coming hither under conditions fitting them to become merged in the body politic of this land. Our laws provide the means for them to become incorporated indistinguishably in the mass of citizens, and prescribe their absolute equality with the native born, guaranteeing to them equal civil rights at home and equal protection abroad. The conditions are few, looking to their coming as free agents, so circumstanced physically and morally as to supply the healthful and intelligent material of free citizenship. The pauper, the criminal, the contagiously or incurably diseased are excluded from the benefits of immigration only when they are likely to become a source of danger or a burden upon the community. The voluntary character of their coming is essential; hence we shut out all immigration assisted or constrained by foreign agencies. The purpose of our generous treatment of the alien immigrant is to benefit us and him alike—not to afford to another state a field upon which to cast its own objectionable elements. The alien, coming hither voluntarily and prepared to take upon himself the preparatory and in due course the definitive obligations of citizenship, retains thereafter, in domestic and international relations, the initial character of free agency, in the full enjoyment of which it is incumbent upon his adoptive State to protect him.

The foregoing considerations, whilst pertinent to the examination of the purpose and scope of a naturalization treaty, have a larger aim. It behooves the State to scrutinize most jealously the character of the immigration from a foreign land, and, if it be obnoxious to objection, to examine the causes which render it so. Should those causes originate in the act of another sovereign State, to the detriment of its neighbors, it is the prerogative of an injured State to point out the evil and to make remonstrance; for with nations, as with individuals, the social law holds good that the right of each is bounded by the right of the neighbor.

The condition of a large class of the inhabitants of Roumania has for many years been a source of grave concern to the United States. I refer to the Roumanian Jews, numbering some 400,000. Long ago, while the Danubian principalities labored under oppressive conditions, which only war and a general action of the European powers sufficed to end, the persecution of the indigenous Jews under Turkish rule called forth in 1872 the strong remonstrance of the United States. The treaty of Berlin was hailed as a cure for the wrong, in view of the express provisions of its forty-fourth article, prescribing that "in Roumania the difference of religious creeds and confessions shall not be alleged against any person as a ground for exclusion or incapacity in matters relating to the enjoyment of civil and political rights, admission to public employments, functions, and honors, or the exercise of the various professions and industries in any locality whatsoever," and stipulating freedom in the exercise of all forms of worship to Roumanian dependents and foreigners alike, as well as guaranteeing that all foreigners in Roumania shall be treated, without distinction of creed, on a footing of perfect equality.

With the lapse of time these just prescriptions have been rendered nugatory in great part, as regards the native Jews, by the legislation

and municipal regulations of Roumania. Starting from the arbitrary and controvertible premise that the native Jews of Roumania domiciled there for centuries are "aliens not subject to foreign protection," the ability of the Jew to earn even the scanty means of existence that suffice for a frugal race has been constricted by degrees until nearly every opportunity to win a livelihood is denied, and until the helpless poverty of the Jew has constrained an exodus of such proportions as to cause general concern.

The political disabilities of the Jews in Roumania, their exclusion from the public service and the learned professions, the limitations of their civil rights and the imposition upon them of exceptional taxes, involving as they do wrongs repugnant to the moral sense of liberal modern peoples, are not so directly in point for my present purpose as the public acts which attack the inherent right of man as a breadwinner in the ways of agriculture and trade. The Jews are prohibited from owning land or even from cultivating it as common laborers. They are debarred from residing in the rural districts. Many branches of petty trade and manual production are closed to them in the overcrowded cities where they are forced to dwell and engage, against fearful odds, in the desperate struggle for existence. Even as ordinary artisans or hired laborers they may only find employment in the proportion of one "unprotected alien" to two "Roumanians" under any one employer. In short, by the cumulative effect of successive restrictions, the Jews of Roumania have become reduced to a state of wretched misery. Shut out from nearly every avenue of self-support which is open to the poor of other lands and ground down by poverty as the natural result of their discriminatory treatment, they are rendered incapable of lifting themselves from the enforced degradation they endure. Even were the fields of education, of civil employment, and of commerce open to them as to "Roumanian citizens," their penury would prevent their rising by individual effort. Human beings so circumstanced have virtually no alternatives but submissive suffering or flight to some land less unfavorable to them. Removal under such conditions is not and can not be the healthy, intelligent emigration of a free and self-reliant being. It must be, in most cases, the mere transplanted of an artificially produced diseased growth to a new place.

Granting that, in better and more healthful surroundings, the morbid conditions will eventually change for good, such emigration is necessarily for a time a burden to the community upon which the fugitives may be cast. Self-reliance and the knowledge and ability that evolve the power of self-support must be developed, and, at the same time, avenues of employment must be opened in quarters where competition is already keen and opportunities scarce. (The teachings of history and the experience of our own nation show that the Jews possess in a high degree the mental and moral qualifications of conscientious citizenship.) No class of immigrants is more welcome to our shores, when coming equipped in mind and body for entrance upon the struggle for bread, and inspired with the high purpose to give the best service of heart and brain to the land they adopt of their own free will. But when they come as outcasts, made doubly paupers by physical and moral oppression in their native land, and thrown upon the long-suffering generosity of a more favored community, their migration lacks the essential conditions which make alien immi-

gration either acceptable or beneficial. So well is this appreciated on the Continent that even in the countries where anti-Semitism has no foothold it is difficult for these fleeing Jews to obtain any lodgment. America is their only goal.

The United States offers asylum to the oppressed of all lands. But its sympathy with them in no wise impairs its just liberty and right to weigh the acts of the oppressor in the light of their effects upon this country and to judge accordingly.

Putting together the facts now painfully brought home to this Government during the past few years, that many of the inhabitants of Roumania are being forced, by artificially adverse discriminations, to quit their native country; that the hospitable asylum offered by this country is almost the only refuge left to them; that they come hither unfitted, by the conditions of their exile, to take part in the new life of this land under circumstances either profitable to themselves or beneficial to the community; and that they are objects of charity from the outset and for a long time—the right of remonstrance against the acts of the Roumanian Government is clearly established in favor of this Government. Whether consciously and of purpose or not, these helpless people, burdened and spurned by their native land, are forced by the sovereign power of Roumania upon the charity of the United States. (This Government can not be a tacit party to such an international wrong. It is constrained to protest against the treatment to which the Jews of Roumania are subjected, not alone because it has unimpeachable ground to remonstrate against the resultant injury to itself, but in the name of humanity.) The United States may not authoritatively appeal to the stipulations of the treaty of Berlin, to which it was not and can not become a signatory, but it does earnestly appeal to the principles consigned therein because they are the principles of international law and eternal justice, advocating the broad toleration which that solemn compact enjoins and standing ready to lend its moral support to the fulfillment thereof by its cosignatories, for the act of Roumania itself has effectively joined the United States to them as an interested party in this regard.

You will take an early occasion to read this instruction to the minister for foreign affairs and, should he request it, leave with him a copy.

I have the honor, etc.,

JOHN HAY.

SENDING OF HUNGARIAN NATIONAL BANNER TO THE UNITED STATES.

Mr. Adee to Mr. McCormick.

No. 63.]

DEPARTMENT OF STATE,
Washington, September 3, 1902.

SIR: I inclose herewith copy of a letter from Anthony S. Ambrose, esq., supreme president of the National Slavonic Society of the United States of America, alleging that a delegation of Magyars are on their way to this country with a costly Hungarian national banner, on which are inscribed the words, "Be dauntlessly loyal to your fatherland, oh, Magyars;" that this banner is sent as the gift of the Hungarian National League to Hungarians living in the United States; that the gift was

prompted by the Hungarian Government and partly paid for by official representatives of that Government; and that it is intended to carry this banner through the United States, the object sought being to preserve the Hungarian nationality of Magyars living in the United States.

You will say to the Hungarian Government that such a report has reached us, and inquire whether such a flag, so inscribed, has in fact been sent to go on a tour through this country.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

Mr. Ambrose to Mr. Hay.

NEW YORK, August 26, 1902.

DEAR SIR: A delegation of Magyars from Hungary is on its way to the United States with the Hungarian national banner to be presented to the Hungarians living in the United States. The banner is the gift of the "Hungarian National League," and it was sent here for the purpose, as the official and unofficial press of Hungary expresses it, "to preserve Magyars living in foreign lands for their native country." Inscribed on it are the words "Be dauntlessly loyal to your fatherland, oh, Magyars!" To defray the expenses connected with the making of the flag, the minister president of Hungary, Kalman Széll, contributed \$500. A Government official, a gentleman by the name of Zseny, heads the delegation to the United States, and in New York City another official of the Austro-Hungarian Government, namely, the consul-general, Dessewffy, joined with his entire staff the reception committee which is to receive the flag with appropriate honors. A remarkable feature of this is that the flag is not intended for any one in particular, but is presented to all the Hungarians living in the United States, whether naturalized citizens or not. To better accomplish the object for which the flag is being sent here, namely, "to preserve the Magyars living in foreign lands," and "to foster in them a love for their fatherland," the flag is to travel from one Hungarian colony to another to give all of them an opportunity to touch its sacred folds. "The Hungarians living in the vicinity of New York," says the Hungarian newspaper, *Magyar Hirmondo*, under date of August 14, instant, "will participate in this holy effort with flaming patriotism, unselfish enthusiasm, and this celebrated day [meaning the day of the arrival of the banner in New York City] of the Hungarians of America will be worthy of their name and patriotism."

Sir, I myself am a native of Hungary, and I view this adulation of the Hungarian national colors in the United States with a mixed feeling of humiliation and shame. Like all other immigrants from the Old World, the Hungarians came to the United States to stay and to found homes for themselves and children. And if they came here to stay permanently and to cast their fortunes with the rest of the people of the country, what feeling other than that of sentiment can they have for their fatherland after their expatriation? The amalgamation of the Hungarian immigrants living in the industrial centers of the East is slow enough as it is, and now comes this disturbing element to retard it. Sir, I happen to be the president of the National Slavonic Society of the United States of America. This society has a membership of over 13,000, all of whom, with very few exceptions, are natives of Hungary. A clause in the by-laws, and one on which we lay much stress, is "That all members should become citizens as soon as entitled thereto." How can we hope to accomplish much in this direction, and make good American citizens out of my countrymen, if the Hungarian National League, and through it the Hungarian Government, is allowed to meddle with us? Hungarians can not pay homage to two flags—to their own and that of their adopted country—and be loyal to both.

I protest against this insult to my American citizenship. The American flag is good enough for me and it should be good enough for everybody. Under it we have found material prosperity, freedom, and equality. I am a Hungarian Slovak, and there are some 300,000 of my countrymen in the United States. Most of them work in mines and factories in Pennsylvania, Illinois, New Jersey, Ohio, Connecticut, and New York, and many other States, and they earn wages that they never could have made under that Hungarian flag. Hungary boasts of free press and free speech, and yet Slovak journalists are immured in jails every now and then for defending their

people against Government oppression. Was ever a Slovak newspaper writer sent to prison in the United States for similar reasons? Hungary points with pride to her Parliament in Budapest, and yet the Government has seen fit to close the door of that Parliament to 300,000 of Slovaks till 1902 by manipulations that every lover of freedom would be bound to condemn. Slovaks may speak their mother tongue in their adopted country without restraint and hindrance. They may build churches here, found schools, organize political, literary, and benevolent societies, and provide reading printed in the mother tongue for their enlightenment and education. Most of these things they may not do in their old home, under the very flag which they now send us to revere.

Once more I enter my protest on behalf of my fellow-countrymen against paying homage to this foreign flag. It is un-American. It is disloyal.

I am, etc.,

A. S. AMBROSE.

Mr. Hale to Mr. Hay.

No. 32.]

UNITED STATES EMBASSY,
Vienna, November 4, 1902.

SIR: Referring to the Department's No. 63 of November 3, 1902, inclosing copy of a letter from Anthony S. Ambrose, esq., supreme president of the National Slavonic Society of the United States of America, alleging that a delegation of Magyars was then on their way to the United States with a costly Hungarian national banner, on which are inscribed the words "Be dauntlessly loyal to your fatherland, oh, Magyars!" that this banner was being sent as the gift of the Hungarian National League to Hungarians living in the United States; that the gift was prompted by the Hungarian Government and partly paid for by official representatives of that Government, and that it was intended to carry this banner through the United States, the object sought being to preserve the Hungarian nationality of Magyars living in the United States, and instructing this embassy to say to the Hungarian Government that such a report had reached the Department and to inquire whether such a flag, so inscribed, had in fact been sent to go on a tour through the United States, I have the honor to inform you that in reply to my note of September 17, 1902, presenting as per instructions said inquiries, the Imperial and Royal ministry for foreign affairs informs this embassy that such a flag has in fact been sent on a tour through the United States; that the sum necessary to defray the expenses in connection therewith was subscribed to by all classes of Hungarian society, including Government officials, but that the Hungarian National League, which first started and carried out this idea, has been actuated in so doing by patriotic, and not political, motives. Referring to the motto inscribed upon the flag in question, which words are a quotation, being the first line of the Hungarian national anthem, the Imperial and Royal ministry for foreign affairs contends that said appeal is solely directed to the Hungarians in the United States who are not citizens thereof, but who have retained their allegiance to their native land and that "no blame can be attached to anyone who exhorts his countrymen, even when living in a foreign land, to be faithful to their native home and to cherish it, and who appeals to their patriotism."

For the Department's fuller information I have further the honor to inclose herewith a copy of said reply, together with a translation thereof in full.

I have, etc.,

CHANDLER HALE.

[Inclosure.—Translation.]

Ministry for foreign affairs to Mr. Hale.

VIENNA, October 31, 1902.

In the esteemed note of September 17 last, numbered F. O. 20, the honorable chargé d'affaires ad interim of the United States was pleased to make inquiry, in compliance with instructions received from the State Department at Washington, as to the meaning and purpose of the donation of a Hungarian flag sent by the Hungarian National League to the Hungarian associations in the United States, and a circular tour proposed in connection therewith through the United States.

In reply to inquiries made to this end the Royal Hungarian minister president now reports as follows:

The Hungarian National League which first started the idea of sending such a flag, and which first collected the necessary sum to defray the expenses from all classes of Hungarian society, including Government officials, is a Hungarian association actuated by patriotic motives, without political tendencies.

The impulse in donating a national flag was started by the fact that numerous charitable Hungarian associations, whose principal head office was at Bridgeport, Conn., intended to celebrate the tenth anniversary of their founding in New York.

There are no political motives which prompted this donation; it is simply a manifestation of a sentiment of unity and of sympathy which the Hungarian National League desires to convey to their countrymen living in the United States.

The bearer of the flag, Mr. Josef Zseny, is not an official person, but is simply a retired municipal employee who, as a member of the above-mentioned league, has been chosen as a delegate by the latter to present this flag and to convey at the same time the greetings of the league to the Hungarian associations in the United States.

As far as the circular tour is concerned which it is proposed to make with the flag through some of the States of the Union, Mr. Széll observes that the above-mentioned league has not given any special directions to the delegates, and that this proposition in all probability emanates from the leading persons at the head of the Hungarian associations in America.

Official as well as newspaper reports at hand agree in saying that the celebrations connected with this donation of the flag passed off with due decorum. The celebrations reached their height at the unveiling of the Kossuth monument in Cleveland, Ohio, at which such distinguished public men as Senator Mark Hanna and Governor Nash took part, which would not have been the case if the unfolding of the flag on the part of the delegation had been construed as a manifestation directed against the United States.

The words to be read on the flag are the first line of the patriotic poem, "Remember, Hungarians, to be faithful to thy native land."

This quotation shows that the appeal is directed solely to the sons of the country under St. Stefan's Crown and not to the citizens of the United States. No blame can be attached to anyone who exhorts his countrymen, even when living in a foreign land, to be faithful to their native home and to cherish it, and who appeals to their patriotism.

For these reasons the Imperial and Royal Government is at a loss to conceive what motives could actuate the State Department to take such steps. It trusts, however, that the explanation here given will remove any doubts which might have been entertained by the leading authorities of the United States.

The undersigned avails himself of this opportunity, etc.

For the minister:

MÉREY.

ACCIDENT TO PRESIDENT ROOSEVELT.

The Emperor of Austria to the President.

[Telegram.]

VIENNA, SCHOENBRUNN, September 5, 1902.

I have received the news of your dangerous accident with deep sympathy and express to you, Mr. President, my heartiest congratulations upon your escape from this serious danger to life.

FRANZ JOSEPH.

The President to the Emperor of Austria.

[Telegram.]

WHITE HOUSE,
Washington, September 6, 1902.

I cordially esteem Your Majesty's solicitous sympathy.

THEODORE ROOSEVELT.

STATUS OF NATURALIZED UNITED STATES CITIZENS OF AUSTRO-HUNGARIAN ORIGIN RETURNING TO THEIR NATIVE COUNTRY—RETENTION BY HUNGARIAN OFFICIALS OF PASSPORT AND CERTIFICATE OF NATURALIZATION OF JOSEF JANCO.

Mr. Hill to Mr. McCormick.

No. 19.¹

DEPARTMENT OF STATE,
Washington, November 19, 1901.

SIR: I inclose copy of a letter from Josef Janco, complaining that upon a visit to his father at Styavink, Hungary, in July last, he was arrested and brought before a court on a charge apparently of evasion of military service. He showed to the court that, though he was born in Hungary in 1869, he had become naturalized as an American citizen. He exhibited his certificate of naturalization and his passport. These papers, in spite of his repeated requests for them, have not been returned to him, although he was by the court discharged and set free.

You will investigate this matter and report thereon, and you will ask that the documents of Mr. Janco, referred to above, be returned so that they may be transmitted to him.

I am, etc.,

DAVID J. HILL, *Acting Secretary.*

[Inclosure.]

Mr. Janco to Mr. Hay.

PITTSBURG, PA., November 13, 1901.

DEAR SIR: I write to lay before you a complaint which I have to make against the Government of Hungary for indignities which I, as an American citizen, received at the hands of that Government during a visit made by me last summer. The facts are as follows:

I am 32 years of age, and was born January 2, 1869, in Styavink, county of Trencsén, Hungary, where my father, John Janco, still lives. I came to this country in August, 1888, and was naturalized about six years ago by the courts of Armstrong County, Pa. I am, and have been for several years, engaged in the grocery business at Natrona, Allegheny County, Pa.; am married, and have a family. I sailed for Hungary on the steamship *Kaiser Wilhelm der Grosse* on the 23d day of June, 1901, and arrived at Styavink aforesaid on or about July 7, and went to the office of — Hahn, a notary at that place, and exhibited my passport, dated and issued some time in June, 1901, and stated to the said authority that I was an American citizen and came as a stranger to visit my father. The said Hahn demanded from me the sum of 50 florins, which he stated was for the use of the military fund. I refused to pay this sum, and three days after was arrested by a gendarme at 4 o'clock in the morning and was taken from my father's house, put under arrest, and compelled to accompany the officer to Velka Bytea. The gendarme insisted at first on my accompanying him over a circuitous route, but on my insisting upon the privilege I was allowed to make the trip direct to the last-named town in a conveyance which I

engaged and paid for. My treatment by the gendarme was violent, and his language, when I showed him my passport and citizen's papers was to the effect and in substance as follows: The passport is not even good enough to use for a toilet paper. (This was expressed in stronger terms unfit to write on paper.)

At Velka Bytca, I was placed in prison and kept there two hours, then brought before a judge named Domanicky and delivered up my passport and citizen's papers. After some consideration the court discharged me, but my passport and citizen's papers were not returned, although I made frequent demands for them, and as a consequence, when I returned to this country, I was compelled to remain for two days at Ellis Island and put to other expense and inconvenience.

I make this complaint for the purpose of drawing the attention of your Department to the treatment I received, which is but a fair example of that to which many, if not all, of the citizens of this country who return to Hungary under like circumstances are subjected to. I would like of course to have my papers returned, if possible, and to have any other action taken by your Department which under the circumstances may seem meet and proper to you. If this conduct of the petty officers of Hungary were properly presented to the Hungarian Government, I believe much, if not all, of the inconvenience and humiliation now endured by citizens of the United States in their travels in Hungary would be done away with.

Yours, most respectfully,

JOSEF JANCO.

Mr. McCormick to Mr. Hay.

No. 53.]

UNITED STATES LEGATION,
Vienna, December 29, 1901.

SIR: Replying to the Department's No. 19, of the 19th ultimo, inclosing a statement from one Josef Janco, complaining of the treatment which he had received at the hands of the local authorities at Styavink (Styavink), Hungary, I have the honor to state that my experience already has demonstrated the importance of informing myself as to the truth of all such statements before presenting to the ministry for foreign affairs the case to which they apply and asking for its intervention.

In many instances these statements are grossly exaggerated if not absolutely untrue, and Janco's case appears to fall within the former if not within the latter category, as will be seen from the report made to me by Mr. Chester, our consul at Budapest, who made a visit of investigation to Styavink at my request.

This report which I have just received, in substance is as follows:

1. That all persons liable or to become liable for military service who leave the country without having performed such service must on their return to this country report immediately to the local authorities that the facts connected with their case, including that of their naturalization in accordance with the terms of the treaty of September 20, 1870, may be established.

This is practically set forth in the Department's circular "Notice to American citizens formerly subjects of Austria-Hungary who contemplate returning to that country" of date February 1, 1901.

2. Janco showed his passport to the town clerk, who informed him that he, the town clerk, would have to report his (Janco's) arrival to the chief sheriff; that otherwise he himself would be liable to a fine of about 50 florins, and that he (Janco) must also report himself to the chief sheriff or be subjected to a similar fine, which statement differs widely from that made by Janco.

3. Although Mr. Chester does not give any reason for, and in his report protests against the sending of gendarmes to take Janco to the

head sheriff, it is clear to me that their presence was, and has been in all similar cases, dictated by the apprehension of the officials in small villages, that the object of their action might endeavor to evade presenting himself before the authorities and proving liable to military service, and, escaping beyond their jurisdiction, bring them into trouble with their superiors, and subject them to the fine above alluded to.

4. As to the rough treatment to which Janco asserts he was subjected, I will quote from Mr. Chester's report verbatim:

I next took the testimony of the father of Janco, who personally appeared before me in Nagy Bittar. The father solemnly declared that he was present when the gendarmes came for his son in the early morning; that they requested him to go afoot to Nagy Bittlei; that his son's feet were sore, and horses were provided by a neighbor; and his son went without making any resistance; that the gendarmes said his son's passport was of no avail in Hungary (that is, to relieve the holder of the necessity of appearing before the chief sheriff); *that he did not hear and does not believe the gendarmes used any such expressions* as the legation quotes in its dispatches respecting the American passport held by Janco.

It would seem that if Janco had been roughly treated by the gendarmes after he left his father's presence, he would have reported it on his return home, and that he would have repeated the language he states was used with reference to his passport.

On Friday, the 20th instant, Janco's papers were delivered to his father by the town clerk of Styavink, who had just received them through the official channel from Budapest.

I will make representation to his excellency the minister for foreign affairs with reference to the hardship which the delay in returning Janco's papers worked upon him, and seize the opportunity thus offered to ask for greater expedition in all such cases, and the prompt return of documents the possession of which is of so much importance to their rightful owners.

An abuse of as long standing as the treatment of American passports, and the at times rough treatment of their bearers, can not be summarily done away with, especially when among the latter are found many who are disposed to abuse the protection afforded by these evidences of their American citizenship, and to flaunt their exemption from military service in the eyes of their former fellow-subjects in a manner most offensive to every representative of the Monarchy, allegiance to which the American citizens formerly subjects of Austria-Hungary have forsworn.

I have, etc.,

ROBERT S. McCORMICK.

Mr. McCormick to Mr. Hay.

No. 67.]

UNITED STATES LEGATION,
Vienna, February 11, 1902.

SIR: With reference to a personal letter which Count Lützow informs me that he wrote to Mr. Hengelmüller a short time ago, asking him to ascertain "unofficially" how the Government of the United States would view the abrogation by the Government of Austria-Hungary of the naturalization treaty between the two Governments of September 20, 1870, I have the honor to report that that letter was the direct result of my efforts, following closely upon those of my predecessor, to arrive at an understanding with the minister for foreign affairs as

to the treatment to be accorded to United States passports and their bearers, on the lines laid down and formulated in your instruction No. 59 to Mr. Harris, and bearing date January 5, 1900, as follows:

(a) The proper Austro-Hungarian officials shall be again instructed to treat United States passports as *prima facie* evidence of the citizenship of the bearer.

(b) In case reasonable ground appear to suspect fraud in the procurement or use of a United States passport, it may be submitted to the United States legation for examination, with a statement of the ground for suspicion.

(c) If, by reason of unfamiliarity with the English language or otherwise, the local authorities of Austria-Hungary may be uncertain whether a presented American passport is in fact such, they may ask of the nearest United States consul his opinion as to its character and purport. In giving such an opinion no indorsement of any kind will be made by the consular officer upon the passport, and no fee will be charged.

(d) If the ordinary consular visa be desired upon an American passport, it will be affixed by the proper consular officer upon payment of the prescribed fee of \$1 or its equivalent.

To the above I added a fifth article as follows—

When for any reason the local authorities shall consider it necessary to take possession of the naturalization certificate or passport, or both, a receipt shall be given for them wherein shall be stated the reason for such action—

in my note to the foreign office alluded to below. Mr. Harris had been unable to arrive at any well-defined understanding on the subject, and Mr. Herdliska, who followed it up while acting as *chargé d'affaires* during my absence last summer, was equally unsuccessful.

I made use of the case of Josef Janco, covered by my No. 53 to the Department, as the ground upon which to raise the question so long at issue, viz, the *prima facie* evidence of a passport as to the nationality of its bearer and the respect to which that document is entitled, maintaining in a conversation which I had with Count Lützow the position so clearly and well set forth in the instruction above referred to that "it (a passport) must be assumed to be *prima facie* valid until shown to be otherwise," and that local officials should have such instructions as would lead to a clear knowledge on their part as to the character of this document and of the treatment to be accorded to it and its bearer. Count Lützow frankly acknowledged the first part of my contention, and as frankly stated as to the second part that the attitude of the department of military defense stood in the way of the issuance of instructions on the lines laid down in your No. 59 above referred to, and for the first time formulated and put forward as a basis for the desired instructions to local officials in my note, copy of which I inclose herewith for your information.

In the course of our interview Count Lützow asked if some method could not be devised by which this Government could be officially notified of the naturalization of its former subjects when they availed themselves of the right to take that step accorded by the treaty. My reply was that in my opinion any method that could be devised would prove too cumbersome in practice to be at all satisfactory, which opinion I repeated in a memorandum of January 28, copy of which I also inclose herewith, adding that "in discussing such a method we are getting away from the real issue, viz, the *prima facie* evidence of the passport as to the citizenship of its bearer, and the rights to which he is entitled thereunder," as well as "leaving a simple method of procedure—the one suggested in my note—which would, if adopted, decrease the number of cases giving rise to correspondence between the ministry for foreign affairs and this legation to a minimum, and in

no way injuriously affect the position of the Imperial and Royal Government in individual cases not falling unquestionably within the terms of the treaty."

I added:

It seems to me also that after the lapse of thirty years local officials should be informed as to the provisions of a treaty which has a direct bearing upon the discharge of their duties, which duties, when they apply to citizens of other countries, cease to be purely local in their nature and must be performed with due respect and consideration for the rights of citizens of other countries whether these rights are obtained by specific treaty enactment or otherwise.

The attitude of the department of military defense is the crux of the situation, and it has stood between this Government and the full and proper execution of the terms of the treaty ever since that document nominally took effect.

This is proven by the "circular," translation of which was sent to the Department by Mr. Herdliska, while acting as chargé d'affaires, in his No. 12 of July 30 last, and which was based upon a law passed July 27, 1871, within one year after the signing of the naturalization treaty.

In other words this "law" contravening the terms of the treaty has been in existence throughout the life of the treaty, and stands between the ministry for foreign affairs and any agreement on the lines of the Department's instructions and of my note and memorandum.

In my opinion this is a favorable time to gain at least a radical modification of the procedure of local officials and the abandonment of actual banishment except in extreme cases which present good ground for that action in themselves should it prove wise, after further discussion, not to insist upon the letter of the treaty and the issuance of instructions in full accordance therewith.

This is a favorable time because it follows closely upon the newspaper discussion of the attitude of the various European Governments just previous to and immediately following the outbreak of the Spanish-American war, and this Government does not now wish to be behind its neighbors in its manifestation of friendship, as it has already proven in a way which I had the honor to formerly make known to you a short time ago.

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure 1.]

Mr. McCormick to Count Goluchowski.

UNITED STATES LEGATION, Vienna, January 7, 1902.

YOUR EXCELLENCY: I have the honor to call your excellency's attention to the case of Josef Janco, a naturalized American citizen, of Austro-Hungarian birth, the long detention of whose certificate of naturalization and passport taken from him by the authorities at Styavink, Hungaria, resulted in great hardship to him and narrowly escaped having more serious consequences.

Mr. Janco arrived at Styavink on a visit to his parents on or about July 7, 1901. He immediately reported his arrival to the local authorities, thus evincing a desire to conform to all that the law required, and to establish the fact that his naturalization had been secured in conformity with the terms of the treaty of September 20, 1870. He claims that one Hahn, a notary, to whom he exhibited his papers, demanded the sum of 50 florins, which he, Hahn, stated was for the use of the military fund. This sum he refused to pay, and three days later was arrested at his father's house at 4 o'clock in the morning and compelled to accompany the gendarme

to Velka Bytka; the gendarme insisting upon his going on foot by a circuitous route, but finally allowing him, Janco, to hire a conveyance and take the direct road.

Mr. Janco states that his treatment by the gendarme was violent, and the language used by the latter with reference to his passport and certificate of naturalization of a character which made it impossible for him to write it.

At Velka Bytka he was placed in prison and kept there for two hours, and then brought before a judge by the name of "Domanicky," to whom he delivered up his passport and certificate of naturalization. After some consideration the court discharged him, but retained his passport and naturalization papers, and although he made several requests that they be returned during his sojourn in Styavink, he was finally compelled to return to the United States without them.

The result of this failure to return his papers before his departure for the United States was that he was held at Ellis Island as an immigrant at considerable expense and great inconvenience until he could establish the fact that he had been naturalized, and was entitled to enter the United States as a citizen. The want of his papers in the absence of other evidence of his naturalization might have resulted in his being refused admittance to the United States.

I have caused some investigations to be made at Styavink through which I have learned that such evidence as could be obtained there is in denial of Janco's statement as to his treatment, but sufficient remains to demonstrate the ignorance of many local officials as to the character of, and the respect to which, a passport is itself entitled, and the consideration to which it entitles its bearer unless he has forfeited that consideration by some act of his own.

I am therefore led, your excellency, to ask if the understanding as to the acceptance of American passports as *prima facie* evidence of the citizenship of their bearers without distinction between native and naturalized citizens, which has been arrived at in part, can not be made more complete and formulated in terms mutually acceptable.

With the understanding thus completed and formulated it will open the way for the issuance of instructions in conformity thereto to the local officials in the realms of His Imperial and Royal Majesty, on the one hand, and to the consular officers of the United States within its borders on the other, who working together in harmony will be able to relieve this legation and His Imperial and Royal Majesty's ministry for foreign affairs of much detail work which at times is of an excessively annoying character.

This understanding might be briefly formulated as follows:

(a) A passport shall be accepted as *prima facie* evidence of the citizenship of the bearer.

(b) In case reasonable ground appear to suspect fraud in the procurement or use of a passport it is to be submitted to this legation for examination, with a statement of the grounds for suspicion.

(c) If, by reason of unfamiliarity with the English language or otherwise, the local authorities of Austria-Hungary may be uncertain whether a presented American passport is in fact such, they may ask of the nearest United States consul his opinion as to its character and purport. In giving such an opinion no indorsement of any kind will be made upon the passport and no fee will be charged.

(d) If the ordinary consular visá be desired, it will be affixed by the proper consular officer, upon payment of the prescribed fee of \$1 or its equivalent 5 crowns.

(e) When, for any reason, the local authorities shall consider it necessary to take possession of the naturalization certificate or passport, or both, a receipt shall be given for them, wherein shall be stated the reason for such action.

Had such a receipt been given to Mr. Josef Janco he would not have suffered the detention on Ellis Island, in New York harbor, above alluded to.

I beg your excellency's leave to say that I am unable to see the necessity for retaining documents of so great value to their holders, as their certificates of naturalization and passports, for so long a time as in a number of cases which have come under my observation; none more notably than the case under discussion, viz, that of Mr. Josef Janco, whose passport was taken from him in the first half of the month of June and returned to his father near the end of December, after over seven months had elapsed. Nor can I see wherein any good purpose can be served by placing a man under arrest on the suspicion of having violated a law when he places himself voluntarily within that law's jurisdiction, which fact should be sufficient to establish a presumption in his favor.

Under such circumstances it seems superfluous to say that without specific grounds the local authorities have absolutely no reason to fear that having voluntarily come within their jurisdiction, an object of their suspicion will flee from its boundary before they have time to satisfy themselves as to whether or not he has violated the military or any other law. When in addition to this presumption in his favor he is

the bearer of a certificate of naturalization as an American citizen or of an American passport, or both, no ground is left for his being deprived of his freedom, or the evidences of his American citizenship, unless that ground can be found in the civil or criminal records of the district whence he emigrated, or in charges preferred against him in proper and legal form, no matter from what quarter.

My Government would be greatly pleased if the understanding, which has practically been reached on the lines above indicated, could be formulated in terms mutually acceptable, and such instructions issued to the local authorities as would lead to the cessation of the annoying incidents which form the subject of so large a part of the official correspondence between the two Governments.

I avail myself, etc.

ROBERT S. McCORMICK,

[Inclosure 2.]

Memorandum from United States legation to Austro-Hungarian Foreign Office.

With reference to my note of the 7th instant on the subject of the acceptance by the local authorities of Austria-Hungary of American passports as prima facie evidence of the citizenship of their bearers, when presented by former subjects of this Monarchy on returning hither for any purpose, and the suggestions contained therein as to the method to be pursued by the local authorities should they not be fully informed as to the character of this document or entertain any doubt as to the bearer being the person described therein and entitled to the protection afforded thereby; and with reference to the conversation which I had with Count Lützow on this subject and the suggestion made by him tentatively to the effect that the difficulties constantly arising between local officials and the naturalized citizens, above referred to, might be avoided if some method were devised whereby notice could be sent, through an official channel, of the naturalization of all former Austro-Hungarian subjects under the terms of the treaty of September 20, 1870, and their names stricken from the rolls of those liable for military service in advance of their possible return here for any purpose; I now have to say that after careful consideration I do not believe that any method could be devised on the lines which Count Lützow suggested, which would not be found too cumbersome in actual practice to make its adoption desirable.

Moreover, in discussing such a method we are getting away from the real issue, viz, the prima facie evidence of the passport as to the citizenship of its bearer, and the rights to which he is entitled thereunder.

We are also having a simple method of procedure, the one suggested in my note first above referred to, which would, if adopted, decrease the number of cases giving rise to correspondence between the ministry for foreign affairs and this legation to a minimum, and in no way injuriously affect the position of the Imperial and Royal Government in individual cases not falling unquestionably within the terms of the treaty.

Speaking from my own short experience and from an examination of the records of this legation, I would say that cases of the character last above referred to are of such rare occurrence that they are hardly worthy of consideration in the discussion of a modus operandi, the adoption of which is so desirable for the reasons already set forth.

It seems to me, also, that after the lapse of thirty years, local officials should be informed as to the provisions of a treaty which has a direct bearing upon the discharge of their duties, which duties, when they apply to citizens of other countries, cease to be purely local in their nature, and must be performed with due respect and consideration for the rights of the citizens of other countries, whether these rights are accorded by general international agreement or principle, or by specific treaty enactment.

I would therefore beg to suggest that all local officials—civil and military—and courts, having jurisdiction in such cases as those under discussion, be furnished with copies of the treaty of September 20, 1870, between the Government of the United States of America and His Imperial and Royal Majesty, the Emperor of Austria, Apostolic King of Hungary, King of Bohemia, etc., with instructions to respect its provisions in all cases where there is not evidence tending to prove that its stipulations have not been complied with.

When, for reasons set forth in my note first above referred to, local officials may deem it necessary to take up a passport, or to question the right of its bearer to its possession, the proceeding to be as outlined in that note.

United States legation at Vienna, January 28, 1902.

Mr. Hay to Mr. McCormick.

No. 35.]

DEPARTMENT OF STATE,
Washington, March 6, 1902.

SIR: I have to acknowledge the receipt of your No. 67 of the 11th ultimo, in regard to the treatment to be accorded to United States passports and their bearers in Austria-Hungary.

Your conduct of the matter, as reported in your despatch, has the Department's approval, as has the fifth article of the proposed instruction to the Austro-Hungarian local authorities, requiring a receipt from them in every case in which they deem it necessary temporarily to take from an American citizen his passport.

* * * * *

I am, etc.,

JOHN HAY.

Mr. Hale to Mr. Hay.

No. 26.]

UNITED STATES EMBASSY,
Vienna, October 17, 1902.

SIR: For the information of the Department, I have the honor to inclose herewith a copy of Mr. McCormick's note,^a No. 44, of January 7, 1902, to the ministry for foreign affairs, and translation of a note of the 14th instant in reply thereto.

Mr. McCormick in the above note made use of the case of one Josef Janco (brought to the notice of this embassy in the Department's No. 19 of November 19, 1901, and upon which he reported in his No. 53 of December 29, 1901,) as demonstrating the ignorance of many local officials as to the character of a passport and the respect to which such a document and its bearer are thereby entitled.

Mr. McCormick then submits the following suggestions to the consideration of Count Goluchowski, concerning the prima facie evidence of the citizenship of a bearer of an American passport:

1. A passport shall be accepted as prima facie evidence of the citizenship of the bearer.
2. In case reasonable ground appear to suspect fraud in the procurement or use of a passport it is to be submitted to this legation for examination, with a statement of the grounds for suspicion.
3. If, by reason of unfamiliarity with the English language or otherwise, the local authorities of Austria-Hungary may be uncertain whether a presented American passport is in fact such, they may ask of the nearest United States consul his opinion as to its character and purport. In giving such an opinion no indorsement of any kind will be made upon the passport and no fee will be charged.
4. If the ordinary consular visa be desired, it will be affixed by the proper consular officer upon payment of the prescribed fee of \$1, or its equivalent, 5 crowns.
5. When for any reason the local authorities shall consider it necessary to take possession of the naturalization certificate or passport, or both, a receipt shall be given for them, wherein shall be stated the reason for such action.

And closes by saying that if an understanding formulated upon the above lines could be reached, and adequate instructions issued to the local authorities, the annoying incidents, occasioned by the latter's ignorance, which form the subject of so large a part of the official correspondence between the two Governments, would cease.

The ministry for foreign affairs, in reply to the above, and after denying the truthfulness of many of Mr. Janco's allegations, informs the embassy that the Royal Hungarian ministry of the interior, in compliance with the proposition of article 5 in Mr. McCormick's note above quoted, has seen fit to instruct the proper authorities within its jurisdiction to furnish the bearer of an American certificate of naturalization or of a passport, whenever these documents may be taken from him by said authorities, with a certificate or receipt setting forth the reasons which render such seizure necessary.

This regulation, if properly complied with upon the part of the local authorities, will certainly greatly lessen the number of complaints from naturalized American citizens formerly subjects of this Monarchy, as the majority of emigrants to the United States from this Empire are natives of Hungary.

I have, etc.,

CHANDLER HALE.

[Inclosure.—Translation.]

Minister for foreign affairs to United States Embassy.

66326/7.]

IMPERIAL AND ROYAL MINISTRY FOR FOREIGN AFFAIRS.

Relative to the esteemed note of January 7, 1902, No. 44, concerning the complaint made by the United States citizen Josef Janco, on account of the inexcusably long detention of the naturalization papers taken from him by the Royal Hungarian authorities at Styavnik, the ministry for foreign affairs has not failed to make proper inquiries, requesting at the same time that investigation be made to ascertain the cause of such delay and with whom the fault lay.

The Royal Hungarian ministry of the interior now makes known that the accusations made by Josef Janco are not correct.

The judge of the superior court of the district of Bittse has justified his conduct and his proceedings in this case, and official investigations have shown that the statement made by Josef Janco against the notary of the community of Styavnik is not in accordance with the truth.

As far as the part in this above-mentioned esteemed note is concerned which treats of the principles which should be observed by the Austro-Hungarian authorities when examining American documents which prove the identity of citizenship, the Royal Hungarian ministry of the interior, in compliance with the proposition made under article 5, has thought proper to instruct the authorities within its jurisdiction to furnish to the holder of an American naturalization paper or passport, when these latter have been taken away from him by the authorities, a certificate setting forth the reason which rendered such seizure necessary. In connection with this the Royal Hungarian ministry points to the fact that when American naturalization papers are being examined the rules adopted on former occasions are strictly adhered to, as already explained in the note of September 29, 1900, No. 55461/7.^a

The ministry of foreign affairs has the honor of bringing the foregoing to the knowledge of the embassy of the United States of America.

Vienna, October 14, 1902.

For the minister:

MÉREY.

[Inclosure in dispatch No. 139, October 15, 1900, from Austria-Hungary, printed in connection with the foregoing.—Translation.]

Count Lützow to Mr. Herdliska.

55461/7]

IMPERIAL AND ROYAL MINISTRY OF THE IMPERIAL
AND ROYAL HOUSE AND OF FOREIGN AFFAIRS.

In the esteemed note of date the 17th of September last, F. O., No. 105, the honorable chargé d'affaires of the United States of America, Mr. Charles V. Herdliska,

^aThe note referred to follows the above note.

has thought fit to draw attention to an apparent contradiction, contained in the note of this ministry of the 14th of August, of the current year, No. 46561/7, inasmuch as, although in the first place the *prima facie* validity of American passports and documents of naturalization (in so far as these papers do not bear the external signs of forgeries or present other invalidating characteristics) is in principle therein acknowledged, the right is nevertheless claimed—as regards those American citizens who having formerly been Austrian or Hungarian subjects emigrate to America without having fully discharged their military duties and after the acquisition of American citizenship return to this country (even when the papers of legitimation with which they are furnished are perfectly regular)—for the competent authorities of this land to institute inquiries as to whether the acquisition of American citizenship by the individuals in question has been made in accordance with the provisions of the treaty of the 20th of September, 1870; that is to say, whether in the circumstances of these individuals all the conditions of Article I of said treaty are complied with.

In answer to this the Imperial and Royal ministry of foreign affairs has the honor most respectfully to draw the attention of the honorable chargé d'affaires of the United States of America to the fact that the note of this ministry, above referred to, does not go beyond the simple assertion of the following position: The Governments in Vienna and Budapest find themselves, in principle, in perfect agreement with the Government of the United States of America in that they, on their side, recognize the *prima facie* validity of American papers of legitimation as proof that the status of American citizenship asserted by such papers for their owner is in fact his due and legal status; with this declaration of principle must, however, be associated the clear and emphatic statement that, as regards persons who have emigrated from the Monarchy and acquired American citizenship before the discharge of their military duties, both the Governments of the Monarchy must reserve to themselves the right to examine into the circumstances under which the persons in question have become citizens of the United States of America.

This recognition in principle (as expressed in the above-mentioned note of this ministry) of the *prima facie* validity of American papers of legitimation is, according to the view taken by this ministry, by no means confined to the documents of such persons as have been American citizens from their birth, but includes also those of naturalized citizens of the Union, persons of originally foreign nationality—therefore of Austrian or Hungarian origin among others—whose American citizenship is without doubt *prima facie* proved by properly executed documents of this sort.

The simple fact, however, that a person originally of Austrian or Hungarian nationality, who has become naturalized in the United States of America, is in possession of a regular and therefore *prima facie* valid American passport and papers of legitimation, can by no means be regarded as affording an absolute, incontestable and undoubted guaranty that the person in question, in acquiring naturalization in the United States, has proceeded in accordance with the provisions and assumptions of the treaty of 1870.

For in this convention certain positive and exactly defined conditions are set forth, upon the fulfillment of which is made to depend whether a former subject of the Monarchy, who has been naturalized in America, is to be recognized as an American citizen within the meaning of the treaty, and whether the rights secured by treaty to American citizens are to be accorded to such a person. Further, it is also in this very treaty expressly provided that in some specified cases a former subject of Austria or Hungary—even though his naturalization in America be perfectly regular and in order—shall, by the authorities of his original domicile, continue to be held answerable before the competent court of criminal jurisprudence for certain military offenses committed in the time prior to his emigration.

It is therefore clear that the authorities of this country must of necessity have the right, in a special case such as one of those above referred to, by means of an official inquiry into the special circumstances attaching thereto, to inform themselves with certainty (and in this matter the simple possession of American papers of legitimation, whether passport or certificate of citizenship, does not of course afford even *prima facie* evidence) as to whether the *material* conditions, which the Treaty of 1870 attaches to the recognition by the authorities of this country of the American citizenship, acquired by naturalization, of a former subject of the Monarchy have in fact been complied with, such compliance constituting the condition upon which, alone, the enjoyment of the rights guaranteed by treaty can be conceded to the naturalized person in question.

To the reservation contained in the note of this ministry of the 14th of August last, no significance beyond that here explained is therefore to be attached, it being simply an assertion of the right of the authorities of this land (a right which they have also invariably asserted), in individual cases, in which it is in their opinion necessary to assure themselves by inquiry as to whether in the naturalization of a

subject of the Monarchy in the United States of America the provisions of the treaty have in fact been duly and fully complied with.

The claiming of this right for the authorities of this land does not, according to the view taken by this ministry, in any degree derogate from the general recognition in principle of the prima facie validity of American documents of legitimation, seeing that these latter assert nothing more than that their possessor is, from the point of view of the legislation of the United States of America, to be regarded as an American citizen. Such papers can not, on the other hand, be regarded as incontrovertible documentary evidence proving that in each and every case naturalization has proceeded in conformity with all the treaty provisions bearing on this subject.

An inquiry of this sort, instituted by the authorities of this land, can not therefore, as has been shown, be held to involve—as the honorable chargé d'affaires of the United States of America seems to imply—anything approaching an examination or verification by these authorities of papers of legitimation emanating from the competent American authorities, in respect of their legality or validity, from the standpoint of American legislation.

Such an inquiry has, on the contrary, no other object than the attainment of certainty as to whether, in some special case, the provisions of the treaty between the Monarchy and the United States of America have been duly observed.

That the instituting of such an inquiry, which is, as has been shown, confined to ascertaining whether those treaty provisions have been complied with, upon which the recognition of an act of naturalization has been made dependent, can not be prohibited to the authorities of this land would seem to be beyond all doubt, in view of the fact that the matter dealt with is the fulfillment of the stipulations of treaty; it being undeniably within the competence of either party to a treaty to assure itself, in every separate instance as it arises, as to the due observance of the provisions of that treaty by the other party thereto.

That in cases such as those in question circumstances may occur in which an inquiry of this sort can not be regarded as superfluous, may be illustrated by quite a recent example in which the Imperial and Royal ministry for foreign affairs in its note of the 16th of June last, No. 34101, basing its proceeding upon information furnished by the United States legation itself, had the honor to draw attention to the case of a certain Franz Rath, to whom American citizenship had apparently been accorded (by means of a certificate of naturalization issued by the city court of Utica) after a shorter period of residence in the United States of America than that stipulated for, namely, five years, by the terms of the treaty.

Further, in the esteemed note of the 26th of February last, No. F. O. 52, the envoy extraordinary and minister plenipotentiary, Mr. Addison C. Harris, stated that he had himself occasionally had to cancel American passports, as having been illegally issued.

While the Imperial and Royal ministry for foreign affairs believes that it has on the one hand succeeded in showing in the course of the above observations that its note of the 14th of August last is in no degree open to the charge of adopting mutually contradictory positions, it regards it, on the other hand, as a matter of course and self-evident, and not needing the support of such arguments and special considerations as have been adduced in this connection, that the right must of necessity be conceded to the authorities of this country when instituting an inquiry such as has been treated of in the above, and for the purposes of such inquiry not only to examine the documents of naturalized American citizens who have returned to the Monarchy, but also when necessary to retain temporary possession of the same, in order that they may have in hand such concrete data as are likely to prove essential to the prosecution of any further examination that may be desirable, as well as a positive documentary basis for the due eliciting of the actual facts of the case occupying their attention; and this necessity is specially likely to arise when the matter in hand includes the removal of such a person's name from the army lists of Austria-Hungary.

This declaration of the true reasons and objects by which the authorities of this country are influenced, when, as occasionally happens, they retain for a time possession of the American papers of legitimation of naturalized citizens of the Union before returning them to their owners, should certainly be sufficient to prove that such temporary retention can not fairly be regarded either as an infringement of the naturalization treaty or as inconsistent with the general attitude to this subject, lately adopted by the Imperial and Royal ministry for foreign affairs.

It having, however, been pointed out by the honorable chargé d'affaires of the United States of America that in the return to their owners of passports and other documents of legitimation taken from naturalized American citizens very considerable delay not infrequently occurs, the Imperial and Royal ministry for foreign affairs is by no means disposed to call in question the inconveniences that may, under some circumstances, result for the naturalized American citizen in question from the

unduly prolonged retention of these documents. The Imperial and Royal ministry for foreign affairs has accordingly, in connection with the four cases particularized in the esteemed note of the 10th of September last, No. F. O. 101, in which it is asserted that the papers of legitimation of American citizens were retained for an unreasonably long period before being returned to their owners, drawn the attention of the ministers of the interior in Vienna and in Budapest to this administrative shortcoming, with an earnest representation that whatever is possible be done with a view to its correction.

In compliance with this representation, the Imperial and Royal ministry of the interior has already taken occasion to address to the administrative authorities within the sphere of its jurisdiction an injunction, impressing upon them as an imperative duty, in all cases in which it appears necessary for the attainment of the ends above intimated, to retain temporary possession of papers of legitimation belonging to naturalized American citizens who return to the Monarchy, to withhold such documents from their owners only so long as may be absolutely necessary; and, further, that in all dealings with cases of this sort the utmost possible dispatch shall at all times be used.

With reference to the desire expressed in connection with this question by the honorable chargé d'affaires of the United States of America to be put in possession of copies of the orders issued to the authorities of this country, and to which reference was made in the note of this ministry of the 14th of August last, No. 46561/7, the Imperial and Royal ministry for foreign affairs regrets not to be in a position to comply therewith, it being a general principle of universal application here that the orders and instructions issued to the administrative authorities of this country, and intended for their use exclusively in the discharge of their official duties, are not communicated to foreign governments.

At the same time, the Imperial and Royal ministry for foreign affairs does not hesitate to characterise as inconsistent with these very orders the proceeding—commented upon by the honorable chargé d'affaires of the United States of America—of the sheriff (beirkshauptmann) of Rapezyce, who, citing in justification of his action a ministerial edict which had been addressed to him, requested in his letter of the 7th of September last, No. 12093, to the United States legation, to be supplied with translations of an American passport and of a certificate of naturalization belonging to a certain Beni Balamut, the orders in question being those issued by the Imperial and Royal ministry of the interior to the administrative authorities under its control defining the procedure to be adopted in cases in which doubt might occur as to the contents or the authenticity of North American passports or as to the identity of the owner of such documents.

In complete accordance with the suggestions on this subject contained in the esteemed note of the 26th of February last, No. F. O. 52, the administrative authorities—including, of course, those in Galicia—under the control of the Imperial and Royal ministry of the interior, have received instructions that such American passports as can not, for lack of knowledge of the English language, be duly examined by the office in question may, in case of need, be forwarded to the nearest American consular officer with an appropriate inquiry, but certainly not with a request that they be translated. On the other hand, however, in all cases in which a well-founded suspicion is present that an American passport is a forgery, or is being used by a person who is not identical with the person whose name it bears, these facts, with all available proof in support of them, are to be reported direct to the Imperial and Royal ministry for foreign affairs, in order that this latter may associate itself with the legation of the United States in the prosecution of a searching inquiry into the facts of the case.

It having thus been shown that the standing orders in question are in complete accordance with the wishes expressed by the minister, Mr. Addison C. Harris, the Imperial and Royal ministry for foreign affairs regards it as its duty to approach the honorable chargé d'affaires of the United States of America with the most respectful request that the general instructions (hitherto held back) to the consular officers of the United States of America established in the Monarchy, dealing with the above-mentioned *modus procedendi*, may now kindly be issued with as little delay as possible, to the end that new complications may not in future arise for lack of such instructions to the American consular offices concerned.

From what precedes it must be self-evident that, in addressing the above-mentioned request to the legation of the United States of America, the Imperial and Royal sheriff (beirkshauptmann) of Rapezyce was simply acting under a certainly most regrettable misapprehension, and is to be represented with appropriate comment to that officer.

Finally, with reference to the cases of Danislowicz, Kreswirth, Turck, and Schesny, to which the attention of this ministry was directed by the esteemed note of the 10th

of September last, No. F. O. 101, in which cases the return of the American papers of legitimation taken from the persons named by the Austrian and Hungarian authorities has been unduly long delayed, the Imperial and Royal ministry for foreign affairs lost no time, immediately on receipt of the above esteemed communication, in informing the ministries in Vienna and Budapest as to the circumstances described, with the request that the necessary steps might be taken without delay, unless some insuperable obstacle should really stand in the way to hinder this from being done, to secure the immediate return of the papers in question to the persons named.

According to a preliminary communication from the Imperial and Royal ministry of the interior, it also on its part immediately addressed a telegram to the Imperial and Royal governor (statthalter) at Lemberg, directing his attention to the complaints made by Alexander Danislowicz and Ignatz Kreswirth, and hopes very shortly to be in a position, as the result of this proceeding, to make a further and detailed communication on this subject.

The Imperial and Royal ministry for foreign affairs has also, in the interim, received a preliminary telegraphic communication from the Royal Hungarian ministry of the interior, containing the information that his American certificate of naturalization has already been returned to Michael Turck, and that, in the matter of Rudolf Schesny, the deputy sheriff (vicegespan) of the comitat of Saros has been requested to send in his report upon the case with all possible dispatch.

While doing itself the honor most respectfully to acquaint the honorable chargé d'affaires of the United States of America of the foregoing, the Imperial and Royal ministry for foreign affairs reserves for a future occasion the further separate consideration of the special cases in question.

The undersigned avails himself at the same time of this opportunity to renew to the honorable chargé d'affaires, etc.

Vienna, September 29, 1900.

For the minister:

Lützow.

MILITARY SERVICE CASE OF JOSEPH KRISTOF.

Mr. Hay to Mr. McCormick.

No. 25.]

DEPARTMENT OF STATE,
Washington, January 3, 1902.

SIR: I inclose for investigation and appropriate action a copy of a letter from which it appears that a man named Kristof, an American citizen, is being compelled to perform military service in the army of Austria-Hungary.

His certificate of naturalization is also inclosed, and it has been suggested to Mr. Klein to advise Kristof to address you.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Klein to the Secretary of State.

YONKERS, N. Y., *December 28, 1901.*

SIR: Your obedient servant requests kindly to be informed what steps to take to have an American citizen of the United States released who went to Hungary to be cured, and was taken as soldier by the Government of Hungary, and is still serving. Herewith I respectfully beg to inclose his naturalization papers. He has failed to have a passport issued, being that he was so sick that the doctor advised him to leave with the first steamer sailing from this port. The name of the citizen is Kristof, but, as shown in the naturalization papers, his name was misspelled (Kistof). His present address, where he camps, is Joseph Kristof, Company 4, Sixty-seventh Regiment, Eperjes, Hungary, Co. Saros.

Awaiting your kind instructions, I am, etc.,

ADOLF KLEIN.

Mr. McCormick to Mr. Hay.

No. 81.]

UNITED STATES LEGATION,
Vienna, May 7, 1902.

SIR: With reference to the Department's No. 25 of January 23, 1902, inclosing a letter from which it appears that a man named Kristof, an American citizen, is being compelled to perform military service in the army of Austria-Hungary, I have the honor to report that I transmitted the information contained in your inclosure to his excellency the minister for foreign affairs, stating that the name of the citizen in question was Kristof, but, as shown in the naturalization certificate, was misspelled Kistof. In reply I have received a note from the ministry for foreign affairs, translation of which I herewith inclose, setting forth that the Imperial and Royal ministry of war has now given its opinion [in the Kistof case] and states that in consideration of the fact that the accompanying certificate of naturalization bears the name of Joseph Kistof and that there is nothing to show that the person named in this document is identical with Joseph Kristof now serving as a private in the regiment of infantry No. 67, etc., the discharge of the latter from military service can not take place until proof has been produced that Joseph Kristof is the identical Joseph Kistof who was naturalized, according to the accompanying certificate, as a citizen of the United States in the year 1896.

* * * * *

I will endeavor to secure favorable action without furnishing the required proof, but technically the Imperial and Royal ministry of war may claim that it is acting within its rightful prerogative in demanding the proof above referred to.

In order to save time, I have written to Mr. Klein, who addressed the Department in Kristof's behalf, to furnish such proof as he can as to the alleged error in the spelling of the name, which has given rise to the difficulty in obtaining Kristof's release.

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure.]

Count Lützow to Mr. McCormick.

The Imperial and Royal ministry for foreign affairs has not failed to inform the imperial and royal ministry of war of the contents of the note of January 20 last, No. 45, touching the enrollment of the naturalized United States citizen, Joseph Kristof, into the ranks of the Austrian army, with a view of making the necessary investigations and to make such further dispositions as the result may warrant.

The Imperial and Royal ministry of war has now given its opinion and states that in consideration of the fact that the accompanying naturalization certificate bears the name of Joseph Kistof and that there is nothing to show that the person named in this document is identical with Joseph Kristof, now serving as a private in the regiment of infantry No. 67, the discharge of the latter from military service can not take place until authentic proof has been produced that Joseph Kristof is the identical Joseph Kistof who was naturalized according to the accompanying certificate as United States citizen in the year 1896.

While the undersigned has the honor of leaving it to the judgment of the honorable envoy extraordinary and minister plenipotentiary of the United States of America to take such steps as may be deemed proper by him to lead to the removal of any doubts in this matter, he avails himself, etc.

Vienna, May 4, 1902.

For the minister:

COUNT LÜTZOW.

Mr. McCormick to Mr. Hay.

No. 5.]

UNITED STATES EMBASSY,
Vienna, August 11, 1902.

SIR: With reference to the Department's No. 25 of January 3, 1902, and to my No. 81 of May 7, 1902, regarding the case of a man named Kristof, who was being compelled to perform military service in the army of Austria-Hungary, I now have the honor to inform you that on the presentation of a duplicate certificate of naturalization, in which the spelling of the name was corrected to Josef Kristof instead of Joseph Kistof, I succeeded in obtaining the release of the party in question.

I have caused Mr. Klein, who first brought the case to attention of the Department, to be informed of Kristof's release.

As said in my No. 81, above referred to, the department of military defense seizes upon every technicality to evade that full and hearty recognition of the naturalization treaty of September 20, 1870, which the relations between the two countries would seem to demand, and the foreign office is apparently unable to take the decision in cases of this kind into its own hands, where it seems to me to belong. I represented to His Excellency Count Lützow personally, as well as to His Excellency Count Goluchowski through an official note, that everything pointed to the truth of Mr. Klein's statement that Kristof's name had been misspelled in his original certificate of naturalization; that whereas Kristof was a common name, and this fact gave color and substance to the claim that Kristof's name, as above indicated, was misspelled, the name of Kistof was absolutely unknown and appeared in no directory or other publication where it would have been found had it existed at all. I cite this fact simply to show the attitude of the department of military defense as practically sustained by the foreign office in treating the cases of naturalized American citizens who have returned here.

I will have occasion to again refer to this attitude in another case upon which I will shortly report to the Department, as bearing upon the desirability of a revision of the treaty above referred to, which is now a source of constant irritation to this Government through its flagrant abuse by young men who emigrate with the sole purpose of evading military service and of returning here to reside as soon as they have acquired American citizenship.

I have, etc.,

ROBERT S. McCORMICK.

MILITARY SERVICE CASES OF JOSEPH KNOPP, JACOB FRIEDBERG, HARRY SCHMIERIE, MICHAEL TENZER, AND FRANK HOWRKA.

Mr. McCormick to Mr. Hay.

No. 63.]

UNITED STATES LEGATION,
Vienna, January 22, 1902.

SIR: For the information of the Department and in order that there may be on its files a complete record of the cases of naturalized American citizens of Austro-Hungarian origin who have become involved

with the military authorities on return to their native land, to visit or otherwise, I have the honor to make the following brief summary of each case, which summary can be amplified at any time in the future should occasion demand.

Joseph Knopp, a naturalized American citizen of Austro-Hungarian origin, emigrated to the United States in March, 1892, while a member of the Austro-Hungarian army reserve, but subsequent to the performance of his full military service. He became naturalized at San Antonio, Tex., in November, 1897, and is now a sergeant in Company A, Eighteenth Regiment of the United States Army. He left the United States in March, 1901, on a six-months' furlough, returning to visit his parents at Stisburg, and was arrested one month after his arrival and imprisoned on the charge of evasion of military service by the local authorities, despite of the fact that he was the bearer of documents proving his American citizenship. Through the intervention of this legation Knopp was finally released and the case satisfactorily settled.

Jacob Friedberg, a naturalized American citizen of Austro-Hungarian origin, emigrated to the United States in 1888, at 12 years of age, before being summoned for military service. He was naturalized in New York City, on May 15, 1899; returned to his former home on a visit in May, 1901, and on the 22d day of that month was arrested by the local authorities for the nonperformance of military service, notwithstanding that he was the bearer of documents proving his American citizenship. Upon Friedberg's appeal to this legation, and through its intervention, he was released and immediately quitted the country without further reporting to the legation.

Harry Schmierie, a naturalized American citizen of Austro-Hungarian origin, emigrated to the United States in 1886, at 12 years of age, before being summoned for military service. He was naturalized at Denver, Colo., on October 16, 1896, and returned to his former home in May, 1901. The circumstances in Schmierie's case are nearly identical with those in the Friedberg case, given above, so that for the sake of brevity I refrain from giving them.

Michael Tenzer, a naturalized American citizen of Austro-Hungarian origin, emigrated to the United States in 1885, at 16 years of age, before reaching the age of conscription. He was naturalized in New York City in 1890; returned to his former home on a visit to his parents on May 3, 1901; was arrested shortly after his arrival by the local authorities, who immediately released him upon his establishing his American citizenship, but banished him from the district within twenty-four hours thereafter. Tenzer at once came to Vienna and appealed to this legation, through whose intervention the order of banishment against him was set aside.

Frank Howrka, a naturalized American citizen of Austro-Hungarian origin, emigrated to the United States in 1882 and became an American citizen through the naturalization of his father in 1887, being at that time under age and then residing in the United States. He returned with his father to his former home in 1893 to look after property in this country, and on April 27, 1901, was enrolled as a recruit in the Austro-Hungarian army, but was finally released through the intervention of this legation.

I have no means of knowing, without making direct inquiry, which

I could do at any time, whether order of banishment was issued in any case in which the fact is not stated in this summary. In many cases those who appeal to this legation leave the Monarchy while their cases are in process of adjustment, and without again communicating with us, so that we have no means of finding out whether an order of banishment has been transmitted to the local authorities without making specific inquiry at the foreign office. It has not been the custom to make such inquiry, as the object of this legation's intervention has been considered to be attained in most cases on the simple erasure of the names of those who appealed to it from the military rolls.

I have, etc.,

ROBERT S. McCORMICK.

PASSPORT APPLICATION OF MOSES LILIENTHAL.

Mr. McCormick to Mr. Hay.

No. 38.]

UNITED STATES LEGATION,
Vienna, November 12, 1901.

SIR: I have the honor to present to you for your consideration the case of Moses Lilienthal, who has applied to this legation through the United States consul at Budapest, for a passport, and I respectfully ask for the instructions of the Department in this connection.

The facts of the case are as follows:

1. Moses Lilienthal was born at Jerusalem, Palestine, on the 10th of January, 1856, and has resided there since the day of his birth.

2. His father was born in the United States, at Louisville, Ky. (how long the father resided in the United States is not mentioned in application), and Lilienthal claims citizenship through native citizenship of parent.

3. He is the bearer of certificate, Form 179, No. 11, issued by the United States consul at Jerusalem on the 29th of January, 1901, and of Turkish passport, which I have the honor to inclose herewith, and respectfully request that they may be returned.

4. He is now temporarily residing at Budapest, Hungary, and declares that he intends to return to the United States (where he has never been) within two years, with the purpose of residing and performing the duties of citizenship therein; and yet in the same application he declares, "I desire the passport for the purpose of traveling in Europe and Asia."

In this declaration I have no confidence, circumstantial evidence being entirely against it.

It seems to me that the consul at Jerusalem is responsible for issuing Form 179 to Mr. Lilienthal, to be used by him as a passport, contrary to sec. 169 (and 149) of Consular Regulations.

For which reasons, pending instructions from the Department, I have declined to issue passport to applicant.

I have, etc.,

ROBERT S. McCORMICK.

Mr. Hay to Mr. McCormick.

No. 30.]

DEPARTMENT OF STATE,
Washington, January 18, 1902.

SIR: Your dispatch, No. 38 of the 12th of November, ultimo, asking instructions with regard to issuing a passport upon the application of Moses Lilienthal, has been received.

You report that the applicant was born at Jerusalem, Palestine, on January 10, 1856, where he has since resided; that his father was born in the United States (but for what length of time he resided in the United States the application does not state), and that Lilienthal claims citizenship through the native citizenship of his father. You add that Lilienthal is the bearer of a certificate, Form 179, No. 11, issued by the United States consul at Jerusalem, January 29, 1901, which, with Turkish passports, you inclose. You state your belief that the consul at Jerusalem issued the certificate contrary to sections 169 and 149 of the Consular Regulations, and that for this reason, and because you are not convinced of the bona fide intention of the applicant to return to the United States (where he has never been) within two years, you have, pending instructions, declined to issue him a passport.

The Department's instruction of August 15, 1894, to Mr. Buchanan, minister at Buenos Aires (Foreign Relations, 1894, p. 19), authorizes a certificate of deposit of a passport. Such a certificate may properly be issued. But in the certificate submitted in this case, and to which you invite attention, the words "deposit of passport and" are struck out in the caption and it reads: "Certificate of registry of a citizen of the United States." As the document contains a description of the holder, and describes him as a son of a citizen who held a passport, it has doubtless served the purpose of a passport for him. It would seem, therefore, to be an improper document. It should have been based upon the deposit of the applicant's passport. It could not properly be based upon the deposit of the passport of the father of the applicant. It is presumed the consul acted upon the theory that the father's citizenship in this case descended to the son, and that the proof of the citizenship was tantamount to the holding of a passport; but the Department may, on occasion, refuse a passport to a person without denying that he may be a citizen of the United States. Your supposition concerning the impropriety of the issuance of the document by the consul at Jerusalem seems to be correct, and an explanation will be invited from him.

Your question whether this certificate of registry is not a violation of paragraph 169 of the Consular Regulations, which authorizes withholding a passport from one who has practically abandoned his country, and of paragraph 149, which prohibits the granting of a passport to anyone who is not a citizen of the United States, may be answered in the negative, as the document issued was not a passport.

The right of the applicant to receive a passport is another matter. If the father was a citizen of the United States when the son was born, the son was himself born a citizen of the United States. He was, moreover, as it would seem, born in a country in which the United States exercises extra territorial jurisdiction, and where the general principle concerning indefinite residence abroad is not so rigidly applied. Nevertheless, the circumstances of the present case do not seem to entitle the applicant to such exceptional consideration. Born in Jerusalem

nearly fifty years ago, Mr. Lilienthal has never been in the United States, and while he declares his intention to come hither within two years, this statement, in your opinion, and in that of the Department so far it is advised, is negatived by the circumstances. Citizenship involves duties on the part of the citizen as well as obligations on the part of the Government. There has been an entire absence of performance of duties of citizenship on the part of the applicant. The fact that he does not become a subject of Turkey does not alter the fact that he is not performing, and never has performed, the duties pertaining to American citizenship. Your action in withholding a passport is approved.

Returning the original papers communicated with your despatch, as requested, I am, etc.,

JOHN HAY.

PASSPORT APPLICATION OF THEODOR F. ALEXANDER.

Mr. McCormick to Mr. Hay.

No. 82.]

UNITED STATES LEGATION,
Vienna, May 7, 1902.

SIR: I have the honor to report the following case of application for a passport and to ask the Department's instructions with reference to same.

Although of the opinion that I should grant the application in view of an instruction, No. 52, by Mr. Sherman to Mr. Storer, minister at Brussels, and dated November 8, 1897, I ask for the Department's instructions, as it is not a case in which immediate action is necessary.

A. M. Alexander, the father of the applicant, Theodor F. Alexander, emigrated to the United States from Prussia, sailing from Hamburg on the 15th day of May, 1854, and resided eighteen years uninterruptedly in the United States to 1872, and was naturalized as a citizen of the United States before the superior court of the city of New York, at New York, on October 1, 1860, as shown by certificate of naturalization presented at this legation. In 1872 he, A. M. Alexander, left the United States and has since that time resided in Europe, having been, until about six years ago, the junior partner in the firm of Alexander Brothers, of New York City, and representing that firm as buyer in Europe, and residing in Dresden until 1876, when he removed to Vienna, which city has been since then and is now his home. He has visited the United States but once since 1872. His son, Theodor F. Alexander, who now applies for a passport, was born in Vienna on April 22, 1881, and has just become of age and declares that it is his intention to go to the United States within two years with the purpose of residing and performing the duties of citizenship therein. He is a student at the University of Vienna and will take his degree in the month of June, 1904, a little over the two years within which he declares that it is his intention to go to the United States, but as I construe the purpose of this declaration and considering the object of the young man's remaining here until June, 1904, it is within the spirit of the regulations. Moreover, A. M. Alexander states that he has three sons who were born in the United States, are now residing, have spent most of their

lives there, and who have undertaken to secure employment for the youngest son, Theodor, on the completion of his studies at the university. I have stated to Mr. A. M. Alexander that, subject to the approval of the Department, I will issue a passport to the son. For the further information of the Department and in support of the above I have the honor to inclose herewith a statement of Mr. A. M. Alexander over his signature.

I have the honor, etc.,

ROBERT S. McCORMICK.

[Inclosure.]

Statement of A. M. Alexander with reference to his son's application for a passport.

With reference to my long residence in Europe, beginning with the year 1872, I have to make the following statement: I was junior partner in the firm of Alexander Brothers, of New York, and I came over to buy goods for that firm, going to Dresden, where I remained for four years, visiting America once in the meantime. In 1876 I removed to Vienna, where I have represented the above firm until about six years ago, when I retired from business, and have not been in America since 1876. My son, Theodor F. Alexander, who was born here in Vienna in 1881, is a student at the Vienna University and will complete his studies and take his degree in June, 1904, when it is his intention, as well as mine, that he shall go to the United States, where his brothers, who were born in the United States and who have spent most of their lives there, have undertaken to secure employment for him. I solemnly declare the above statement to be true, and make it for the purpose of assisting my son to secure a passport.

A. M. ALEXANDER.

Mr. Hay to Mr. McCormick.

No. 45.]

DEPARTMENT OF STATE,
Washington, May 28, 1902.

SIR: Your No. 82 of the 7th instant has been received.

It appears that Mr. A. M. Alexander, the father of the applicant for a passport, was born in Prussia, was naturalized as a citizen of the United States, and has lived for some years in Europe. His son, Theodor F. Alexander, was born in Vienna in 1881, when his father was receiving the protection of a passport as a citizen of the United States. Section 1993 of the Revised Statutes of the United States says:

All children * * * born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States.

As there seems to be no doubt that A. M. Alexander was a citizen of the United States when his son was born, his residence and status after that event need not concern us, as the son would be entitled by reason of his birth to the protection of this Government during his minority and until he can elect another nationality. He has, apparently, elected to remain an American citizen by applying for a passport and demonstrating that it is bona fide his intention to come to the United States to live. There is, as this Department explained in its circular instruction of September 26, 1899, entitled "Passports—Intent to return to the United States," no definite period of time beyond which the protection of a passport is to be refused to a citizen of the United States. Upon the information submitted, therefore, it would appear that Mr. T. F. Alexander is entitled to receive a passport.

I am, etc.,

JOHN HAY.

PASSPORT APPLICATION OF ARMIN FREIMAN.

Mr. McCormick to Mr. Hay.

No. 84.]

UNITED STATES LEGATION,
Vienna, May 23, 1902.

SIR: I have the honor to lay before the Department of State and ask its instructions in the case of one Armin Freiman, the facts in which are as follows:

Freiman was born at Kis Szeben, Sáros County, Hungary, on or about the 23d day of March, 1877, emigrated to the United States on board the *Maasdam* sailing from Rotterdam on or about the 28th June, 1893, and resided uninterruptedly at Pittsburg, in the state of Pennsylvania, from that time until the year 1900, and was naturalized as a citizen of the United States before the district court of the United States of America in and for the western district of Pennsylvania, as shown by his certificate of naturalization issued to him by that court on the 23d day of March, 1900. On the 28th July following he left the United States, having remained long enough to become naturalized and so escape the military service required by the laws of the country of his birth. He is now sojourning at the place of his birth and has been for the past two years, and, like many others, in my judgment, having accomplished the purpose of becoming naturalized as an American citizen, namely, escaped liability to military service as above indicated, has no fixed intention of ever returning to the United States.

Technically Freiman may be entitled to a passport, but it seems to me that one should not be issued to him unless he can show evidence of a bona fide intention to return there within two years, as he states in his application.

I ask for instructions, not only for my guidance in this case, but in other similar ones where circumstantial evidence justifies the belief that the applicant has gone to the United States and become naturalized as a citizen thereof only with the purpose of escaping military service in the land of his birth, whither he returns as soon as this object can be accomplished, thus evading his duties as a citizen of the country of his birth and the country of his adoption.

I have, etc.,

ROBERT S. MCCORMICK.

Mr. Hay to Mr. McCormick.

No. 50.]

DEPARTMENT OF STATE,
Washington, June 21, 1902.

SIR: Your No. 84 of the 23d ultimo, relative to the application of Armin Freiman for a passport, has been received.

The case does not, as it appears to the Department, call for special instructions, being adequately covered by the general principles laid down in previous instructions and especially in the circular instruction of March 27, 1899, wherein it was stated:

This Government does not discriminate between native-born and naturalized citizens in according them protection while they are abroad, equality of treatment being

required by the laws of the United States (secs. 1999 and 2000, Rev. Stats.). But in determining the question of conservation of American citizenship and the right to receive a passport it is only reasonable to take into account the purpose for which the citizenship is obtained. A naturalized citizen who returns to the country of his origin and there resides without any tangible manifestation of an intention to return to the United States may therefore generally be assumed to have lost the right to receive the protection of the United States. * * * It is not to be understood by this that naturalized American citizens returning to the country of their origin are to be refused the protection of a passport. On the contrary, full protection should be accorded them until they manifest an effectual abandonment of their residence and domicile in the United States. * * *

The treatment of the individual cases as they arise must depend largely upon attendant circumstances. When an applicant has completely severed his relations with the United States, has neither kindred nor property here, has married and established a home in a foreign land, has engaged in business or professional pursuits wholly in foreign countries, has so shaped his plans as to make it impossible or improbable that they will ever include a domicile in this country, these and similar circumstances should exercise an adverse influence in determining the question whether or not a passport should issue.

It appears that Freiman lived in the United States seven years and that he returned to Austria less than two years ago. Whether he has manifested in this brief period an effectual abandonment of his home in the United States is a matter which the legation must decide, weighing all the circumstances of the case with great care.

I am, etc.,

JOHN HAY.

PASSPORT APPLICATION OF HARRY FROMMER.

Mr. Hale to Mr. Hay.

No. 30.]

UNITED STATES EMBASSY,
Vienna, October 30, 1902.

SIR: I have the honor to submit to the Department the case of one Mr. Harry Frommer, a native citizen of the United States, who has applied to this embassy for a renewal of his passport. The facts are as follows:

1. Harry Frommer, whose father was a naturalized citizen of the United States of Austro-Hungarian origin, was born at New York City, in the State of New York, on the 29th day of May, 1869. He last left the United States in June, 1892, the bearer of passport No. 36444, issued by the Secretary of State on the 2d day of April, 1892.

2. On the 3d day of April, 1894, Mr. Frommer applied to and was granted by this mission a new passport, No. 449, stating in his application for same that he intended "to return to the United States within six months."

3. On the 8th day of May, 1896, Mr. Frommer was granted a new passport, No. 668, by this mission, for himself and his wife, Thekla, born at Krakau, Galicia, where the said Frommer has continued to live for the past ten years.

4. On the 28th day of July, 1898, a third passport, No. 952, was issued to Mr. Frommer by this mission.

5. On the 28th day of September, 1900, Mr. Frommer was granted a fourth passport, No. 232, by this mission, he then declaring in his application for same that he intended to return to the United States within one and one-half years, or as soon as he had disposed of his hat business in Krakau.

Yesterday, for the fifth time, Mr. Frommer presented himself at this mission, requesting a renewal of his passport. Upon being questioned in regard to his intention of returning to the United States with the purpose of residing and performing the duties of citizenship therein, he practically stated that his business as a hatter at Krakau being in better shape he had no intention of ever leaving this Empire. Pending instructions from the Department of State I therefore refused to renew his passport in accordance with the latter part of paragraph 150 of "Instructions to diplomatic officers of the United States," which reads as follows:

The granting of a passport should also be withheld pending the instructions of the Department where the applicant, whether native or naturalized, has resided without the United States for a long period of time under such circumstances as to warrant the inference that he has practically abandoned his country. In all such cases the facts should be fully reported to the Department for further instructions.

Mr. Frommer's original passport, No. 36444, issued by the Secretary of State on the 2d day of April, 1892, and first above referred to, is inclosed herewith, having been found with the duplicate of his first application to this mission for renewal of same on the 3d day of April, 1894.

I have, etc.,

CHANDLER HALE,
Chargé d'Affaires ad interim.

Mr. Hay to Mr. Hale.

No. 75.]

DEPARTMENT OF STATE,
Washington, November 19, 1902.

SIR: I have to acknowledge the receipt of your No. 30, of October 30, 1902, reporting your refusal to renew passport in the case of Harry Frommer, a native-born citizen of the United States.

It appears that Mr. Frommer, whose father was a naturalized citizen of the United States of Austro-Hungarian origin, was born in the city of New York; that he left the United States in June, 1892, the bearer of passport No. 36444, issued by the Department April 2, 1892; that in 1894 he applied to the United States mission in Vienna for a renewal of his passport, which was granted, he stating in his application that he intended "to return to the United States in six months." It appears further that in 1896 he was granted a new passport by the United States legation for himself and his wife, born at Krakau, Galicia, where the said Frommer has continued to live for the past ten years; that on July 28, 1898, a third passport from the same source was issued to Mr. Frommer, and that in 1900 he was granted a fourth passport, "he declaring on this occasion that he intended to return to the United States within one and a half years," or "as soon as he had disposed of his hat business." Finally, you report, for the fifth time Mr. Frommer presented himself at the embassy, requesting a renewal of his passport, and that upon being questioned in regard to his intention of returning to the United States with the purpose of residing and performing the duties of citizenship therein, he stated practically that his business as a hatter at Krakau being in better shape he had no intention of ever leaving Europe.

Your course in withholding a passport in this case is approved by

the Department. Mr. Frommer comes within the category of those of whom the Department's circular instruction of March 27, 1899, said:

When an applicant (for a passport) has completely severed his relations with the United States, has neither kindred nor property here, has married and established a home in a foreign land, has engaged in business or professional pursuits wholly in foreign countries; has so shaped his plans as to make it impossible or improbable that they will ever include a domicile in this country—these and similar circumstances should exercise an adverse influence in determining the question whether or not a passport should issue.

I am, etc.,

JOHN HAY.

BELGIUM.

FINE ON BELGIAN STEAMSHIP BELGIKA IN THE PHILIPPINE ISLANDS.

Count Lichtervelde to Mr. Hay.

[Translation.]

LEGATION OF BELGIUM,
Washington, March 11, 1901.

MR. SECRETARY OF STATE: Under instructions of my Government I have the honor to submit to your excellency's favorable consideration the inclosed reclamation of the Compagnie Générale des Philippines pour le Développement du Commerce et de l'Industrie, a Belgian corporation legally recognized in the Philippines. That letter sets forth the facts as well as the reasons which, according to the parties in interest, justify the refundment of the fine.

I eagerly take this opportunity, Mr. Secretary of State, to present to your excellency the renewed assurances of my highest consideration.

LICHTERVELDE.

[Inclosure—Translation.]

COMPAGNIE GÉNÉRALE DES PHILIPPINES POUR LE
DÉVELOPPEMENT DU COMMERCE ET DE L'INDUSTRIE,
Brussels, February 12, 1901.

MR. MINISTER: The board of directors of the Compagnie Générale des Philippines pour le Développement du Commerce et de l'Industrie, a Belgian corporation with headquarters at Brussels, 168 Rue Royale, but duly registered and legally recognized as a corporation in the Philippines, where it has complied with all the requirements of the law of that country regarding its registration, respectfully represents as follows:

First. The company holds a large interest in various navigation concerns in the Philippine Islands. Some of the vessels under consideration sail under the American flag, but it is none the less true that they represent for the greater part Belgian interest and capital.

Second. Under a contract signed in duplicate at Manila on the 19th of March, 1900, one of those vessels, the *Belgika*, 462 tons register, No. 272 of Lloyds' Register of British and Foreign Shipping, was chartered to the Philippine firm Mendoza & Co., of Manila, for a trip from Manila to Iloilo, Cebu, and any other port in the island of Leyte, for the time open to navigation by the American authorities, and back to Manila.

Third. That it appears from the explanation made by the charterers that the aforesaid steamer in the course of her voyage entered the port of Indang on her way from Baybay (Bag-Bag), that she cleared for Indang with her papers in perfect order and after securing from the military commander of the district in which the port of Indang lies (island of Leyte) the authorization to proceed to that port.

That the steamer *Belgika* entered the port of Indang flying the American flag at her mainmast and that the master caused a white flag to be hoisted at the foremast in order to give evidence to the authorities and people of the place that his intentions were entirely peaceful and that his ship was neither an American war vessel nor the property of insurgents; that all this, according to the charterers, was lawful.

Fourth. That it is none the less a fact that upon the return of the steamer to Manila the collector of customs, on the information given by discharged seamen, detained the *Belgika* and mulcted the owners, not the charterers, of the said steamer in a fine of 125,000 francs, which, thanks to the good offices of the consul of Belgium, was subsequently reduced to 75,000 francs.

Fifth. That, moreover, under the Coasting Trade Regulations, promulgated by the American Government under date of December 2, 1899, fines imposed for unlawful trade must be recovered through seizure of the merchandise and not of the ship itself.

Sixth. That the detention of the steamer *Belgika* for sixteen days represents a loss of \$1,000 Mexican per diem, and completely tied up the sailing vessels *Clementia* and *Nueva Celestina*, which could not get out of the harbor except in tow of the *Belgika*.

Seventh. That the charter party especially mentions in clauses Nos. 1, 3, and 9 that the vessel was only chartered under the laws and regulations of the American Government.

Eighth. That the fine of 75,000 francs had to be paid by the owners in order to regain possession of the steamer, and that they have been unable to recover from the charterers.

Ninth. That serious damage to Belgian interests results from the foregoing facts. That it is shown on sufficient evidence that the owners are in no wise at fault, and that they have besides evinced the greatest respect for the laws and regulations established by the Government of the United States when they held the charterers in three articles of the contract to observe the same.

That the moral effect sought by the American authorities in severely punishing an offense that had been more or less proved has been fully achieved, and that by now refunding the fine to the owners, who have no delinquency to blame themselves with, the Government of the United States would in no wise impair its prestige, and would do itself an honor by an act of justice and by not discouraging institutions aiming at the advancement of the new possessions of the United States.

That the damage suffered by Belgian interests is not confined to the payment of the fine, but also includes the enforced idleness of the steamer and two sailing vessels for a prolonged period.

That the reimbursement of the fine by the alleged offender, the charterer, is extremely doubtful, and that of the loss occasioned by the said idleness, which can be rated at nearly 50,000 francs in addition to the fine, is even more so.

Under these circumstances we come to you, Mr. Minister, with the earnest prayer that you will be pleased to use your good offices toward obtaining through the good will of the Government of the United States, the reimbursement of the \$30,000 Mexican deposited by the owners in order to have the free use of their vessel.

We thank you in advance, Mr. Minister, and beg you to accept the expression, etc.,

MELOT, *The President.*

N. BEKAERT, *The Delegated Director.*

Mr. Hay to Count Lichtervelde.

No. 267.]

DEPARTMENT OF STATE,
Washington, March 18, 1901.

SIR: I have the honor to acknowledge the receipt of your note of the 11th instant relative to the fine imposed upon the Compagnie Générale des Philippines by the customs authorities of Manila, and to inform you that I have sent a translation of the note, with its inclosure, to the Secretary of War, with a request that he have the matter investigated.

Accept, etc.,

JOHN HAY.

Mr. Wauters to Mr. Hay.

[Translation.]

LEGATION OF BELGIUM,
New York, October 20, 1901.

MR. SECRETARY OF STATE: In the course of the month of March last Count de Lichtervelde submitted to the consideration of your

excellency a claim of the Compagnie Générale des Philippines taken up by the Government of the King with a view of procuring the restitution of a fine imposed on the owners of the steamship *Belgika* for a breach of the provisions regulating the coasting trade in the Philippine Islands.

I have been instructed to apply again to your excellency with a request that you may earnestly insist that the proper authorities take the claim of the Compagnie Générale des Philippines into consideration and give it a favorable reception. The Government of the King is very greatly interested in obtaining a favorable solution of the matter.

I should be very grateful to your excellency if you would be pleased to support with your recommendation the request that I have been directed to renew. The Government of the King is very desirous of having this claim entertained and of securing the restitution of the fine imposed on the Belgian company, of whose good faith it is satisfied.

I embrace, etc.,

WAUTERS.

Mr. Hay to Mr. Wauters.

No. 310.]

DEPARTMENT OF STATE,
Washington, October 30, 1901.

SIR: I have the honor to acknowledge the receipt of your note of the 20th instant, and to inform you that I have to-day addressed the Secretary of War asking him to send me the report of his Department regarding the fine imposed on the steamship *Belgika* as early as practicable.

Accept, etc.,

JOHN HAY.

Memorandum.

LEGATION OF BELGIUM, December 20, 1901.

Pursuant to instructions of its Government the legation of Belgium had the honor to submit to the favorable consideration of the Secretary of State, on the 11th of March last, a claim of the Compagnie Générale des Philippines, a Belgian corporation recognized in the Philippines.

That company set forth in that document the reasons why it was an act of equity on the part of the United States to reimburse it in the amount of a fine of \$30,000, Mexican, which it had to pay by reason of an act of the Philippine firm, Mendoza & Co., to which its steamer *Belgika* had been chartered.

The legation had the honor to recall this matter to the attention of the Secretary of State on the 20th of October last, and your excellency answered in your communication of the 30th of October last, that you had called upon the Secretary of War for a report on the case.

Baron Moncheur is in receipt of another letter from the minister for foreign affairs at Brussels inquiring urgently concerning the status of the matter.

Mr. Thieupont, a deputy in the Belgian Parliament and director of the company, in a letter addressed to the department of foreign affairs, lays stress on the circumstance that the Belgian company was constrained, in order to secure the release of its vessel, the *Belgika*, to

pay a fine on account of an offense charged on a *third party*, viz, the Mendoza firm that had chartered the *Belgika*.

That firm now being bankrupt, the Belgian company can not even seek its remedy against it for the repayment of the sum paid on its account.

The minister of Belgium ventures to hope that these considerations of equity will induce the Government of the United States to grant to the Belgian company the refundment of the fine that it paid on account of an act that it could in no wise be charged with.

Mr. Hay to Baron Moncheur.

No. 14.]

DEPARTMENT OF STATE,
Washington, December 24, 1901.

SIR: I have the honor to acknowledge the receipt of your memorandum of the 20th instant, relating further to the fine imposed in March or April on the owners of the steamship *Belgika*, and to inform you that I have once more called the attention of the Secretary of War to the matter, with the request that he cause a report of the proper authorities in the Philippine Islands to be made and sent to me.

Accept, etc.,

JOHN HAY.

Mr. Hay to Mr. Wauters.

No. 17.]

DEPARTMENT OF STATE,
Washington, January 11, 1902.

SIR: Referring to the minister's note of March 11, 1901, and to subsequent correspondence in reference to the claim of the Compagnie Générale des Philippines, etc., against this Government for the refundment of a fine of 75,000 francs imposed on one of its vessels, the *Belgika*, for a violation of certain regulations governing commercial intercourse between the islands of the Philippine Archipelago, prescribed by the military authorities of the United States in the Philippines, I have the honor to say that there exists, and has existed since February 4, 1899, in the Philippine Archipelago, an armed insurrection, having for its object the overthrow of the authority and sovereignty of the United States. The character and extent of this insurrection requires the United States to prosecute its rights by force of arms. By the laws and usages of nations, commercial intercourse in an insurgent district under such circumstances becomes lawful only by the permission of the military authorities conducting military operations therein. This permission is subject to such terms and conditions as the military authorities see fit to impose, and persons availing themselves of the privilege secured by such permission and voluntarily engaging in commercial intercourse must respect the conditions of the license.

The Philippine Archipelago is subjected to military occupation by the forces of the United States. The right to regulate commercial intercourse with territory subject to military occupation is one which neutral nations are bound to respect.

In the exercise of this right to regulate commercial intercourse with insurgent territory subject to military occupation, the military gov-

ernor of the Philippine Islands, on December 21, 1899, issued General Order No. 69, prescribing certain regulations for commercial intercourse between the several islands of the archipelago. A copy of this order is herewith transmitted.

Among other provisions the order contained the following:

ARTICLE 9. Vessels licensed for the coasting trade will not be allowed to call at unequipped ports along the coast of the archipelago without special permission of the military governor or department or district military commander, who, in authorizing such trade, will prescribe the conditions under which it is permitted. Vessels found violating this section shall be subject to a fine of not less than 100 pesos, or more than the value of the cargo provided the value thereof exceeds 100 pesos.

It appears from a report of the United States military authorities, which has just been received through the Secretary of War, that the Compagnie Générale des Philippines, etc., a Belgian corporation with headquarters at Brussels, voluntarily availed itself of the mitigation of the strict rule of war made by the United States, and of its own motion engaged one of its vessels, the *Belgika*, in the trade subject to the provisions of General Order No. 69. It came to the attention of the government of the Philippine Islands that the *Belgika* had violated the requirements of article 9, above quoted. The charge was then investigated by the proper authorities and found to be true, whereupon a fine of \$30,000, Mexican, was imposed and collected for said violation.

The company now seeks repayment of the amount of that fine. In support of its application the company contends as follows:

1. A fine imposed for violation of the provisions of article 9, of General Order No. 69, series 1899, must be recovered through seizure of the cargo and not of the ship.

Article 9 does not sustain this contention. That article plainly provides that—

Vessels licensed for the coasting trade will not be allowed to call at unequipped ports * * * without special permission. * * * Vessels found violating this section shall be subject to a fine * * * of not less than 100 pesos, or more than the value of the cargo.

The subdivision of General Order No. 69, in which article 9 appears, relates to licensing vessels to engage in the coastwise carrying trade and deals with the shipping, not the merchandise shipped. The offense is committed by the vessel if it shall “call at unequipped ports * * * without special permission,” and the vessel itself may be properly libeled for the penalty of such a violation. The cargo is referred to for the purpose of fixing the minimum amount of the fine.

2. The company further contends that at the time said violation took place, the vessel was under charter to a business concern located at Manila, and that the government of the Philippines should look to the charter party and not to the owner of the vessel. This proposition can not be assented to. The owner came to the government of the Philippines and secured a license for the vessel to engage in the coastwise carrying trade. The license relates to the vessel and the conditions bind the licensee. It is incumbent upon the licensee to carry out the said conditions, and he can not evade responsibility for violations by establishing that such violation was the act of his agent, employee, or contractor without his knowledge or consent. He is bound to obey the terms and conditions of the license. The license permits the ship to be used for certain purposes subject to certain regulations under penalties for violations. If the licensee neglects to adopt adequate measures to prevent the ship from violating the requirements of the

license, the fault is his and he is lawfully required to sustain the penalty. This is the rule applied to licensees in time of peace, and is manifestly just under the conditions existing in the Philippines.

There is apparently no controversy over the fact that the *Belgika* called at the unequipped and closed ports, Hindan and Matalun, "without special permission of the military governor or department or district military commander."

To excuse the failure to secure the special permission of any of the military commanders mentioned, the company presents the statement of the charterers that "as the captain of the port of Bay-Bay (Bag-Bag) authorized us to send the vessel to the ports referred to, we fail to see how any responsibility can have been incurred by the steamer." (Letter dated April 11, 1900, from Mendoza & Co. to Major-General Otis.)

The offense committed by the steamship *Belgika* was investigated and the amount of fine determined pursuant to the provisions of General Order No. 69 (1899), as follows:

ART. 10. The fines and forfeitures which shall be incurred by virtue of these regulations shall be administratively adjudicated by the collectors at the principal ports of the islands, from whose decisions appeal may be taken to the collector of customs at Manila for final determination.

The collector of customs at Manila determined the matter as follows:

This vessel has, by imposing upon an inspector of customs (who probably not having been properly posted as to his duties), violated all the orders of the governor-general, and has for the gain of those interested in her made money out of illicit trade with the insurgents * * * I recommend that a fine of \$50,000 Mexican be imposed upon the ship and that she be held until such fine be paid * * *

This finding being reviewed by Major-General Otis, the amount of the fine was reduced to \$30,000 Mexican, which amount was paid by the company owning the vessel.

In view of the above this Government is unable to entertain the claim of the company for the refundment of the fine.

In conclusion, permit me to call your attention to the fact that Belgian interests in the Philippines, in common with those of other nations, enjoy the protection of the United States afforded by an army of nearly 50,000 men and a squadron of our national war vessels; that to promote the commerce of the world the United States relaxes the rule respecting hostile territory and permits commercial intercourse with such portions of the archipelago as military exigencies permit, and to enable Belgian and other interests to carry on commerce the United States has garrisoned nearly 500 towns and stations in the islands, and opened to commerce more than 100 ports.

Trusting that the Government of Belgium will recognize the fairness of the conclusions embodied in this note, I avail, etc.,

JOHN HAY.

Baron Moncheur to Mr. Hay.

[Translation.]

LEGATION OF BELGIUM,
Washington, April 8, 1902.

MR. SECRETARY OF STATE: I have transmitted to my Government the communication that your excellency was pleased to address to me

on the 11th of January last, and in which you advised me of the grounds upon which the claim of the Compagnie Générale Belge des Philippines for the restitution of a fine imposed on the owners of the steamer *Belgika* was rejected.

My Government, after a perusal of that document, has no idea of contesting the strict right of the authorities of the United States to impose a fine on the steamer *Belgika*, but it directs me to point out to your excellency the many circumstances that make for the Belgian society. In the contract it had entered into with the firm Mendoza & Co. there was a formal clause inhibiting the said charterers from infringing in anyway the provisions of law governing the coastwise trade in the Philippines. It did not participate, whether directly or indirectly, in the offense committed by Mendoza & Co. by means of the *Belgika*, but the bankruptcy of the said firm puts the Belgian society under a severe hardship, since its legal remedies in the case are now rendered worthless.

My Government therefore hopes that the Government of the United States will kindly take into consideration the circumstances which place on innocent parties the penalty incurred by others, and that it will consent, in a spirit of equity, to reduce appreciably the amount of the heavy fine of \$30,000 Mexican, which is a severe burden on the company.

Remissions of this kind are frequently granted by Governments when they are, as in this case, satisfied of the claimants' good faith.

By thus graciously conceding a similar favor to our fellow-countrymen, the Government of the United States would prevent an unmerited loss from compromising the outset of an enterprise worthy of being encouraged, and will secure the gratefulness of honorable men who intend to comply under all circumstances with the laws and regulations of the country.

Ever since the occurrence which occasioned the fine, the Belgian company has maintained excellent relations with the American authorities in the Philippines, and has constantly striven to render every service that they wished for.

Its steamers have very frequently been used for the transportation of troops and army supplies; more than once have they gone out of their regular course for that purpose. They have repeatedly declined to take cargo of private persons in order to give entire satisfaction to the American authorities.

The minister for foreign affairs at Brussels, in sending me the foregoing communication, adds that the favorable reception of the request I am instructed to lay before your excellency, and to which he attaches great importance, would be taken as a flattering token of the good will of the United States toward our fellow-countrymen.

I eagerly embrace this opportunity, etc.,

MONCHEUR.

Mr. Hay to Baron Moncheur.

No. 62.]

DEPARTMENT OF STATE,
Washington, April 28, 1902.

SIR: I have the honor to acknowledge the receipt of your note of the 8th instant, relating further to the representation of your Government that the fine imposed upon the steamship *Belgika*, of the Compagnie

Générale Belge des Philippines, for a violation of the regulations of the United States military authorities in the Philippine Islands, should be rescinded.

In reply I have the honor to inform you that the case was brought to the attention of the Secretary of War, and was carefully considered, but he was unable to recommend restitution of the fine imposed upon the owners of the *Belgika*.

The Department is therefore unable to comply with the request of your Government.

Accept, etc.,

JOHN HAY.

Mr. Hay to Baron Moncheur.

No. 95.]

DEPARTMENT OF STATE,
Washington, October 13, 1902.

SIR: Referring to your recent inquiries respecting the case of the steamship *La Belgika*, which was presented by your note of the 8th of April last, with a view to the condonation and return of the fine imposed upon that vessel for entering and trading at certain ports of the Philippine Islands, in violation of the ship's license to engage in the coastwise trade thereof, I have to inform you that after conference with my colleague, the Secretary of War, I find that he does not deem himself competent to reverse the decision already reached.

Mr. Root holds that the order violated by *La Belgika* was one issued for the purpose of promoting the military operations of the forces of the United States, and the fine incurred was imposed by the commanding officer of the United States forces in the Philippines and collected and expended by the military government at a time when that government was an instrumentality of the United States for the suppression of an armed insurrection against the sovereignty and proprietary interest of the United States in that archipelago. He therefore deems himself without discretion to reverse the judgment against the vessel as an act of clemency.

JOHN HAY.

Accept, etc.

SUGAR-BOUNTY CONFERENCE—TEXT OF CONVENTION.

Mr. Townsend to Mr. Hay.

No. 127.]

LEGATION OF THE UNITED STATES,
Brussels, March 6, 1902.

SIR: I have the honor to transmit herewith two official copies, together with a translation, of the sugar convention signed at Brussels, March 5, 1902, at 6 p. m.

I have, etc.,

LAWRENCE TOWNSEND.

[Inclosure—Translation.]

Convention concerning the sugar régime.

His Majesty the Emperor of Germany, King of Prussia, in the name of the German Empire; His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary; His Majesty the King of the Belgians; His Majesty the King

of Spain, and, in his name, Her Majesty the Queen Regent of the Kingdom; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and the British Possessions beyond the seas, Emperor of India; His Majesty the King of Italy; Her Majesty the Queen of the Netherlands; His Majesty the King of Sweden and Norway,

Desiring, on one hand, to equalize the conditions of competition between beet and cane sugars from different sources, and, on the other hand, to promote the development of the consumption of sugar;

Considering that this double result can only be attained by the suppression of bounties as well as by limiting the surtax;

Have resolved to conclude a convention to this end; and have nominated their plenipotentiaries as follows, to wit:

His Majesty the Emperor of Germany, King of Prussia, in the name of the German Empire: Count de Wallwitz, his envoy extraordinary and minister plenipotentiary to His Majesty the King of the Belgians, etc.

ARTICLE FIRST.

The high contracting parties bind themselves, from the date the present convention comes into force, to suppress the direct and indirect bounties by which the production or export of sugar may benefit, and they agree not to establish bounties of this kind during the whole duration of the said convention. In view of the execution of this provision, sweetmeats, chocolates, biscuits, condensed milk, and all other analogous products which contain in a notable proportion sugar artificially incorporated, are to be classed as sugar.

The above paragraph applies to all advantages resulting directly or indirectly, for the different categories of producers, from the fiscal legislation of the States, notably:

- (a) The direct bounties granted to exports.
- (b) The direct bounties granted to production.
- (c) The total or partial exemptions from taxation granted for a part of the manufactured output.
- (d) The profits derived from surplusages of output.
- (e) The profits derived from the exaggeration of the drawback.
- (f) The advantages derived from any surtax in excess of the rate fixed by article 3.

ARTICLE SECOND.

The high contracting parties bind themselves to submit to bond régime the sugar factories and refineries, as well as those factories in which sugar is extracted from the molasses, in order that they shall be under the permanent surveillance, day and night, of the customs employees.

With this object, factories will be arranged in such way as to prevent the taking away of sugar clandestinely, and the customs employees will have the right to enter every department of the factories.

Books of control in regard to any or several phases of production will be kept and the manufactured sugars will be deposited in such special buildings as will afford every desirable guaranty of security.

ARTICLE THIRD.

The high contracting parties bind themselves to limit the surtax to a maximum of 6 francs per 100 kilograms for the refined sugar and the sugars assimilable thereto, and 5.50 francs for other sugars; that is to say, the difference between the rate of duty or taxation to which foreign sugars are subjected and that imposed on the home product.

This provision is not to be applied to the rates of import duties in the case of countries that do not produce sugar, nor to the by-products of the manufacturing or refining of sugar.

ARTICLE FOURTH.

The high contracting parties bind themselves to impose a special duty on imports into their respective territories, of sugars from countries that grant bounties for production or export.

This duty shall not be less than the amount of the bounties, direct or indirect, granted in the country of origin. The high parties reserve to themselves the privilege, each as it may affect its own interests, to prohibit the importation of bounty-fed sugars.

For the estimation of the sum of advantages derived eventually from the surtax specified under section (*f*) of article 1, the rate fixed by article 3 is deducted from the amount of this surtax; half of the difference is held to represent the bounty, the permanent commission organized under article 7 being entitled, at the request of one of the contracting States, to alter the rate so provided for.

ARTICLE FIFTH.

The high contracting parties bind themselves reciprocally to admit at the lowest of their respective import rates, sugars imported from any of the contracting States or from any colonies or possessions of said States, that do not grant bounties and to which the obligations imposed in article 8 apply.

Cane and beet sugars can not be subjected to different rates of duty.

ARTICLE SIXTH.

Spain, Italy, and Sweden are not held to the obligation imposed in articles 1, 2, and 3, so long as they do not export sugar.

These States bind themselves to adapt their sugar legislation to the provisions of the convention within one year or earlier, if possible, from the time that the permanent commission has verified that the above condition has ceased to exist.

ARTICLE SEVENTH.

The high contracting parties agree to create a permanent commission, having charge of the surveillance of the execution of the provisions of the present convention.

This commission shall be composed of delegates of the different contracting States, and to it will be attached a permanent bureau. The commission elects its president; it will sit at Brussels and shall meet on the call of the president.

The duties of the delegates will be:

(*a*) To verify whether in the contracting States any direct or indirect bounty for the production or export of sugars is granted.

(*b*) To verify whether the States named in article 6 continue to conform themselves to the provisions of this article.

(*c*) To verify the existence of bounties in the nonsignatory States, and to estimate the amount of such bounties with a view to applying the provisions of article 4.

(*d*) To issue an advice on litigious questions.

(*e*) To examine the requests for admission to the union from States which have not participated in the present convention.

To the permanent bureau is intrusted the compilation, translation, coordination, and publication of information of all kinds relating to the legislation and statistics of sugars, not only in the contracting States but also in other States.

To secure the execution of the above provisions, the high contracting parties shall communicate, through the diplomatic channel, to the Belgian Government, which will transmit them to the commission, copies of the laws, decrees, and regulations relating to the taxation on sugars that are or may be in operation in their respective countries, as well as statistical information relating to the object of the present convention.

Each of the high parties is entitled to be represented on the commission by a delegate or by a delegate and associate delegates.

Austria and Hungary shall be considered separately as contracting parties.

The first meeting of the commission shall take place at Brussels, on the call of the Belgian Government, at least three months before the present convention comes into force.

The duties of the commission shall be confined to verification and examination. It will make a report to the Belgian Government on all questions submitted to it. Said report will be communicated to the interested States by the Belgian Government, and the latter shall, if requested so to do by any of the high contracting parties, promote a meeting of a conference which shall decide on the resolutions or the measures necessary under the circumstances.

The verification and estimations, however, under Sections B and C shall have a binding character for the contracting States; they shall be established by a vote of the majority, each contracting State disposing of one vote, and they shall come into effect, at the farthest, at the expiration of a period of two months.

In case one of the contracting States were to appeal from the decision of the commission, it shall have to promote, within eight days after the notification of the said decision, a new deliberation of the commission; the latter shall meet under urgent

call and shall decide definitely within a period of one month from the date of the appeal.

The new decision shall be executory, at the latest two months after its date. The same procedure shall be followed in regard to the examination of requests for admission under the provisions of Section E.

The expenses arising from the organization of the permanent commission—except the salary and the compensations of the delegates, which are to be paid by their respective countries—shall be borne by all the contracting States, and shall be assessed among them according to a method to be decided upon by the commission.

ARTICLE EIGHTH.

The high contracting parties bind themselves on their behalf and on behalf of their colonies and possessions, exception being made in the case of the autonomous colonies of Great Britain and British East Indies, to resort to the measures necessary to prevent bounty-fed sugar, which has passed through the territory of a contracting State, from having the same advantages as those accruing under the convention on the market they are destined for. The permanent commission shall present in this connection the necessary propositions.

ARTICLE NINTH.

The States that have not taken part in the present convention shall be admitted to adhere thereto, upon request and after a favorable report of the permanent commission.

The request shall be addressed through the diplomatic channels to the Belgian Government, which will take charge, eventually, of notifying the adhesion to all the other governments. The adhesion shall involve, in full right, the accession to all charges and the admission to all advantages enumerated in the present convention, and it shall enter into force from the 1st of September following the transmission of the notification by the Belgian Government to the other contracting States.

ARTICLE TENTH.

The present convention shall come into force from September 1, 1903.

It shall remain in force during five years from this date, and if none of the high contracting parties shall have notified the Belgian Government, twelve months after the expiration of the said period of five years, of its intention to have its effects cease, it shall continue for one year, and so on from year to year.

In case one of the contracting States were to denounce the convention, this denunciation shall take effect only as it may affect its own interests, the other States would retain until the October 31 of the year of the denunciation the privilege of notifying their intention to also retire on September 1 of the following year. If one of the latter intended to make use of this privilege, the Belgian Government is to promote a meeting at Brussels, within three months, of a conference which would have to determine the measures to be resorted to.

ARTICLE ELEVENTH.

The provisions of the present convention shall apply to the provinces beyond the seas, colonies, and foreign possessions of the high contracting parties. The colonies and possessions of Great Britain and the Netherlands, however, are not to be included in this regulation, except as far as it is provided in articles 5 and 8.

The status of the colonies and possessions of Great Britain and the Netherlands is, moreover, defined by the declarations inserted in the final protocol.

ARTICLE TWELFTH.

The execution of the reciprocal engagements contained in the present convention is subjected, inasmuch as need be, to the performance of the formalities and rules established by the constitutional laws of each of the contracting States.

The present convention shall be ratified, and ratifications thereof shall be deposited at Brussels, at the ministry of foreign affairs, on February 1, 1903, or earlier, if possible.

It is understood that the present convention shall only become binding after it has been ratified at least by the contracting States that have not been affected by the exceptional provision of article 6. In case one or several of the said States have not deposited their ratifications within the time provided for, the Belgian Government

shall immediately endeavor to obtain a decision from the other signatory States as to the entering into force of the present convention among themselves.

In faith of which the respective plenipotentiaries have signed the present convention.

Done at Brussels, in one single copy, the 5th day of March, 1902.

Final protocol.

At the moment of proceeding to the signature of the convention relating to the régime of sugars entered into on this date by the Governments of Germany, Austria and Hungary, Belgium, Spain, France, Great Britain, Italy, The Netherlands, and Sweden, the undersigned plenipotentiaries have agreed to the following:

TO ARTICLE THIRD.

Considering that the purpose of a surtax is to protect efficaciously the internal market of producing countries the high contracting parties reserve the right, each as it affects its own interests, to propose the increase of the surtax in case that considerable quantities of sugars from one of the contracting States should enter their countries, this increase to affect only the sugars coming from that State.

This proposition shall be addressed to the permanent commission, which will decide within a short delay by a vote of the majority, upon the true foundation of the proposed measure, upon the duration of its application, and upon the rate of the increased tax, the latter not to exceed 1 franc per 100 kilograms.

The adhesion of the commission can only be given in case the invasion of the market in question should be the result of an economical condition of real inferiority and not the result of a fictitious increase of prices promoted by an understanding among producers.

TO ARTICLE ELEVENTH.

A. First. The Government of Great Britain declares that no direct or indirect bounty shall be granted to sugars from colonies of the Crown during the existence of the convention.

Second. It declares also, by exceptional measure and while still reserving, in principle, its entire free action concerning the fiscal relations between the United Kingdom and its colonies and possessions, that during the existence of the convention no preference shall be granted in the United Kingdom to colonial sugars vis-a-vis the sugars coming from the contracting States.

Third. It declares that they will submit the convention to the autonomous colonies and to the East Indies in order that the latter may have the privilege of giving their adhesion thereto.

It is understood that the Government of His Britannic Majesty shall have the right to adhere to the convention in the name of the Crown colonies.

B. The Government of The Netherlands declares that, during the existence of the convention, no bounty either direct or indirect shall be granted to sugars of the Dutch colonies, and that these sugars shall not be admitted into The Netherlands at a less rate than is applied to sugars coming from the contracting States.

The present final protocol, which shall be ratified at the same time as the convention concluded this date, shall be considered as an integral part of said convention, and shall have the same force, value, and duration.

In faith of which the undersigned plenipotentiaries have drafted the present protocol.

Done at Brussels, the 5th day of March, 1902.

Mr. Townsend to Mr. Hay.

No. 135.]

LEGATION OF THE UNITED STATES,
Brussels, May 6, 1902.

SIR: I have the honor to inform the Department that the Chamber of Representatives of Belgium yesterday unanimously ratified the text of the recent sugar convention which was signed at Brussels on March 5, 1902.

I have, etc.,

LAWRENCE TOWNSEND.

RIOTS AND STRIKES IN BELGIUM OVER QUESTION OF SUFFRAGE—BRIEF SKETCH OF ELECTORAL SYSTEM.

Mr. Townsend to Mr. Hay.

No. 132.]

LEGATION OF THE UNITED STATES,
Brussels, April 19, 1902.

SIR: I have the honor to inform the Department that the revision of the Belgium constitution proposed by the Liberals and Socialists (the opposition) was yesterday rejected by the House of Representatives, the final vote being 84 against revision to 64 in favor of it, the Government thus gaining a victory by a majority of 20 votes.

As the Department is aware, the agitation in favor of universal suffrage in Belgium became acute in 1893, at which time the Conservative or Catholic party, which has now been in power uninterruptedly for the past eighteen years, was strongly opposed to granting universal suffrage, but agreed to what was called a compromise, in the shape of universal suffrage based on a system of plural voting.

The following scheme was adopted:

One vote to every male citizen of 25 years of age, with the exception of idiots and criminals.

One supplementary vote, known as the property vote, to every citizen of 25 years of age in possession of real estate to the value of 2,000 francs (\$400).

One supplementary vote, known as the family vote, to every married male citizen of 35 years of age, or widower with legitimate issue, who pays to the State personal taxes amounting to at least 5 francs (\$1) per annum.

One supplementary vote, known as the educational vote, to every male citizen of 25 years of age in possession of a diploma from a university, college, or high school.

Three votes being maximum allowed to any one citizen who may be included in several of the above categories.

This was the system offered by the Government in 1893 as a step toward universal suffrage; it was adopted at that time and has been in vogue ever since.

The Liberals, Socialists, and workingmen generally, have never been satisfied with this system of plural voting, which they claim entirely favors the Conservative and Catholic party. They maintain that in the rural districts, where the people are under the influence of the priests, the opportunities for the perpetration of frauds at elections are greatly enhanced by this system.

When this plural system was practically applied it failed to yield the results claimed by its advocates, and at the last general election for Representatives the votes polled by the combined Liberals and Socialists virtually equalled those of the Clericals, yet the latter, by this plural system, actually obtained a majority of 18 votes in the House of Representatives.

The struggle between labor and capital in Belgium has become extremely acute in the past few years. A large industrial population, confined to a small superficial area, with long hours of labor and small wages, have combined to produce a feeling of discontent among the working classes, who, perhaps unjustly, blame the existing Government for a condition of affairs which may be due to economic conditions rather than political.

This is a factor which may be largely responsible for the rapid growth of Socialism in Belgium during the past few years. Liberals and Socialists have combined to fight for universal suffrage, and have raised the cry "one man one vote" as a panacea for the existing ills.

The Clericals maintain that the existing system of plural voting meets the present requirements of the country; that it places a premium on education, and acts as a check to the power of the ignorant, who are prone to resort to violence and disorder.

The more moderate Liberals in the House of Representatives expressed a willingness to accept a compromise in the shape of a total abolition of the triple vote, granting one vote at 25 years and a second vote to married men of 35 or 40 years, with legitimate issue. The Clericals, however, would not consider a compromise and opposed revision in any form.

During the past fortnight, while the debates on the subject of revision were being held in the House of Representatives, the socialists and workmen have held nightly meetings at the Maison du Peuple, and have frequently paraded the streets shouting for universal suffrage and "one man one vote." The Liberal members, as well as some of the socialist leaders in the House, have cautioned the paraders to be calm, to avoid violence and disorder. But the ranks of the paraders have been swelled by the addition of the representatives of the very lowest and criminal classes of the population, the result being a conflict with the police followed by the breaking of windows and other damages to property. Shots were exchanged between the gendarmes and rioters, several of the latter being killed and wounded. Similar scenes were at the same time enacted in other towns in Belgium consequently the Government called out the troops.

Order has been restored, but the streets of Brussels, as well as the large towns, are lined with soldiers. A general strike has taken place in all the industrial centers of Belgium, with the avowed object of forcing the Government to grant universal suffrage, but without success. The feeling of unrest is very general all over the country, but whether the strikers return to work, now that the fight for universal suffrage has been lost in the House of Representatives, remains to be seen.

I give, without comment, for the information of the Department, the above sketch, embracing the salient points of both sides of the political controversy, which is at present agitating Belgium.

I have, etc.,

LAWRENCE TOWNSEND.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Townsend to Mr. Hay.

No. 138.]

LEGATION OF THE UNITED STATES,
Brussels, June 11, 1902.

SIR: I have the honor to acknowledge the receipt of Department's cablegram^a of May 24.

In conformity with instructions, I at once communicated to the minister for foreign affairs the above request and am to-day in receipt of

a letter from the minister granting the desired permission, a copy and translation of which is herewith inclosed.

I have notified the United States consular officers in Belgium of these facts, requesting them to use their good offices in representation of the interests of Cuba and of its citizens until further notice from the Department.

I have, etc.,

LAWRENCE TOWNSEND.

[Inclosure—Translation.]

Mr. de Favereau to Mr. Townsend.

MINISTRY OF FOREIGN AFFAIRS,
Brussels, June 10, 1902.

MR. MINISTER: I have the honor to acknowledge the receipt of the letter of May 26 last, by which your excellency kindly informed me of the intention of the President of the Republic of Cuba to intrust to the consuls of the United States of America in Belgium the representation of the interests of the Republic and of its citizens until the organization of a Cuban consular representation in our country.

I hasten to inform you, Mr. Minister, that the Government of the King has taken the necessary steps to the end that no obstacles should be placed in the way of the temporary representation in question.

I avail, etc.,

DE FAVEREAU.

TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF BELGIUM FOR THE MUTUAL EXTRADITION OF FUGITIVES FROM JUSTICE.

Signed at Washington October 26, 1901.

Ratification with amendments advised by the Senate January 30, 1902.

Ratified by the President June 13, 1902.

Ratified by Belgium January 28, 1902.

Ratifications exchanged at Washington June 14, 1902.

Proclaimed June 14, 1902.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and Belgium providing for the extradition of fugitives from justice was concluded and signed by their respective Plenipotentiaries at Washington, on the 26th day of October, 1901, the original of which Convention, being in the English and French languages is, as amended by the Senate of the United States, word for word as follows:

The United States of America and His Majesty the King of the Belgians, 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 fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have resolved to conclude a new Convention for that purpose and have appointed as their Plenipotentiaries:

The President of the United States John Hay, Secretary of State of the United States; and

His Majesty the King of the Belgians, ——— Mr. Charles C. Wauters, Chargé d'Affaires ad interim of Belgium near the Government of the United States;

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 Belgium mutually agree to deliver up persons who, having been charged, as principals or accessories, with or convicted of any of the crimes and offences 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 crimes designated in the Belgian penal code by the terms 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 Belgian laws 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 time 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.

An attempt against the life of the head of a foreign government 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 offence or an act connected with such an offence.

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 court in which 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 Belgium, 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 Belgium 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 Belgium 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 officials 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.

After it shall have taken effect, the convention of June 13, 1882, shall cease to be in force and shall be superseded by the present convention which 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 Washington as soon as possible.

In witness whereof, the respective plenipotentiaries have signed the above articles both in the English and French languages, and they have hereunto affixed their seals.

Done, in duplicate, at the City of Washington this 26 day of October 1901.

JOHN HAY [SEAL.]
WAUTERS. [SEAL.]

And whereas the said Convention, as amended by the Senate of the United States, has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the fourteenth day of June, one thousand nine hundred and two;

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 of America to be affixed.

Done at the City of Washington, this fourteenth day of June in the year of our Lord one thousand nine hundred and two, and [SEAL.] of the Independence of the United States the one hundred and twenty-six.

THEODORE ROOSEVELT

By the President:

JOHN HAY

Secretary of State.

DECLARATION

The Senate of the United States, by its resolution of January 30, 1902, having given its advice and consent to the ratification of the extradition treaty between the United States and Belgium, signed at Washington on October 26, 1901, with the following amendment:

In Article II insert after the word "committed" the following: "and the amount of money or the value of the property embezzled is not less than two hundred dollars or one thousand francs," and the said amendment being acceptable to the Government of Belgium, the undersigned Plenipotentiaries before proceeding with the exchange of ratifications of the said treaty, and being duly authorized, have agreed to the following:

Extradition may not be granted for the offenses enumerated in paragraph 10, Article II, of the said treaty unless "the amount of money or the value of the property embezzled is not less than two hundred dollars or one thousand francs."

The present declaration shall have the same force and duration as the Extradition Treaty of which it forms an integral part.

Done in duplicate at Washington, the sixth day of June, 1902.

JOHN HAY

Secretary of State of the United States of America.

AN ADDITIONAL ACT, CONCLUDED AT BRUSSELS DECEMBER 14, 1900, BY THE PLENIPOTENTIARIES OF THE UNITED STATES AND OTHER COUNTRIES, FOR THE PROTECTION OF INDUSTRIAL PROPERTY, MODIFYING THE INDUSTRIAL PROPERTY CONVENTION OF MARCH 20, 1883.

Signed at Brussels December 14, 1900.

Ratification advised by the Senate March 7, 1901.

Ratified by the President April 16, 1901.

Ratification deposited at Brussels May 3, 1901.

Proclaimed August 25, 1902.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas an Additional Act modifying the Industrial Property Convention of March 20, 1883, was signed at Brussels, on December 14, 1900, by the Plenipotentiaries of the United States and other Powers,

a true copy of which Additional Act, in the French language is word for word as follows:

[Translation.]

International union for the protection of industrial property.

ADDITIONAL ACT OF DECEMBER 14, 1900, MODIFYING THE CONVENTION OF MARCH 20, 1883, AS WELL AS THE FINAL PROCTOL THERETO ANNEXED.

His Majesty the King of the Belgians; the President of the United States of Brazil; His Majesty the King of Denmark; the President of the Dominican Republic; His Majesty the King of Spain, and in his name, Her Majesty the Queen Regent of the Kingdom; the President of the United States of America; The President of the French Republic; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India; His Majesty the King of Italy; His Majesty the Emperor of Japan; Her Majesty the Queen of the Netherlands; His Majesty the King of Portugal and the Algarves; His Majesty the King of Servia; His Majesty the King of Sweden and Norway; The Federal Council of the Swiss Confederation; The Government of Tunis, having deemed it useful to make certain modifications and additions to the International Convention of March 20, 1883, as well as to the Final Protocol annexed to said Convention, have named for their Plenipotentiaries the following:

His Majesty the King of the Belgians: Mr. A. Nyssens, former Minister of Industry and of Labor; Mr. L. Capelle, Envoy Extraordinary and Minister Plenipotentiary, Director General of Commerce and of Consulates in the Ministry of Foreign Affairs; Mr. Georges de Ro, Advocate at the Court of Appeal of Brussels, former Secretary of the order. Mr. J. Dubois, Director General in the Ministry of Industry and Labor.

The President of the United States of Brazil: Mr. da Cunha, Envoy Extraordinary and Minister Plenipotentiary of the United States of Brazil near His Majesty the King of the Belgians.

His Majesty the King of Denmark: Mr. H. Holtén-Nielsen, Member of the Patent Commission, Registrar of Trade-Marks.

The President of the Dominican Republic: Mr. J. W. Hunter, Consul General of the Dominican Republic at Antwerp.

His Majesty the King of Spain, and, in His name, Her Majesty the Queen Regent of the Kingdom: Mr. de Villa Urrutia, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians.

The President of the United States of America: Mr. Lawrence Townsend, Envoy Extraordinary and Minister Plenipotentiary of the United States of America near His Majesty the King of the Belgians; Mr. Francis Forbes; Mr. Walter H. Chamberlin, Assistant Commissioner of Patents.

The President of the French Republic: Mr. Gérard, Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians; Mr. C. Nicolas, Former Councillor of State, Honorary Director at the Ministry of Commerce, of Industry, of Posts and Telegraphs; Mr. Michel Pelletier, Advocate at the Court of Appeal of Paris.

Her Majesty the Queen of the United Kingdom of Great Britain

and Ireland, Empress of India; The Right Honorable C. B. Stuart Wortley, M. P.; Sir Henry Bergne, K. C. M. G., Chief of the Commercial Department at the Foreign Office; Mr. C. N. Dalton, C. B., Comptroller General of Patents.

His Majesty the King of Italy: Mr. Romeo Cantagalli, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians; Commander Carlo-Francesco Gabba, Senator, Professor at the University of Pisa; Chevalier Samuele Ottolenghi, Chief of Division at the Ministry of Agriculture, of Industry and of Commerce, Director of the Bureau on Industrial property.

His Majesty the Emperor of Japan: Mr. Itchiro Motono, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians.

Her Majesty the Queen of the Netherlands: Mr. F. W. J. G. Snyder van Wissenkerke, Doctor of Laws, Councillor at the Ministry of Justice, Director of the Bureau on Industrial Property.

His Majesty the King of Portugal and of the Algarves: Councillor E. Madeira Pinto, Director General at the Ministry of Public Works, of Commerce and Industry.

His Majesty the King of Servia: Dr. Michel Vouitch, His Envoy Extraordinary and Minister Plenipotentiary at Paris.

His Majesty the King of Sweden and Norway: Count Wrangel, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians.

The Federal Council of the Swiss Confederation: Mr. J. Borel, Consul General of the Swiss Confederation at Brussels; Doctor Louis-Rodolphe de Salis, Professor at Berne.

The President of the French Republic, for Tunis: Mr. Gérard, Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians; Mr. Bladé, Consul of the 1st Class at the Ministry of Foreign Affairs of France.

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

ARTICLE 1.

The International Convention of March 20, 1883, is modified as follows:

I. Article 3 of the Convention shall read as follows:

ART. 3. Are assimilated to the subjects or citizens of the contracting States, the subjects of citizens of States not forming part of the union, who are domiciled or have bona fide industrial or commercial establishments upon the territory of one of the States of the Union.

II. Article 4 shall read as follows:

ART. 4. Any one who shall have regularly deposited an application for a patent of invention, of an industrial model, or design, of a trade or commercial mark, in one of the contracting States, shall enjoy for the purpose of making the deposit in the other States, and under reserve of the rights of third parties, a right of priority during the periods hereinafter mentioned.

In consequence, the deposit subsequently made in one of the other States of the Union before the expiration of these periods cannot be invalidated by acts performed in the interval, especially by another deposit, by the publication of the invention or its working, by the sale of copies of the design or model, by the employment of the mark.

The periods of priority above mentioned shall be twelve months for patents of invention and four months for designs or industrial models, as well as for trade or commercial marks.

III. There is inserted in the Convention an article 4 *bis*, as follows:

ART. 4 *bis*. Patents applied for in the different contracting States by persons admitted to the benefit of the convention under the terms of articles 2 and 3 shall be independent of the patents obtained for the same invention in the other States adherents or non-adherents to the Union.

This provision shall apply to patents existing at the time of its going into effect.

The same rule applies, in the case of adhesion of new States, to patents already existing on both sides at the time of the adhesion.

IV. There are added to Article 9 two paragraphs, as follows:

In the States whose legislation does not admit of seizure on importation, such seizure may be replaced by prohibition of importation.

The authorities shall not be required to make the seizure in case of transit.

V. Article 10 shall read as follows:

ART. 10. The provisions of the preceding article shall be applicable to every production bearing falsely as indication of origin, the name of a stated locality when this indication shall be joined to a fictitious commercial name or a name borrowed with fraudulent intention.

Is reputed interested party every producer, manufacturer, or trader engaged in the production, the manufacture, or the sale of this production when established either in the locality falsely indicated as place of origin, or in the region where that locality is situated.

VI. There is inserted in the Convention an article 10 *bis*, as follows:

ART. 10 *bis*. Those entitled of right under the Convention (art. 2 and 3), shall enjoy, in all the States of the Union, the protection accorded to citizens or subjects against unfair competition.

VII. Article 11 shall read as follows:

ART. 11. The high contracting parties shall accord conformably to the legislation of each country a temporary protection to patentable inventions, to industrial designs, or models, as well as to trade-marks for the productions which shall be shown at official or officially recognized International Expositions organized upon the territory of one of them.

VIII. Article 14 shall read as follows:

ART. 14. The present Convention shall be submitted to periodical revision for the purpose of introducing improvements calculated to perfect the system of the Union.

With this object conferences shall take place successively in one of the contracting States between the delegates of said States.

IX. Article 16 shall read as follows:

ART. 16. The States that have not taken part in the present convention shall be admitted to adhere to the same upon their application.

This adhesion shall be notified through the diplomatic channel to the Government of the Swiss Confederation and by the latter to all the others.

It shall convey of full right, accession to all the clauses, and admission to all the advantages stipulated by the present convention, and shall go into force a month after the sending of the notification given by the Swiss Government to the Unionist States, unless a later date shall have been indicated by the adhering State.

ARTICLE 2.

The Final Protocol annexed to the International Convention of March 20, 1883, is completed by the addition of a number 3 *bis*, as follows:

ART. 3 bis. The patentee, in each country, shall not suffer forfeiture because of non-working until after a minimum period of three years, to date from the deposit of the application in the country concerned, and in the case where the patentee shall not justify the reasons of his inaction.

ARTICLE 3.

The present Additional Act shall have the same force and duration as the Convention of March 20, 1883.

It shall be ratified and the ratifications shall be deposited at the Ministry of Foreign Affairs at Brussels as soon as may be and at the latest within the period of eighteen months dated from the day of signature.

It shall go into effect three months after the close of the record of deposit.

In witness whereof the respective Plenipotentiaries have signed the present Additional Act.

Done at Brussels, in a single copy, December 14, 1900.

For Belgium:

A. NYSENS.

CAPELLE.

GEORGES DE RO.

J. DUBOIS.

For Brazil:

F. XAVIER DA CUNHA.

For Denmark:

H. HOLTEN NIELSEN.

For the Dominican Republic:

JOHN W. HUNTER.

For Spain:

W. R. DE VILLA URRUTIA.

For United States of America:

LAWRENCE TOWNSEND.

FRANCIS FORBES.

WALTER H. CHAMBERLIN.

For France:

A. GÉRARD.

C. NICOLAS.

MICHEL PELLETIER.

For Great Britain:

CHARLES B. STUART WORTLEY.

H. C. BERGNE.

C. N. DALTON.

For Italy:

R. CANTAGALLI.

C. F. GABBA.

S. OTTOLENGHI.

For Japan:

I. MOTONO.

For Norway:

Cte WRANGEL.

For the Netherlands:

SNYDER VAN WISSENKERKE.

For Portugal:

ERNESTO MADEIRA PINTO.

For Servia:

DR. MICHEL VOITCH.

For Sweden:

Cte WRANGEL.

For Switzerland:

JULES BOREL.

L. R. DE SALIS.

For Tunis:

A. GÉRARD.

ÉTIENNE BLADÉ.

And whereas the said Additional Act was ratified by the Government of the United States, by and with the advice and consent of the Senate thereof, and by the other signatory Governments with the exception of those of Brazil, the Dominican Republic, Spain and Servia, and the ratifications have been deposited with the Ministry of Foreign Affairs at Brussels, as required by Article 3 of the Act;

And whereas it is agreed between the ratifying Governments that the said Additional Act shall go into effect between them on September 14, 1902, notwithstanding the non-ratification thereof by the four signatory governments above mentioned, which have reserved the right to ratify the same at a later date;

Now therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Additional Act to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this twenty-fifth day of August in the year of our Lord one thousand nine-hundred and two, [SEAL.] and of the Independence of the United States the one hundred and twenty-seventh.

THEODORE ROOSEVELT

By the President:

ALVEY A. ADEE

Acting Secretary of State.

ACCIDENT TO PRESIDENT ROOSEVELT.

King of the Belgians to the President.

[Telegram.]

BAGNÈRES DE LUCHON, *September 6, 1902.*

Am glad that you escaped from the serious accident by which you have been menaced; beg you to accept my most sincere and cordial congratulations.

KING OF THE BELGIANS.

The President to the King of the Belgians.

[Telegram.]

WHITE HOUSE,
Washington, September 6, 1902.

I cordially esteem Your Majesty's solicitous sympathy.

THEODORE ROOSEVELT.

DEATH OF THE QUEEN OF BELGIUM.*Mr. Winthrop to Mr. Hay.*

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Brussels, September 20, 1902.

(Mr. Winthrop reports the death on Friday, September 19, at 7.25 o'clock p. m., of Her Majesty the Queen of Belgium.)

Mr. Adee to Mr. Winthrop.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, September 20, 1902.

(Mr. Adee directs Mr. Winthrop to express, on behalf of the President and Government of the United States, feelings of sincere sorrow and condolence by reason of the death of Her Majesty the Queen.)

Memorandum.

DEPARTMENT OF STATE,
Washington, September 24, 1902.

The Belgian minister called to-day and showed me a telegram he had received from the minister for foreign affairs directing him to express the sincere thanks of the King and the Belgian Government for the message of condolence and sympathy which was communicated, in the name of the President and the Government of the United States, by the chargé d'affaires at Brussels, on the occasion of the death of the Queen.

ALVEY A. ADEE,
Acting Secretary.

PROTECTION OF BELGIAN INTERESTS IN HAITI BY UNITED STATES NAVAL VESSEL.*Memorandum.*

[Translation.]

BELGIAN LEGATION,
Washington, October 6, 1902.

By telegram dated October 6, the Belgian Government instructs the legation of Belgium at Washington to ask the Government of the United States to authorize the American cruiser at Cape Haitien to concert with the consul of Belgium for the protection of common interests in the Bayeux plantation.

Memorandum.

DEPARTMENT OF STATE,
Washington, October 10, 1902.

The request in the memorandum of the Belgian legation dated the 6th instant, that the United States vessel at Cape Haitien be authorized to concert measures with the Belgian consul there for the protection of common interests in the Bayeux plantation, was communicated to the Navy Department.

That Department wrote on the date above referred to, that instructions had been issued to that end.

ATTEMPT ON LIFE OF KING OF BELGIUM.

Mr. Townsend to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Brussels, November 15, 1902.

(Mr. Townsend reports that two shots were fired by a man in the street at the King, without inflicting any injury.)

Mr. Townsend to Mr. Hay.

No. 164.]

LEGATION OF THE UNITED STATES,
Brussels, November 15, 1902.

SIR: I have the honor to confirm my cablegram of this day.

I regret to inform the Department that an attempt has just been made upon the life of the King.

As the King, members of the Royal family, and corps diplomatic were to-day driving away from the cathedral, after the memorial funeral service for the late Queen, a man in the crowd fired two shots from a revolver directed toward the closed carriage in which the King was seated, fortunately without inflicting any injury. It is reported that one of the shots narrowly escaped striking the Princess Clementine, who was seated in the carriage directly behind the King's.

I have called upon the minister for foreign affairs to express my horror at this dastardly attempt upon the King's life and congratulations that his life has been providentially spared.

I have, etc.,

LAWRENCE TOWNSEND.

Mr. Hay to Mr. Townsend.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 17, 1902.

The President directs you to convey, through the appropriate channel, his sympathy with His Majesty by reason of the attempt upon

his life, and sincere congratulations in his own name and in the name of the people of the United States that the King has been providentially saved from harm and the Belgian people from affliction.

HAY.

Mr. Townsend to Mr. Hay.

No. 165.]

LEGATION OF THE UNITED STATES,
Brussels, November 19, 1902.

SIR: I have the honor to acknowledge the receipt of Department's cable, dated November 17, 1902.

In conformity with instructions, I called personally upon the minister for foreign affairs to request him to kindly convey to the King the sincere congratulations of the President and people of the United States upon His Majesty's providential escape from harm.

I have, etc.,

LAWRENCE TOWNSEND.

Mr. Townsend to Mr. Hay.

No. 166.]

LEGATION OF THE UNITED STATES,
Brussels, December 3, 1902.

SIR: Referring to my dispatch No. 165 of November 19 last, I have the honor to inform the Department that, in addition to my personal visit to the minister for foreign affairs to offer congratulations on the escape of the King from the attempt upon his life, I wrote to the minister to the same effect.

I have received from the minister for foreign affairs a reply to my letter of congratulation, a copy and translation of which is herewith transmitted.

I have, etc.,

LAWRENCE TOWNSEND.

[Inclosure.—Translation.]

Baron de Favereau to Mr. Townsend.

DECEMBER 2, 1902.

MR. MINISTER: In your letter of November 19 your excellency was kind enough to inform me that you had been requested to have transmitted to the King, my august sovereign, the sincere congratulations of the President and people of the United States by reason of his having happily escaped from harm.

His Majesty was much touched by this kind message, and he has requested me to have recourse to the obliging medium of your excellency in order to transmit to their respective objects the expression of his sincere thanks.

Please accept, etc.,

DE FAVEREAU.

BOLIVIA.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Barber to Mr. Hay.

No. 341.]

LEGATION OF THE UNITED STATES,
La Paz, Bolivia, June 2, 1902.

SIR: In reference to the Department's telegram^a of May 24, I have the honor to now inclose copy of note No. 42 of the Bolivian foreign office, and translation thereof, recognizing the right of United States consular officers to represent the interests of Cuba and of Cuban citizens within Bolivia until Cuban consuls be appointed.

Following the Department's instructions, I have notified the United States vice-consul in this city that this permission has been granted.

I have, etc.,

REGINALD D. BARBER.

[Inclosure.—Translation.]

Mr. Villazon to Mr. Barber.

No. 42.]

MINISTRY OF FOREIGN RELATIONS AND RELIGION,
La Paz, Bolivia, May 27, 1902.

SIR: I have the pleasure to acknowledge the receipt of your honor's attentive note, dated the 26th instant, in which you are pleased to inform me that the Department of State has sent you instructions by telegraph, on behalf of the President of the Republic of Cuba, to request the Bolivian Government that the United States consular officers in this country may use their good offices for the protection of Cuban citizens until such time as Cuban consuls may be named.

In reply I may state that my Government accedes with pleasure to your request, and recognizes in the United States consuls the right to represent the interests of Cuban citizens until the Republic of Cuba may name its own consuls.

I have, etc.,

ELIODORO VILLAZON.

PROTECTION OF BRITISH INTERESTS IN BOLIVIA BY UNITED STATES OFFICIALS.

Mr. Hay to Mr. Sorsby.

No. 8.]

DEPARTMENT OF STATE,
Washington, October 4, 1902.

SIR: I am advised by the British chargé d'affaires ad interim at this capital that his Government is desirous that you shall exercise your good offices in behalf of British subjects in Bolivia, as was done by your predecessor, Mr. Bridgman.

You may bring the matter to the attention of the Bolivian Government and state that if agreeable to it you will continue the use of good offices in behalf of British subjects in Bolivia, on the same lines as your predecessor, until a representative of His Majesty's Government shall be appointed.

I am, etc.,

JOHN HAY.

Mr. Sorsby to Mr. Hay.

No. 27.]

LEGATION OF THE UNITED STATES,
La Paz, December 27, 1902.

SIR: Acknowledging the receipt of the Department's No. 8, of October 4 last, relative to the request of the British Government, through its chargé d'affaires ad interim at Washington, that the good offices of this legation be used in behalf of British subjects in Bolivia until a representative of that Government shall be appointed, I have the honor to report that in an interview on the 16th instant Dr. Eliodoro Villazon, the Bolivian minister for foreign affairs, expressed his willingness and satisfaction that the good offices of this legation should be used as heretofore in behalf of British subjects in Bolivia.

I have, etc.,

WILLIAM B. SORSBY.

BRAZIL.

TREATY SUBMITTING TO ARBITRATION THE QUESTION OF THE BOUNDARY BETWEEN BRAZIL AND BRITISH GUIANA.

Mr. Dawson to Mr. Hay.

No. 396.] LEGATION OF THE UNITED STATES OF AMERICA,
Petropolis, Brazil, February 6, 1902.

SIR: I have the honor to forward you herewith the English and Portuguese texts of the arbitration treaty recently negotiated in regard to the boundary between Brazil and British Guiana. The Brazilian congress ratified it on December 27; January 28 ratifications were exchanged by the minister for foreign affairs and the British chargé d'affaires here accredited, and the treaty was immediately proclaimed.

It will be observed that the supplementary "declaration" annexed to the treaty virtually settles the southern boundary of British Guiana. In that region the Amazon-Essequibo watershed is agreed upon as the dividing line.

The part of the line in dispute constitutes, roughly speaking, the southern half of the western boundary of the colony, the northern half being its Venezuelan frontier. The territory in question is about 300 miles long and 100 miles wide in its broadest place. Great Britain claims the line to be the Takutu and Cotinga rivers, which unite to form the Rio Branco, which in turn flows into the great Rio Negro. Her success would therefore give British Guiana a navigable tributary of the Amazon as a boundary. On the other hand Brazil claims the division to be partly the watershed between the Amazon and Essequibo basins and partly the Rupunumi, a navigable tributary of the Essequibo. The Takutu and Rupunumi approach very near each other and there is no well-defined watershed; the altitude above the sea is only about 350 feet; portage is easy, and a railroad would be cheap. If Brazil's claim is sustained she will have the essential link of the proposed Georgetown-Manaos route all within her own territory, the Essequibo will be an international stream, and no European power will have a foothold anywhere in the Amazon Valley.

If a sketch map would be useful to the Department, it can be obtained.

I have, etc.,

THOMAS C. DAWSON.

[Inclosure.—Translation.]

The President of the United States of Brazil and His Majesty the King of the United Kingdom of Great Britain and Ireland, Emperor of India, being desirous to provide for an amicable settlement of the question which has arisen between their respective governments concerning the boundary between the United States of Brazil

and the colony of British Guiana, have resolved to submit to arbitration the question involved, and, to the end of concluding a treaty for that purpose, have appointed as their respective plenipotentiaries;

The President of the United States of Brazil, Señor Joaquin Aurelio Nabuco de Araujo, envoy extraordinary and minister plenipotentiary of Brazil to His Britannic Majesty;

And His Majesty the King of Great Britain and Ireland, Emperor of India, the Most Hon. Henry Charles Keith Petty Fitz Maurice, Marquess of Lansdowne, Earl Wycombe, Viscount Caln and Calnstone and Lord Wycombe, Baron of Chipping Wycombe, Baron Nairne, Earl of Kerry and Earl of Shelburne, Viscount Clanmaurice, and Fitzmaurice, Baron of Kerry, Lixnaw, and Dunkerron, a peer of the United Kingdom of Great Britain and Ireland, a member of His Britannic Majesty's most honorable privy council, a Knight of the Most Noble Order of the Garter, etc., His Majesty's principal secretary of state for foreign affairs;

Who, having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following articles:

ARTICLE I. The President of the United States of Brazil and His Majesty the King of the United Kingdom of Great Britain and Ireland, Emperor of India, agree to invite His Majesty the King of Italy to decide, as arbitrator, the question as to the above-mentioned boundary.

ART. II. The territory in dispute between the United States of Brazil and the colony of British Guiana shall be taken to be the territory lying between the Takutu and the Cotinga and a line drawn from the source of the Cotinga eastward, following the watershed to a point near Mount Ayangeanna; thence in a southeasterly direction, still following the general direction of the watershed as far as the hill called Annay; thence by the nearest tributary to the Rupununi, up that river to its source, and from that point crossing to the source of the Takutu.

ART. III. The arbitrator shall be requested to investigate and ascertain the extent of the territory which, whether the whole or a part of the zone described in the preceding article, may lawfully be claimed by either of the high contracting parties, and to determine the boundary line between the United States of Brazil and the colony of British Guiana.

ART. IV. In deciding the question submitted the arbitrator shall ascertain all facts which he shall deem necessary to a decision of the controversy, and shall be governed by such principles of international law as he shall determine to be applicable to the case.

ART. V. The printed case of each of the two parties, accompanied by the documents, the official correspondence, and other evidence on which each relies, shall be delivered in duplicate to the arbitrator and to the Government of the other party within a period not exceeding twelve months from the date of the exchange of the ratifications of this treaty.

ART. VI. Within six months after the cases shall have been delivered in the manner provided in the preceding article, either party may in like manner deliver to the arbitrator and to the Government of the other party a counter case and additional documents, correspondence, and evidence in reply to the case, documents, correspondence, and evidence as presented by the other party.

If in the case or counter case submitted to the arbitrator either party shall have specified or alluded to any other report or document in its own exclusive possession without annexing a copy, such party shall be bound, if the other party thinks proper to apply for it, to furnish that party with a copy thereof; and either party may call upon the other through the arbitrator to produce the originals or certified copies of any papers adduced as evidence, giving in each instance notice thereof within forty days after the delivery of the case or counter case, and the original or copy so requested shall be delivered as soon as may be within a period not exceeding forty days after the receipt of notice.

ART. VII. Within four months after the expiration of the time fixed for the delivery of the counter case on both sides, each party shall deliver in duplicate to the arbitrator and to the Government of the other party a printed argument showing the points and referring to the evidence upon which each Government relies; and the arbitrator may, if he desires any further elucidation in regard to any point in the argument of either party, require a further written or printed statement or argument upon it; but in such case the other party shall be entitled to reply by means of a similar written or printed statement or argument.

ART. VIII. The arbitrator may, for any cause deemed by him sufficient, extend the periods fixed by Articles V, VI, or VII, or any of them, by the allowance of thirty days additional.

ART. IX. The high contracting parties agree to request that the decision of the arbitrator may, if possible, be made within six months of the delivery of the argument on both sides.

They further agree to request that the decision may be made in writing, dated and signed, and that it may be in duplicate, one copy to be handed to the representative of the United States of Brazil for his Government and the other copy to be handed to the representative of Great Britain for his Government.

ART. X. The high contracting parties engage to accept the decision pronounced by the arbitrator as a full, perfect, and final settlement of the question referred to him.

ART. XI. The high contracting parties agree that the Indians and other persons living in any portion of the disputed territory which may by the award of the arbitrator be assigned either to the United States of Brazil or to the colony of British Guiana shall, within eighteen months of the date of the award, have the option of removing into the territory of the colony or of Brazil, as the case may be, themselves, their families, and their movable property, and of freely disposing of their immovable property, and the said high contracting parties reciprocally undertake to grant every facility for the exercise of such option.

ART. XII. Each Government shall provide for the expense of preparing its case. Any expenses connected with the arbitral proceedings shall be defrayed by the two parties in equal moieties.

ART. XIII. The present treaty, when duly ratified, shall come into force immediately after the exchange of ratifications, which shall take place in the city of Rio de Janeiro within four months of this date, or sooner if possible.

In faith whereof we, the respective plenipotentiaries, have signed this treaty and have hereunto affixed our seals.

Done in duplicate at London, the 6th day of November, 1901.

LANSDOWNE.

JOAQUIN NABUCO.

DECLARATION.

The plenipotentiaries on signing the foregoing treaty declare, as part and complement of it and subject to the ratification of the same, that the high contracting parties adopt as the frontier between the United States of Brazil and the colony of British Guiana the watershed line between the Amazon basin and the basins of the Corentyne and the Essequibo from the source of the Corentyne to that of the Rupunumi, or of the Takutu, or to a point between them, according to the decision of the arbitrator.

LANSDOWNE.

JOAQUIN NABUCO.

INADVISABILITY OF AMERICAN EMIGRATION TO THE UPPER AMAZON REGION.

Mr. Bryan to Mr. Hay.

No. 411.]

LEGATION OF THE UNITED STATES,
Petropolis, April 30, 1902.

SIR: I have the honor to state that, having received many written inquiries concerning the opportunities for Americans to earn money in the rubber-producing region of the Upper Amazon, I deem it my duty to report to the Department the real conditions confronting settlers in that territory known as the Acre.

While rubber is abundant, with the chances great of ample returns for its exploitation, the climate and topography of this remote country are such as to imperil life even during the briefest sojourn for those unaccustomed to uninterrupted equatorial heat. Swamps, miasmas, numberless mosquitoes and venomous insects, none but foul water to drink, insufficient nourishment, torrential rains, all contribute to a mortality which is conservatively reckoned at two lives to each ton of rubber exported. The deadliness of this climate explains the anxiety of the Bolivian Government to rid themselves of the direction of the

Acre territory, where they could not induce either soldiers or customs officers to go, the reports from the few survivors of early expeditions thither having been tragic in the extreme. Such statements are confirmed by a notice, which I herewith send, from the *Brazilian Review* of April 29. The Brazilian expedition under Dr. Cruls, recently sent to determine the boundary lines between this country and Bolivia, lost 12 men, despite the utmost care.

There is an area of the Acre where more favorable conditions exist than those herein described, but just where the land rises the rubber growth decreases.

Large rubber companies can doubtless derive great profit from their investments, but it will be to their advantage to employ acclimated natives in this section of Brazil rather than laborers imported from northern countries.

In view of the facts given and of other dangers that confront the foreigner in this remote region, I earnestly warn our countrymen against emigration to the Upper Amazon country.

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure.]

Extract from the Brazilian Review, of Rio de Janeiro.

APRIL 29, 1902.

River Acre.—Reports in regard to the sanitary conditions of this river are very unfavorable. Beriberi and fevers prevail throughout the country. The steamer *Brazil* had on board 38 Bolivians, mostly officers of the army, who were suffering from beriberi, and were consequently leaving the country. One of these passengers, the commander of a battalion of infantry, died on board and was buried on the bank of the Purus.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Bryan to Mr. Hay.

No. 434.]

LEGATION OF THE UNITED STATES,
Petropolis, July 11, 1902.

SIR: Referring to your telegraphic instruction ^a of May 24, in regard to permission to United States consuls to act for Cuba, and your unnumbered instruction ^b of May 20, in regard to notifying this Government of the inauguration of an independent government in Cuba, I have the honor to report that the permission asked has been granted.

It will be noted that the Brazilian Government suggests that a direct communication is also expected from Cuba.

Copies of my notes to the foreign office and of the reply just received thereto are inclosed.

According to the instructions sent by you, I have notified the consuls through the consulate-general.

I have, etc.,

CHARLES PAGE BRYAN.

^a Printed, ante, page 6.

^b Printed, ante, page 6.

[Inclosure 1.]

*Mr. Bryan to Dr. Magalhaes.*LEGATION OF THE UNITED STATES,
Petropolis, May 27, 1902.

MR. MINISTER: Pursuant to instructions from my Government, I have the honor to ask, through your excellency, the kind permission of the Government of Brazil that until consuls shall have been appointed by the Government of Cuba the consular officers of the United States of America may use their good offices within the jurisdiction of Brazil in representation of the interests of Cuba and its citizens.

His Excellency Tomas Estrada Palma, President of the Cuban Republic, has asked that this permission be requested.

I improve the opportunity, etc.,

CHARLES PAGE BRYAN.

[Inclosure 2.]

*Mr. Bryan to Dr. Magalhaes.*LEGATION OF THE UNITED STATES,
Petropolis, June 28, 1902.

MR. MINISTER: Pursuant to instructions received from the President of the United States of America through the Secretary of State, I have the honor to convey to the Government of Brazil, through your excellency as minister for foreign affairs, that the military occupation of the island of Cuba by the United States of America ceased on the 20th day of May, 1902, and that an independent government, republican in form, has been inaugurated there under the presidency of His Excellency Señor Don Tomas Estrada Palma.

I improve this opportunity, etc.,

CHARLES PAGE BRYAN.

[Inclosure 3.]

*Dr. Magalhaes to Mr. Bryan.*MINISTRY OF FOREIGN AFFAIRS,
Rio de Janeiro, July 9, 1902.

I have received the two notes which Mr. Charles Page Bryan, envoy extraordinary and minister plenipotentiary of the United States of America, addressed to me on the 27th of May and the 28th of June, requesting, at the desire of the Cuban Government, permission for the consular officers of the United States to exercise provisionally their good offices in behalf of that Republic and its citizens; and informing me that the military occupation of the island by the American Government ceased on the 20th of the month just past (May), an independent and republican government having been organized under the presidency of Señor Estrada Palma.

The Government of Cuba has not yet communicated to that of Brazil the important events referred to by Mr. Bryan, and that Government has therefore not been recognized in the usual form, but the President of the Republic, assured that this action will not be delayed, gives with pleasure the permission requested.

I have, etc.,

OLYNTHO DE MAGALHAES.

INHERITANCE TAX ON ESTATE OF BARON THOMSEN.*Mr. Hill to Mr. Bryan.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 30, 1902.

(Mr. Hill states that it is represented that the Brazilian Government is proceeding, without judicial process, to enforce the payment of

inheritance tax of Baron Thomsen at Rio Grande do Sul by seizure of property of the copartnership of Thomsen & Co. Mr. Bryan is instructed to invoke good offices of the Brazilian Government with a view to assure due legal process and judicial hearing and decision of question of amount of inheritance tax justly due, payment of which Baron Thomsen's son represents his willingness to make.)

Mr. Dawson to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Petropolis, July 31, 1902.

(Mr. Dawson reports that vigorous steps have been taken in the Thomsen inheritance tax case by Minister Bryan.)

Mr. Bryan to Mr. Hay.

No. 438.]

LEGATION OF THE UNITED STATES,
Petropolis, August 4, 1902.

SIR: I have the honor to acknowledge the receipt of your telegram^a of July 30, and to confirm Mr. Dawson's reply^a of July 31 thereto; and to state that I had received on July 19, through the consular agent, a statement of the difficulty from Mr. E. H. Müller, an American citizen resident in Rio Grande do Sul, and the managing partner of Thomsen & Co. A copy is herewith inclosed. At the same time the legal statement of Mr. Müller's Brazilian counsel was received.

It was clear to me that the attachment would greatly injure an important American business enterprise and, after carefully considering the legal question involved, that the firm of Thomsen & Co. would have a right to ask the Brazilian Government for damages through the diplomatic channel should it be enforced, accordingly I determined to take personal and unofficial action.

I received the following telegram from Consular Agent Vereker:

RIO GRANDE, *July 25, 1902.*

With reference to my letter of the 12th instant, Edward Müller has been summoned to pay the amount claimed by the Government under penalty of summary attachment, which is now imminent. Legal measures have been exhausted, and he represents the urgent necessity of intervention to avoid vexatious injury.

VEREKER, *Consular Agent.*

and the following cablegram from Mr. Thomsen's lawyer in New York:

NEW YORK, *July 26, 1902.*

Retained by Thomsen, American citizen, in inheritance tax matter. Believe proceedings illegal and threatened attachment oppressive and unconstitutional. Desire same prevented if possible.

EUGENE ROBINSON.

Knowing that the attachment was in the hands of an executive officer of the State of Rio Grande for enforcement, and being confident of the friendliness of the eminent president of Rio Grande, Dr. Borges

Medeiros, to American interests as shown during my visit there and repeatedly since, I ventured to send him the following telegram.

PETROPOLIS, *July 28.*

I ask your excellency's intercession with the minister of justice to delay the attachment against Thomsen & Co. until I shall have an opportunity to investigate the matter.

To this was received the following favorable response:

PORTO ALEGRE, *August 1.*

Complying with your wishes, I have to advise you that I have taken measures in the direction of sustaining the inventory of Thomsen & Co. Cordial greetings.

BORGES MEDEIROS.

On receipt of your telegram of July 30, Mr. Dawson went to Rio and called upon the minister for foreign affairs, asking for his good offices with the State authorities of Rio Grande. Dr. Magalhaes stated that the executive had no power to intervene with the administration of justice by the courts, and was reluctant to promise to take any action. At his suggestion Mr. Dawson left with the director-general the following memorandum note:

RIO DE JANEIRO, *August 1, 1902.*

Viscount CABO FRIO,
Foreign Office, Rio de Janeiro.

DEAR SIR: I have just seen Dr. Magalhaes about the Thomsen penhora, according to your suggestion, and he has asked me to put our request in writing in the form of a note to you, so as to furnish a basis for telegraphing.

We ask respectfully that your department represent to the procurador especial de fazenda do estado do Rio Grande do Sul that his insisting upon an immediate penhora against Mr. Müller and the property under his charge will be unnecessary and unwise.

A penhora being a summary process, Mr. Müller will undoubtedly, after it is imposed, make a claim through our legation on the ground that he had no opportunity to have a court of law ascertain how much he and the firm he represents really owes on account of the inheritance tax of the former partner in the other firm.

A telegram to the procurador or his superior officers need not be in any sense an intervention. It would only be a request that he delay the matter of the penhora until it can be investigated, thus relieving the United States legation and your office of a tedious diplomatic claim.

This legation will insist that Mr. Müller promptly submit to the judgment of the Brazilian court, and will deeply appreciate anything Dr. Magalhaes may do to induce patience on the part of the procurador.

Please accept my thanks, etc.,

THOMAS C. DAWSON.

On the following day I saw the minister myself, and he guardedly told me that he had sent a telegram in the line suggested.

I inclose herewith a copy of a letter I have just sent the consular agent at Rio Grande do Sul.

In the absence of further instructions from the Department I shall continue to take such action as may seem likely to secure protection of the interests of Thomsen & Co. against injury.

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure 1.]

Mr. Müller to Mr. Vereker, consular agent.

RIO GRANDE DO SUL, *July 12, 1902.*

DEAR SIR: Referring to our verbal conversation I now beg to hand you herewith a letter directed to the Hon. Charles Page Bryan, minister plenipotentiary of the

United States of North America at Rio de Janeiro, which I request you to kindly forward with such comments as the case may warrant. I would state to you that the question involved is the following:

Baron C. de Thomsen, senior of the firm of Thomsen & Co., of this city and New York, died in New York in May, 1898. According to the laws of this State an inheritance tax of 11 per cent was to have been paid by the heirs to the State government on all funds and property which at the time of death belonged to the deceased in this country. The law further requires that whoever is authorized to liquidate the affairs of a deceased leaving property in this country is to hand in a statement of such account, showing clearly what property the deceased leaves here to the credit of his estate, so that the State can collect the tax of 11 per cent.

The affairs of the baron, whose interest in the firm of Thomsen & Co., as per contract, ceased on the 31st of December of the year of his decease, were liquidated by the then resident partner, Mr. Gustav Feddersen. As the law referred to had always been a dead letter, inasmuch as it had never been enforced, Mr. Feddersen undoubtedly was not aware of the existence of the same, liquidated the account of the baron and remitted the amount belonging to the heirs to the executors in New York, where the will of the baron was probated and the division of the estate made in conformity with the laws of the State of New York.

I will mention that the baron's account on the 31st December, 1898, showed a balance to the credit of the deceased of Rs. 152,308\$650, consisting of Rs. 147,308\$650 in actual cash and Rs. 5,000\$000, nominal value of shares of the Companhia Hydraulica here. The baron possessed no real estate in Brazil and had no interest in any other business enterprise in Brazil.

On January 1, 1899, a new firm under the same name of Thomsen & Co., with branch in New York, was constituted here, the son of Baron de Thomsen, Mr. Hugo Adelberto Thomsen, and Mr. Gustav Feddersen being general partners, and the widowed daughter of Baron de Thomsen, Mrs. Pepita Schiller, special partner. Mr. G. Feddersen then left for Europe in May, 1899, leaving the firm in my charge, who had hitherto been an employee of the firm. On January 1, 1900, I was admitted as partner, as was also Mr. H. Joh's. Riedel, of New York.

I beg to say that Mr. H. A. Thomsen, hitherto a Brazilian, is now an American citizen; so is Mr. H. Joh's. Riedel, and so am I—the former two by naturalization and I by birth.

About the middle of last year I was notified by the government of this State to pay within five days the inheritance tax due to the government by the heirs of the late Baron de Thomsen, the government claiming that I was the legal representative of said heirs.

I naturally refused such payment, as I in no way whatever could be looked upon as the representative of the heirs of the late Baron de Thomsen. The law clearly states that such heirs should be personally subpoenaed to pay the taxes, which was impossible, the heirs being absent, and the government of this State was therefore bound to subpoena the heirs by diplomatic channels. In order, however, to save time I agreed to notify the heirs and acquaint them with the facts of the case; and they being perfectly willing to abide by the laws of this country and State, and in order to show such willingness they did not wait for a legal subpoena, but at once volunteered to send the statement of the baron's account in this country at the time of his decease, authorizing me to pay the tax of 11 per cent on Rs. 152,308\$650, amount referred to above, and if absolutely necessary also the exorbitant fine of 1½ per cent interest per month on the amount due, which fine according to law enters into force and is counted from one year after the death in case of nonpayment of the tax.

The government refuses to acknowledge the correctness of the statement as rendered and arbitrarily decides that the tax should be paid on the capital contributed by the baron when the last business contract was registered, which was done in the year 1894. The baron then declared his capital here to be Rs. 776,752\$900, and upon this sum the government claims 11 per cent tax and 1½ per cent per month interest from May, 1899, to the day of payment, or a total amount of Rs. 158,667\$314! In case of nonpayment I am *threatened with attachment proceedings!*

The only heirs of the baron, namely, his two children, Mr. H. A. Thomsen and Mrs. Pepita Schiller, are interested in the firm of Thomsen & Co., the former as senior partner and the latter as special partner, and the government now threatens to attach funds belonging to the firm, in order to collect an inheritance tax on the estate of the late Baron de Thomsen.

I have employed the best legal advice, and am told that the government is acting arbitrarily against the constitution of this Republic as well as against the laws of this State. The letter inclosed herewith and addressed to the United States minister at Rio is inspired by my lawyers and clearly states all the legal points at issue. I send it in its original form and inclose a copy of this my letter to you, in case you

should think it advisable to forward the same. I would repeat that the heirs of the late Baron de Thomsen are willing to abide by the laws of this State and pay what is due to the government. The latter, however, is asking an extortionate sum in an arbitrary and illegal way; the law states that only if proof exists that the statement rendered is false, action can be taken against the heirs.

My counsel informs me, however, that the State government will not heed the laws; that for reasons best known to the authorities the latter will enforce their demands, even employing forcible and arbitrary means if the law is against them, irrespective of any consequences of their action, as has been done before, and I was therefore advised to ask the protection of my Government. It is only with great reluctance that I have now taken this step, but the question being one of the greatest importance, I respectfully request you to inform the United States minister, Col. Charles Page Bryan, of the occurrence, laying the whole matter before him in order to ascertain whether the minister can advise me in the matter, or possibly take steps to prevent arbitrary and illegal action by the State authorities who threaten to embarrass the firm I represent, and whose interest is left to my care, in the most serious way. It can be easily understood that attaching the firm's property at random would interfere with its business and may seriously hurt its credit. Our interests here, as well as in the United States, are quite important, and I can not allow the government of this State to interfere with the same in an illegal and arbitrary way, but have no other means of defending the firm's and my interest, but appeal to the United States Government, asking their representative to take my case into consideration, and if found worthy, of which I am convinced, kindly render me such assistance as the case requires.

Believe me, etc.,

EDW. H. MÜLLER,
*Resident Partner at Rio Grande do Sul of the
Firm of Thomsen & Co.*

[Inclosure 2.]

Mr. Bryan to Mr. Vereker, consular agent.

LEGATION OF THE UNITED STATES,
Petropolis, August 4, 1902.

SIR: In reference to the Thomsen case I beg leave to acknowledge the receipt of your letters of July 12 and July 26, and of your telegram of July 25, and also of the following inclosures: Mr. Edward H. Müller's letter to you of July 12, his reclamation directed to me of the same date, and his letter of July 25.

On receipt of your telegram of July 25, I directed a telegram ^a to Governor Medeiros, to which I received a favorable reply.^a Copies of both telegrams are inclosed herewith. On July 26 I received a telegram ^a from the gentleman who I presume is the attorney for the Thomsen heirs in the United States. Of this also I inclose a copy. Up to this time I had received no instructions from my Government, and my action in telegraphing Governor Medeiros was, strictly speaking, not official. On July 31, during my absence, there was received at the legation a telegram ^a from the Secretary of State in Washington in regard to this matter, a copy of which I send you herewith.

Mr. Dawson at once went to Rio and saw the minister for foreign affairs, requesting him to represent to the State authorities of Rio Grande do Sul the advisability of reaching an amicable agreement with Mr. Müller, since, as you know, the Executive of Brazil has no power to interfere with the administration of justice by the courts. Any telegram sent by Minister Magalhaes would be necessarily nonofficial and in the form of a request and advice, not as an order. You will therefore see the necessity of you and Mr. Müller not allowing anyone else to know of the fact of Minister Magalhaes having sent the telegram. On August 2 I saw the minister myself and he guardedly told me that he had sent a telegram personally and unofficially in regard to the matter.

I sincerely hope that Mr. Müller will reach an amicable solution of the difficulty with the procurador and that in case the latter still refuses to come to any compromise, you and Mr. Müller will go to Porto Alegre and see the minister of justice.

It is the rule of international law that a diplomatic intervention can not be made as long as the matter is pending in the courts. If the penhora should be enforced, Mr. Müller would almost certainly have a clear right to make a formal reclamation. In the present status of the matter the attitude of the legation and of the consulate

^aPrinted, ante.

must be that of friendly representations with a view to avoiding the necessity of such a reclamation.

Please communicate the contents hereof to Mr. Müller in acknowledgment of his letters, and assure him that I will continue to make every effort on his behalf.

I am, etc.,

CHARLES PAGE BRYAN.

Mr. Bryan to Mr. Hay.

No. 439.]

LEGATION OF THE UNITED STATES,
Petropolis, Brazil, August 5, 1902.

SIR: Referring to my No. 438, I have the honor to send herewith inclosed a copy of a letter just received from Mr. Jorge Vereker, the American consular agent at Rio Grande do Sul, in which he reports that the State authorities have ordered that proceedings against the firm of Thomsen & Co. be for the present suspended.

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure.]

Mr. Vereker to Mr. Bryan.

CONSULAR AGENCY OF THE UNITED STATES,
Rio Grande do Sul, July 31, 1902.

SIR: Confirming my respects of the 26th instant, I beg to acknowledge the receipt of your telegram of same day:

"Request authorities await my written answer,"

and of the 28th:

"Pedi intercessão presidente Estado assumpto Thomsen."

I have spoken on the subject to Mr. Hon. Marques Vaz de Carvalho, clerk of the state revenue board of this town and acting as especial attorney for the treasury department of this State, here, who has informed me that on the 28th instant he received instructions, by telegram from Porto Alegre, to suspend for the present the proceedings against the firm of Thomsen & Co. in relation to the inheritance tax due by the heirs of the Barão de Thomsen.

Very respectfully, yours,

JORGE VEREKER.

Mr. Bryan to Mr. Hay.

No. 454.]

LEGATION OF THE UNITED STATES,
Petropolis, September 15, 1902.

SIR: In reference to the Department's telegraphic instruction of July 30 and to my No. 438 of August 4, regarding the appeal of E. H. Müller for Thomsen & Co., of Rio Grande do Sul, against an attachment threatened by the local authorities in the event of his failing to pay an exorbitant inheritance tax, I have the honor to send herewith a copy of a letter from Consular Agent Vereker. He therein communicates the gratifying information that Mr. Müller with his attorney has proceeded to Porto Alegre, the State capital, there, pursuant to my advice, to seek a compromise through the executive.

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure.]

Mr. Vereker to Mr. Bryan

CONSULAR AGENCY OF THE UNITED STATES,
Rio Grande do Sul, September 4, 1902.

SIR: I beg to acknowledge the receipt of your letter of the 4th ultimo concerning the Thomsen case.

Mr. Edward H. Müller has been informed of the contents of the same, and he has requested me to transmit his thanks to you for the interest you have taken in connection with this affair. He received in due time your message communicating that the governor had promised delay, for which he is obliged.

By the steamer *Itaperuna*, which left our port this afternoon, he proceeded to Porto Alegre, where, together with his attorney, he will endeavor to arrive at a reasonable agreement with the State authorities in reference to the inheritance tax to be paid by the heirs of the Barão de Thomsen.

Mr. Müller's lawyer at Porto Alegre is in friendly relations with the President and other members of the Government; I considered therefore it would not be of great value my going up there.

I am, etc.,

JORGE VEREKER.

Mr. Bryan to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Rio de Janeiro, September 27, 1902.

(Mr. Bryan reports amicable settlement of Thomsen case.)

Mr. Bryan to Mr. Hay.

No. 455.]

LEGATION OF THE UNITED STATES,
Petropolis, September 27, 1902.

SIR: I have the honor to confirm my telegram^a of September 27, and the satisfaction to state that through the good offices of the governor of Rio Grande do Sul, which I had sought, the heirs of Baron Thomsen have effected a final arrangement with the State as to the terms of payment of their inheritance tax. I inclose herewith a letter from the American consular agent at Rio Grande do Sul reporting the amicable closing of the case.

I have, etc.

CHARLES PAGE BRYAN.

[Inclosure.]

Mr. Vereker to Mr. Bryan.

CONSULAR AGENCY OF THE UNITED STATES,
Rio Grande do Sul, September 20, 1902.

SIR: Confirming my respects of the 4th instant, I now take leave to apprise you that Mr. Edward H. Müller returned yesterday from Porto Alegre, where he came to an arrangement with the secretary of the treasury by paying into that department the sum of Rs. 35,000\$000 as inheritance tax on the estate of the Barão de Thomsen, in Rio Grande do Sul, on the understanding that he should have the right of recovering

^aPrinted, ante.

any excess paid if it be proved by the books when sent back here that the amount due by the heirs is less than that, the Government being in like manner entitled to any deficiency if it be otherwise.

I am pleased that this case has been amicably settled.

Very respectfully, yours,

JORGE VEREKER, *Consular Agent.*

Mr. Hay to Mr. Bryan.

No. 296.]

DEPARTMENT OF STATE,
Washington, October 6, 1902.

SIR: Referring to your telegram of the 27th ultimo, stating that the Thomsen case had been settled, I now take pleasure in transmitting a copy of an appreciative letter from Messrs. Dickerson, Brown & Raeger, Mr. Thomsen's attorneys.

I am, etc.

JOHN HAY.

[Inclosure.]

Dickerson, Brown & Raeger to the Secretary of State.

NEW YORK, October 1, 1902.

SIR: In the name of our client, Mr. H. A. Thomsen, and in our own behalf, we hereby express our thanks to the Department of State and to the United States minister to Brazil for their prompt and energetic assistance, without which a settlement would have been impossible and but for which a valuable business would have been ruined.

I have the honor, etc.

DICKERSON, BROWN & RAEGENER.

INAUGURATION OF PRESIDENT ALVES—ADDRESS OF UNITED STATES MINISTER AND PRESIDENT'S REPLY—EXCHANGE OF COURTESIES BETWEEN OFFICERS OF U. S. S. IOWA AND BRAZILIAN OFFICIALS.

Mr. Bryan to Mr. Hay.

No. 470.]

LEGATION OF THE UNITED STATES,
Petropolis, November 18, 1902.

SIR: I have the honor to inclose herewith my remarks as dean of the diplomatic corps at the reception of the President to the foreign representatives on the day of his inauguration, and the answer of Dr. Rodrigues Alves, with translations of these addresses.

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure 1.]

Translation of Mr. Bryan's address.

MR. PRESIDENT: The members of the diplomatic corps accredited to the Government of Brazil come, on this anniversary so prized in your history, to wish Your Excellency the most complete success in the discharge of this most honorable office which has been intrusted to you.

We desire for this vast country an increasing prosperity under the wise administration of Your Excellency, to whom at the same time we wish all personal happiness. Those of us who have the good fortune to be present at your accession to power shall follow with sincere interest and sympathy the continued development of Brazil, a development which we hope to see crown the most brilliant ambitions of a people so richly endowed, as well as every ardent desire of Your Excellency for this great Republic.

It is the earnest prayer of the representatives of all our countries that your national strength may be such as will best assure the permanent peace and prosperity of the nation.

[Inclosure 2.]

Translation of the President's answer.

MR. MINISTER: It is with real satisfaction that I have received the courteous expressions of friendship which the members of the diplomatic corps have addressed to me on this memorable day, and I am grateful for the sincere interest which they manifest in the prosperity of my administration in the Government which I am assuming in obedience to the will of my fellow-citizens.

I shall do all that is in my power to maintain unchanged the relations of cordial friendship which happily now exist between our countries, and in furthering this end I hope that I shall not lack the effective help of the diplomatic representatives here present.

I thank them for their presence on this occasion and I reciprocate their wishes for the peace and prosperity of Brazil and for my personal happiness.

Mr. Bryan to Mr. Hay.

No. 471.]

LEGATION OF THE UNITED STATES,
Petropolis, November 18, 1902.

SIR: I have the honor to report that the presence of the *Iowa* in the harbor of Rio de Janeiro during the ceremonies connected with the inauguration of the new president has created an altogether favorable impression among all classes. It gave me an opportunity of calling the attention of the retiring and incoming Presidents to the absurd misrepresentations of the jingo opposition journals. These had stated, prior to the *Iowa's* coming here, that the great battle ship was bound on a threatening errand to the high waters of the Amazon.

The American naval officers appeared at a ball given by myself at our legation and at all the functions of these days of celebration, representing the navy of our country in a most creditable manner and gaining golden opinions for their fine tact and handsome bearing. The entertainment which they gave aboard the *Iowa* November 17 was exceedingly well arranged, and was largely attended by Brazilian officials and society. The President of the Republic visited the *Iowa* on this day and repeatedly expressed to me his warm acknowledgments for the honor of our great battle ship's presence at his inauguration.

I have, etc.,

CHARLES PAGE BRYAN.

CHILE.

RELATIONS BETWEEN THE UNITED STATES AND CHILE.

Mr. Wilson to Mr. Hay.

No. 224.]

LEGATION OF THE UNITED STATES,
Santiago, January 3, 1902.

SIR: I have the honor to inclose herewith copy and translation of an article published in *El Mercurio* (a daily paper of this city), giving an account of a testimonial to me as representative of the Government of the United States in Chile, upon New Year's eve.

I also inclose herewith copy and translation of an editorial published in *La Ley* (a daily paper of this city), upon January 2. I have thought that these publications might be of interest to the Department as indicating the very excellent footing upon which our relations with this country are at the present time.

I have, etc.,

HENRY L. WILSON.

[Inclosure 1.—Translation.]

From El Mercurio, Santiago, January 2, 1902.

GRAND DEMONSTRATION AT THE UNION CLUB IN HONOR OF MR. HENRY L. WILSON.

At the traditional supper with which the Union Club every 31st of December celebrates the coming of the new year, an imposing demonstration of regard was made on Tuesday last, in honor of the worthy representative of the United States, Mr. Henry L. Wilson.

Two large halls of the club were fitted up for the New Year's supper, profusely illuminated with the electric light, and adorned with bamboos, palms, and beautiful flowers. At 12 o'clock precisely more than 400 people were seated around the tables, and the orchestra began its well-selected programme.

At that moment Mr. Wilson, who is a member of the club, arrived, in company with several of his friends, and took his seat at one of the tables. Everyone present at once stood up and cheered for Mr. Wilson, the President of the United States (Mr. Roosevelt), and the great North American Republic. The demonstration was spontaneous and a surprise. The American minister was greatly impressed as he listened to the speeches of several members, and responded in grateful language, expressing his thanks for the demonstration in his honor.

All then sat down again and the supper proceeded, while gaiety and harmony reigned supreme.

An hour afterwards, when the members of the club began to retire, it was suggested to accompany the American minister to his residence.

More than 400 people, walking two by two, followed Mr. Wilson to the legation, cheering him enthusiastically. There the minister briefly and courteously expressed his thanks for the demonstration, and the various groups then retired.

There were present at the New Year's supper, besides one of the directors of the club, Don Enrique Larrain Alcade, two members of the cabinet, numerous members of Congress, several officers of the army, and a large number of distinguished gentlemen.

The demonstration in honor of the American minister is a beautiful social note in proof of the regard in which the people hold the representative of a great friendly nation, both in his official as well as his private capacity.

The Union Club, on December 31, gave expression to a general sentiment, publicly manifesting the respect and social consideration accorded on all sides to the worthy representative of the United States of America, Mr. Henry L. Wilson.

[Inclosure 2.—Translation.]

From La Ley, Santiago, January 3, 1902.

CHILE AND THE UNITED STATES OF AMERICA.

“Public opinion in America is favorable to Chile, in view of the justice on her side in insisting upon the observance of an agreement already signed (the Yañez-Portela protocols).”

We have taken the lines above quoted from a telegraph dispatch from the Havas Agency, dated the 1st instant.

That news confirms the elevated and friendly spirit with which our country is judged in the Great Republic of the North.

We ought to feel proud of the fact that the most powerful and progressive of nations sends us this fraternal and just message, which we Chileans—sincere friends and admirers of the land of Washington and Franklin, Lincoln and Farragut, Grant and Edison, McKinley and Roosevelt—receive as the most valuable evidence of international confraternity, and as the most authorized opinion in favor of the irreproachable policy of our foreign office.

It was not enough for our country to be conscious of its right and might. In order to be tranquil in these stormy moments in which our enemies employ against us all kinds of unfair weapons, we required to hear the honored an impartial opinion of the great powers—England, France, and Germany—and also the opinion of the Latin-American republics, which do not follow the adventurous and dangerous policy of Peru, Bolivia, and the Argentine; and, above all, the opinion of the giant nation which, to-day and to-morrow, is destined to cultivate intimate relations with the most conscientious and laborious of South American peoples.

We have mentioned the United States and Chile.

We already know the opinion, the learned and respected opinion, which all those countries have just expressed in the conflict originated by the Yañez-Portela protocols.

The opinion of all of them is favorable to us, and reveals the fact that, notwithstanding the active anti-Chilean propaganda, the enormous distance is recognized which separates the false apostles of arbitration from those who have loyally practiced it both with the powerful and with the weak.

We required only this to be able to look confidently forward to the future.

The lying diplomacy of the brave dancing masters of this continent has been unmasked.

It is a great victory, which fills us with legitimate satisfaction, and which will certainly make the drawers of the sword and the flatterers, Peru and Bolivia, meditate.

Chileans would be ungrateful and rude if they did not reciprocate, as we really do reciprocate, with most affectionate regard, the attitude of the noble peoples of Europe and America who honor us with their esteem.

Believing that we interpret the opinion and feeling of Chile, we express our most hearty thanks to those who, far beyond our frontiers, have understood and done us ample justice.

But let it be left on record that we direct these expressions of friendly acknowledgment more especially to the land which nurtured George the Great—that Washington of epic figure who was the progenitor of all the democracies of America.

Yes, all gratitude to the United States of America; to their press—the messenger of the universal conscience; and to President Roosevelt who, perhaps because in his veins runs the same blood of heroes which is being shed to-day in the battlefields of South Africa, knows how to appreciate the rectitude and courage of the first republic of the Pacific which never trembled at the threats of its enemies.

Thank also to the Hon. Henry L. Wilson, to the distinguished diplomat who, on account of his fair and well-founded opinion, can at any time demonstrate to his Government that our country earnestly desires to second the policy of peace, labor, and progress of the Great Republic of the North.

Here a short parenthesis is proper.

It has been a piece of good fortune for our Government and for the Chilean people, in an hour of trial like the present, that the United States foreign office is represented here by such a man as the Hon. Mr. Wilson. This gentleman, who has so dis-

creetly and ably interpreted the idea of Mr. Roosevelt, has maintained himself, with rare discretion and impartiality, in his proper position in diplomacy.

No one better than he can judge the acts of our foreign office in connection with Peru, Bolivia, and the Argentine. No one better than he is in a position to appreciate, even at a distance, the altitude of our plenipotentiaries in the Mexican conference, and to understand the affinities which, at the present moment, bind Chile to the United States with bonds of an entente cordiale which will be of great benefit to the nations of North, Central, and South America.

In conclusion, we hope that the Governments of the two Republics may appreciate the attitude of friends and allies de facto, as well as of convinced defenders of the cause of peace, which should be assumed, both now and in future, by the Yankees of the North, and their pupils and imitators, the Yankees of the South.

Mr. Hutchinson to Mr. Hay.

No. 270.]

LEGATION OF THE UNITED STATES,
Santiago, July 18, 1902.

SIR: I have the honor to state that I tendered the usual Fourth of July reception at this legation, and I beg to inclose a couple of paragraphs taken from *El Ferrocarril* of July 5, with translation, referring to the same.

On July 4 all the Santiago newspapers devoted one or two columns each in praise of the United States, and I was greatly impressed by their extremely friendly tone. Since my arrival no other foreign country has been so much lauded on its anniversary by the papers as the United States.

I have, etc.,

NORMAN HUTCHINSON.

[Inclosure.—Translation.]

From El Ferrocarril, Santiago, Chile, July 5, 1902.

ANNIVERSARY OF THE INDEPENDENCE OF THE UNITED STATES OF AMERICA.

On account of yesterday being the one hundred and twenty-sixth anniversary of the independence of the great Republic of the north, the different legations accredited in Santiago had their flags raised.

The rooms of the legation were artistically adorned with choice flowers and plants, this part of the work having been intrusted to men from the Central Garden. The appearance of the rooms was most elegant and pleasing.

The chargé d'affaires, Mr. Norman Hutchinson, was visited yesterday by the diplomatic corps and the representative of Mexico, Señor José Maria Gamboa. The sub-secretary of the department of foreign relations, Señor Manuel Foster Recabarren, and the aid of his excellency the President of the Republic, Sergt. Maj. Señor Pedro Morandé Vicuña, saluted him in the name of the Government.

Mr. Hutchinson received besides numerous congratulations from this city and the provinces, among which figure that of the alcalde of Santiago municipality, Señor Carlos Rogers P., and those of well-known members of the North American colony residing at Iquique, Valparaiso, Concepción, and other localities.

In the evening Mr. Hutchinson gave at the legation, the rooms of which were artistically decorated, a reception, which was attended by the minister of Great Britain, Mr. Gerard Lowther, and numerous ladies and gentlemen of the English and North American colonies.

An orchestra, directed by Prof. Señor Alberto Ulloa, enlivened the reception, and executed choice pieces of music during the evening, the guests remaining until after midnight.

COURTESIES TO U. S. BATTLE SHIPS IOWA AND WISCONSIN.

Mr. Wilson to Mr. Hay.

No. 230.]

LEGATION OF THE UNITED STATES,
Santiago, February 11, 1902.

SIR: I have the honor to report the arrival of the U. S. battle ship *Iowa*, Captain Perry commanding, at Talcahuano January 4. Upon the same date Captain Perry communicated with me by telegram, informing me of the arrival of the ship under his command and requesting me to obtain the consent of the Chilean Government to place the *Iowa* in the Talcahuano dry dock for immediate repairs.

This I did in an unofficial and informal way, and orders were at once communicated by the minister of marine to Admiral Perez, in command at Talcahuano, to admit the *Iowa* and furnish her with all facilities for the repairs necessary free of charge. I first learned of the character of the order which had been given through a note from Captain Perry, but as it seemed to me that the courtesy was one which the Government of the United States could not very well afford to accept, I requested the minister to send further instructions to the officer in command at Talcahuano to make the charges usual in such cases. This was finally done. While the *Iowa* remained at Talcahuano her officers were most hospitably and generously entertained, not only by the Government officials but by many people in private life.

Having all her repairs completed, and having been detached from the South Pacific Squadron by orders from Washington, the *Iowa* left Talcahuano on February 1 with sailing orders for Montevideo.

While it was not possible to accept the offer to grant dry-dock facilities free of charge, I have officially expressed my appreciation of the courtesy, and think it would not be unadvisable to advise the Navy Department of the action of the Chilean Government.

Upon January 20 the U. S. battle ship *Wisconsin*, Captain Reiter commanding, and, as flagship of the South Pacific Squadron, having on board Rear-Admiral Casey, arrived in the port of Valparaiso. Upon the same date I received official notice of the arrival from Admiral Casey, and went a few days afterwards to Valparaiso, where the admiral and his staff paid me an official visit, which was returned upon the day following.

On Wednesday, the 29th, the admiral with his staff came with me to Santiago, and upon the afternoon of the same day we paid an official visit to the President of the Republic, being afterwards entertained by his excellency at luncheon.

We returned upon the same night to Valparaiso for the purpose of attending an official banquet to be given by the officers of the Chilean navy to Admiral Casey and the officers of the *Wisconsin*. More than 100 Chilean and American officials participated in this impressive and cordial reunion, which took place in the Naval Academy. Brief toasts and responses were made by Admiral Montt and Admiral Urribe, of the Chilean navy, and by Admiral Casey, Captain Reiter, and myself. The occasion was exceedingly interesting and enjoyable, and the hospitality evinced was most highly appreciated by the officers of the *Wisconsin*.

Upon the day following I made a second visit to the *Wisconsin* in company with the President of the Republic (who had been previously invited by Admiral Casey) and the minister of foreign relations, Señor Yañez. The President was received on board the *Wisconsin* with all the honors accorded to chief magistrates and sovereigns, and after making an inspection of the ship, in which he was greatly interested, we were entertained at an informal luncheon by Admiral Casey, the toast of "The Republic of Chile and its President" being offered by the undersigned and responded to by the Chilean minister of foreign relations.

On Monday, February 3, Admiral Casey and the officers of the *Wisconsin*, in acknowledgment of the official and private hospitalities and courtesies which had been extended to them, gave an informal matinee and ball on board the ship, which was attended by more than 500 official personages and representatives of the best Chilean families. The *Wisconsin* was decorated with the flags of all nations, and American music and American refreshments were offered to the Chilean guests.

On Tuesday, February 4, the admiral and the officers of the *Wisconsin* were entertained by the Valparaiso Club, the President of the Republic and many of the most important people in Chile attending.

On Thursday, the 6th instant, the *Wisconsin* sailed for the north, thus concluding a series of most interesting social and official events, which were the expression of the very cordial relations which now exist between the Government of Chile and the Government of the United States.

In conclusion, I have to report that the conduct of the officers and crew of the *Wisconsin* while in the port of Valparaiso was most exemplary and has left a most agreeable impression.

I have, etc.,

HENRY L. WILSON.

Mr. Hay to Mr. Wilson.

No. 204.]

DEPARTMENT OF STATE,
Washington, February 28, 1902.

SIR: I inclose copy of a letter from the Secretary of the Navy requesting that you will convey the thanks of his Department to the Chilean Government and navy department for the courtesy and kindness extended to the U. S. S. *Iowa* during her recent docking at Talcahuano.

The Navy Department desires that expression may be given to its special appreciation of the courtesy shown to the *Iowa* and her officers by Rear-Admiral Perez.

You will comply with Mr. Long's wishes.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Long to Mr. Hay.

NAVY DEPARTMENT,
Washington, February 26, 1902.

SIR: I have the honor to request that, if compatible with the views of the Department of State, the thanks of this Department be expressed to the Chilean Government

and also to the Chilean navy department for the courtesy and kindness extended to the U. S. S. *Iowa* during her recent docking at Talcahuano, Chile, at the dock yard there under the command of Rear-Admiral Perez. The Department desires particularly to express its appreciation of the courtesy shown to the *Iowa* and her officers by Rear-Admiral Perez.

Very respectfully,

JOHN D. LONG, *Secretary.*

Mr. Hutchinson to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Santiago, November 8, 1902.

(Mr. Hutchinson reports that the money paid for cleaning the U. S. S. *Iowa* has been returned by the Chilean Government, that it is advisable to accept same, and requests immediate instructions in the premises.)

Mr. Hay to Mr. Hutchinson.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 13, 1902.

(Mr. Hay directs Mr. Hutchinson to accept return, by Chilean Government, of the money paid for cleaning the U. S. S. *Iowa*, and to express thanks for the generous courtesy.)

**PROTECTION OF CUBAN INTERESTS BY UNITED STATES
CONSULAR OFFICIALS.**

Mr. Hutchinson to Mr. Hay.

LEGATION OF THE UNITED STATES,
Santiago, May 26, 1902.

SIR: I have the honor to acknowledge the receipt of the Department's telegram^a of May 24, 1902.

In accordance with the Department's instructions, I promptly communicated with the foreign office here, and now have the honor to report that the desired permission has been granted.

I have notified all our consular officers in Chile, and beg to inclose a copy of the notification.

I have, etc.,

NORMAN HUTCHINSON.

[Inclosure.]

Mr. Hutchinson to United States consuls.

LEGATION OF THE UNITED STATES,
Santiago, May 26, 1902.

SIR: In accordance with instructions from the Department of State, sent at the request of the President of Cuba, and with the permission of the Government of Chile, you are directed to use your good offices in representation of the interests of Cuba and of its citizens until Cuban consuls shall have been appointed.

I am, etc.,

NORMAN HUTCHINSON.

**TREATY BETWEEN THE UNITED STATES AND CHILE PROVIDING
FOR THE EXTRADITION OF CRIMINALS.**

Signed at Santiago, April 17, 1900.

Ratification with amendments advised by the Senate, December 18, 1900.

Ratified by the President, May 24, 1902.

Ratified by Chile, February 26, 1902.

Ratifications exchanged at Washington, May 27, 1902.

Proclaimed May 27, 1902.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Treaty between the United States of America and the Republic of Chile providing for the extradition of fugitives from justice was concluded and signed by their respective Plenipotentiaries at Santiago, on the seventeenth day of April, one thousand nine hundred, the original of which Treaty, being in the English and Spanish languages is, (as amended by the Senate of the United States) word for word as follows:

The United States of America and the Republic of Chile, being desirous to confirm their friendly relations and to promote the cause of justice, have resolved to conclude a treaty for the extradition of fugitives from justice between the United States of America and the Republic of Chile, and have appointed for that purpose the following Plenipotentiaries:

The President of the United States of America, Henry L. Wilson, Envoy Extraordinary and Minister Plenipotentiary of the United States in Chile, and the President of Chile, Señor Don Rafael Errázuriz Urmeneta, Minister of Foreign Relations of Chile.

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

ARTICLE I.

The Government of the United States and the Government of Chile mutually agree to deliver up persons who, having been charged 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 or offense had been there committed.

ARTICLE II.

Extradition shall be granted for the following crimes and offenses:

1. Murder, comprehending assassination, parricide, infanticide, and poisoning; attempt to commit murder; manslaughter, when voluntary.

2. Arson.

3. Robbery, defined to be the act of feloniously and forcibly taking from the person of another money, goods, documents or other property by violence or putting him in fear; burglary.

4. Forgery, or the utterance of forged papers; the forgery or falsification of official acts of Government, of public authorities, or of courts of justice, or the utterance of the thing forged or falsified.

5. The counterfeiting, falsifying or altering 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 the same; or the counterfeiting, falsifying or altering of seals of state.

6. Embezzlement by public officers; embezzlement by persons hired or salaried, to the detriment of their employers; where in either class of cases the embezzlement exceeds the sum of two hundred dollars; larceny.

7. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, or other person acting in a fiduciary capacity, or director or member or officer of any company, when such act is made criminal by the laws of both countries and the amount of money or the value of the property misappropriated is not less than two hundred dollars.

8. Perjury; subornation of perjury.

9. Rape; abduction; kidnapping.

10. Willful and unlawful destruction or obstruction of railroads which endangers human life.

11. Crimes committed at sea.

(a) Piracy, by statute or by the laws of nations.

(b) Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

(c) Wrongfully sinking or destroying a vessel at sea, or attempting to do so.

(d) Assaults on board a ship on the high seas with intent to do grievous bodily harm.

12. Crimes and offenses against the laws of both countries for the suppression of slavery and slave trading.

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 the Republic of Chile by imprisonment at hard labor.

ARTICLE III.

Requisitions for the surrender of fugitives from justice shall be made by the diplomatic agents of the contracting parties, or in the absence of these from the country or its seat of government, may be made by the superior consular officers.

If the person whose extradition is requested shall have been convicted of a crime or offense, a duly authenticated copy of the sentence of the court in which he was convicted, or if the fugitive is merely charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime has been committed, and of the depositions or other evidence upon which such warrant was issued, shall be produced.

The extradition of fugitives under the provisions of this Treaty shall be carried out in the United States and in the Republic of Chile, respectively, in conformity with the laws regulating extradition for the time being in force in the state on which the demand for surrender is made.

ARTICLE IV.

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 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 the Republic of Chile, the proper course shall be to apply to the Foreign Office, which will immediately cause the necessary steps to be taken in order to secure the provisional arrest or detention of the fugitive.

The provisional detention of a fugitive shall cease and the prisoner be released if a formal requisition for his surrender, accompanied by the necessary evidence of his criminality has not been produced under the stipulations of this Treaty, within two months from the date of his provisional arrest or detention.

ARTICLE V.

Neither of the contracting parties shall be bound to deliver up its own citizens or subjects under the stipulations of this Treaty.

ARTICLE VI.

A fugitive criminal shall not be surrendered if the offense in respect of which his surrender is demanded be of a political character, or if he proves that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offense of a political character.

No person surrendered by either of the high contracting parties to the other shall be triable or tried, or be punished, for any political crime or offense, or for any act connected therewith, committed previously to his extradition.

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 VII.

Extradition shall not be granted, in pursuance of the provisions of this Treaty 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 VIII.

No person surrendered by either of the high contracting parties to the other shall, without his consent, freely granted and publicly declared by him, be triable or tried or be punished for any crime or offense committed prior to his extradition, other than that for which he was delivered up, until he shall have had an opportunity of returning to the country from which he was surrendered.

ARTICLE IX.

All articles seized which are in the possession of the person to be surrendered at the time of his apprehension, whether being the proceeds of the crime or offense charged, or being material as evidence in making proof of the crime or offense, shall, so far as practicable and in conformity with the laws of the respective countries, be given up when the extradition takes place. Nevertheless the rights of third parties with regard to such articles shall be duly respected.

ARTICLE X.

If the individual claimed by one of the high contracting parties, in pursuance of the present Treaty, shall also be claimed by one or several other powers on account of crimes or offenses committed within their respective jurisdictions, his extradition shall be granted to the state whose demand is first received: Provided, that the government from which extradition is sought is not bound by treaty to give preference otherwise.

ARTICLE XI.

The expenses incurred in the arrest, detention, examination, and delivery of fugitives under this Treaty shall be borne by the state in whose name the extradition is sought: Provided, that the demanding government shall not be compelled to bear any expense for the services of such public officers of the government from which extradition is sought as receive a fixed salary; And, provided, that the charge for the services of such public officers as receive only fees or perquisites shall not exceed their customary fees for the acts or services performed by them had such acts or services been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

ARTICLE XII.

The present treaty shall take effect on the thirtieth day after the date of the exchange of ratifications, and shall not operate retroactively.

The ratifications of the present Treaty shall be exchanged at Washington as soon as possible, and it shall remain in force for a period of six months after either of the contracting governments shall have given notice of a purpose to terminate it.

In witness whereof, the respective Plenipotentiaries have signed the above articles, both in the English and Spanish languages, and have hereunto affixed their seals.

Done in duplicate, at the city of Santiago, this 17th day of April 1900.

HENRY L WILSON [SEAL.]
R. ERRÁZURIZ URMENETA. [SEAL.]

And whereas the said Treaty (as amended by the Senate of the United States) has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the City of Washington, on the twenty-seventh day of May, one thousand nine hundred and two;

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, (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 of America to be affixed.

Done at the City of Washington, this twenty-seventh day of May in the year of our Lord one thousand nine hundred and two, and of [SEAL] the Independence of the United States the one hundred and twenty sixth.

THEODORE ROOSEVELT

By the President:

JOHN HAY

Secretary of State.

CHILE-ARGENTINE TREATY. ^a

Mr. Hutchinson to Mr. Hay.

[Telegram.]

LEGATION OF THE UNITED STATES,
Santiago, September 22, 1902.

Chile-Argentine treaty ratifications exchanged here 4 o'clock to-day. Government now fully turning attention to national improvements, railways, bridges, suppression drunkenness, and consideration of States with whom best to have commercial relations. Argentine commission under General Campos being enthusiastically entertained here now. General prosperity seems assured.

HUTCHINSON.

Mr. Hutchinson to Mr. Hay.

No. 286.]

LEGATION OF THE UNITED STATES,
Santiago, September 23, 1902.

SIR: I have the honor to confirm my telegram^b of yesterday to the Department.

The exchange of ratifications was announced to the public by the firing of twenty-one guns from the Cerro Santa Lucia shortly after 4 o'clock.

The hour for the exchange had been originally announced for 3 o'clock, but this hour would have interfered with the breakfast tendered the Argentine commission by the Santiago municipality.

Those present at the ceremony were His Excellency President Riesco, the members of his cabinet, the subsecretary of the department of foreign relations, the Argentine minister and secretary of the Argentine legation, the former's private secretary, Gen. Luis Campos and other distinguished members of the Argentine commission, several Chilean generals, and also the intendente of Santiago.

After the ratifications were read by the Chilean subsecretary of foreign relations and the secretary of the Argentine legation, these secretaries affixed the seals respectively of the Chilean Government and of the ring worn by the Argentine minister to the minutes of the

^a Printed, page 19.

^b Printed, ante.

meeting, and then the minutes were signed in duplicate by the Argentine minister and the Chilean minister of foreign relations with a gold pen presented several years ago by the archbishop of Buenos Ayres to the archbishop of Santiago when the latter visited the Argentine capital to consecrate his present colleague. The pen was presented at a time when a pax multa or peace at any price policy was expected to prevail, and the newly consecrated archbishop expressed the hope that the respective treaties might be signed with that pen.

In conclusion, my telegram of yesterday's date is a pleasant end to those telegrams sent by Mr. Wilson last year, which gave grave cause for apprehension of war between these most southern sister States, stretching side by side for over 1,500 miles. The constant anticipation of a serious war was ever before them, and the treasuries gave to increasing the war ship and the regiment what is now so thankfully given to that national improvement which is only born of peace and the confidence in a prolonged peace.

The new proofs of this new Riescoan era of peace are the turning of the Congress to the serious consideration of the moral betterment of the country; such a consideration as only comes forcibly with the feeling of continued peace. I refer to the suppression of drunkenness, and to compulsory education; and, further, extensive improvements and additions to be made in the railway service of the country, and new and adequate bridges to be constructed over those rivers which have been a constant yearly danger to the public in the winter season.

The words of His Excellency President Riesco (copy and translation of which I inclose), spoken at the beautiful banquet given last night in the Palace of the Moneda in celebration of the exchange of ratifications and in honor of the Argentine commission, are words of noble import which will be respected the world over, and which I hope may often be solemnly but gladly reread by loyal Chileans as one of the brightest pages in their national history.

In concluding this dispatch confirming my telegram of yesterday I may include a word about the royal and brotherly manner in which the members of the Argentine commission have been received here.

The commission occupies a palace belonging to Señora Adela Perez de Balmaceda (the widow of a brother of the late President), taken and furnished by the Government expressly for this occasion. Its principal members are Gen. Luis M. Campos, Gen. José Garmendia, and Admiral Solier.

The commission, besides attending the banquet last evening, has had in its honor a military parade and tournament, three balls, and numerous banquets, etc. To-day the commission breakfasts at the country seat, near the city, of Señor José Arrieta, the minister of Uruguay and dean of the diplomatic corps.

The members of the commission, especially General Campos, have been much cheered by the public, when seen in parade, though the Chilean public, as a rule, is not naturally very effusive.

I have been invited to the banquet and ball to be given to a hundred guests by the Argentine minister, Señor José Antonio Terry.

Any further information concerning the visit of the Argentine commission which may prove to be interesting will be sent in a later dispatch.

I have, etc.,

NORMAN HUTCHINSON.

[Inclosure.—Translation.]

From El Mercurio, Santiago, Chile, September 23, 1902.

SPEECH OF HIS EXCELLENCY THE PRESIDENT OF THE REPUBLIC.

GENTLEMEN: I welcome the distinguished member of the commission which the Government of the Argentine Republic has designated to solemnize the exchange of the treaties of May.

I salute the Argentine plenipotentiary, Señor Terry, bearing testimony to his intelligent and exalted action in the negotiation of these treaties.

I salute also the representative of His Britannic Majesty, Mr. Lowther, who, serving with appropriate zeal the noble initiative of his Government, has cooperated in this work of peace.

To the President of the Argentine Republic, Lieutenant-Colonel Roca, I send expressions of sincere friendship. His love of peace, his firm purpose to maintain it and consolidate it, associate him in the highest degree with the happy event which we celebrate to-day.

It is a great honor to represent a nation, and a happiness to serve it in its exalted and generous aspirations. I therefore give thanks to Providence that I have been given this honor and this happiness.

The Argentine Republic and Chile, bound together by nature, bound themselves together in their infancy by the noble sentiments of their independence, and, united, they contributed to the liberty of our continent.

Chile and the Argentine, always jealous of their sovereignty and decorum, always respectful of the rights of others, have always removed the discords almost inherent to territorial demarkations, and both Republics have to-day sealed, with the support of a noble and powerful nation, treaties of peace which insure to them an era of loyal confraternity and profitable labor.

This happy era will be lasting, it will be continual, because it is the work of two free and prudent peoples, enlightened by the most vivid light of modern civilization.

I invite you, gentlemen, to associate yourselves with this triumph of civilization, and with the ardent wishes which I express for the happiness of the Argentine people and the Chilean people in this era of honorable peace.

CHINA.

RESTORATION OF SILVER BULLION SEIZED BY UNITED STATES FORCES AT TIENSIN.

Mr. Wu to Mr. Hay.

CHINESE LEGATION,
Washington, July 13, 1901.

MY DEAR MR. SECRETARY: In respectfully calling your attention to the inclosed newspaper clipping containing a dispatch, dated at Washington, June 26 last, to the effect that your Government has decided to return to China the \$375,000 in silver bullion taken from the salt-tax yamen in Tientsin by American troops, I beg to inquire whether this money is still in China or in this country; whether the reported decision has actually been reached by your Government, and if it has been, how you propose to return the money.

If you desire to return the money through me, I should be pleased to place my services at your disposal and would undertake to see that the money is returned to the proper authorities in China.

With renewed assurances, etc.,

WU TING-FANG.

[Inclosure.]

Newspaper clipping.

THE UNITED STATES TO RETURN TO CHINA THE \$375,000 IN SILVER BULLION TAKEN AT TIENSIN.

WASHINGTON, *June 26.*

The Government has decided to return to China the \$375,000 in silver bullion taken from the salt-tax yamen in Tientsin by American troops. This bullion was deposited in a bank in China, and a check covering the amount sent to the Treasury Department in Washington. Under the terms of the settlement China is to pay the United States \$25,000,000 indemnity, and the authorities here regard it as unfair to keep the money seized as a military measure. When the peace negotiations have been concluded the Government will arrange to return the bullion. It may require the authority of Congress, however, to do this.

Mr. Hay to Mr. Wu.

Personal.]

DEPARTMENT OF STATE,
Washington, July 18, 1901.

MY DEAR MR. WU: In view of your personal letter of the 13th, I have made inquiry respecting the disposition of the \$375,000 in silver bullion taken by the American troops from the yamen of the salt-tax

commissioner in Tientsin. I learn that the bullion was converted into bills of exchange which have been turned over to the United States Treasury for collection at maturity, the proceeds to be subject to official check upon the approval of the President.

While there is every disposition to give favorable consideration to the question of returning the sum to China, the time and manner of so doing remain to be determined by the President.

I am, etc.,

JOHN HAY.

Mr. Wu to Mr. Hay.

No. 222.]

CHINESE LEGATION,
Washington, December 31, 1901.

SIR: Referring to our conversation and personal correspondence in July last respecting the disposal of the \$375,000 in silver bullion taken last year by the American troops from the yamen of the salt-tax commissioner in Tientsin, and understanding that there is every disposition on the part of your Government to give favorable consideration to the question of returning the sum to China, the time and manner of so doing to be determined by the President, I beg now to ask if your Government has yet come to a decision in the matter.

If a favorable decision is arrived at, and as the money is already in this country, and to simplify matters, I would venture to suggest that its return be made through this legation.

If this suggestion should be accepted, I shall be glad to give a proper receipt for the money returned on behalf of my Government.

Accept, etc.,

WU TING-FANG.

Mr. Wu to Mr. Hay.

No. 225.]

CHINESE LEGATION,
Washington, January 13, 1902.

SIR: Referring to my note to you, dated December 31 last, and my conversation with you regarding the disposition of the \$375,000 in silver bullion taken from the yamen of the salt-tax commissioner at Tientsin in 1900, I have the honor to inform you that I have received a cablegram from the Imperial Government indicating its preference to have the above-mentioned money paid over to this legation, and authorizing me to receive the same on its behalf.

Accept, etc.,

WU TING-FANG.

Mr. Wu to Mr. Hay.

No. 228.]

CHINESE LEGATION,
Washington, January 24, 1902.

SIR: I have the honor to inclose the formal receipt for the check for \$376,300 which you were good enough to hand to me yesterday, this sum being the equivalent value of the silver bullion taken in 1900 by the United States troops from the yamen of the salt commissioner at Tientsin, China.

On behalf of the Imperial Government, I beg to express to you, and through you to the Government of the United States, the sincere gratification which the Imperial Government feels at this friendly and just action on the part of the Government of the United States.

Accept, etc.,

WU TING-FANG.

PROTECTION OF NATIVE CHRISTIANS BY MISSIONARIES.

Mr. Wu to Mr. Hay.

No. 213.]

CHINESE LEGATION,
Washington, October 25, 1901.

SIR: I have the honor to inclose for your information a translation of a dispatch addressed to me by His Excellency Liu Kun-yih, viceroy at Nanking, relative to a recent rupture at Hsin-Chin between Chinese converts of the American Protestant mission and those of a Roman Catholic mission.

The unsatisfactory state of things, to which the viceroy calls attention, is due to the indiscriminate assistance rendered by some missionaries to Chinese Christian converts who, relying upon the "protection" of the missions, oftentimes defy the authority of the local officials, whose efforts to preserve peace and promote the general welfare of the people are thus set at naught.

It is sincerely hoped that the foreign governments concerned and the missionary societies, whose object is to do good in China, will carefully consider the matter and accord to Chinese officials all possible cooperation in their efforts to promote and maintain peaceful and harmonious relations between Chinese Christians of different sects, as well as between Christian and non-Christian Chinese.

Trusting you will take such action as you may deem proper in the matter, I beg to renew, etc.,

WU TING-FANG.

[Inclosure.]

Translation of a dispatch from Viceroy Liu at Nanking to Minister Wu at Washington, August 19, 1901.

According to the dispatch received on the 27th of the sixth moon of this year (August 11, 1901) from the governor of Kiangsi Province, he states that during the fourth moon of this year (last part of May and first part of June) the Roman Catholic and Protestant missions rented houses in the city of Hsin-Chin for the purpose of carrying on missionary work. The Roman Catholic mission is under French protection, while that of the Protestants is under American. Each of these missions has admitted converts to the number of from three to six hundred. Some of these became converts in view of a lawsuit pending, in order to get the protection and assistance of the missions, the plaintiff joining the Roman Catholic mission and the defendant the Protestant. There being no foreign missionaries placed in charge of the missions, they were managed by Chinese who were not able to control their own converts or reconcile their differences. The magistrate of Hsin-Chin, with the cooperation of the military authority, used the utmost effort time and again to reconcile the parties, but was unable to induce them to come to a satisfactory understanding.

On the afternoon of the 30th of the fifth moon (July 15) it was suddenly reported that some Roman Catholic converts intended to go to the Protestant chapel and create a disturbance. When the said magistrate heard the news, he went at once with the military authority to the scene to prevent it. On their arrival, to their astonishment, these people had already been there, and after having caused injury to the head man of the chapel, Yang Tsu-jui, and destroyed a small portion of its

furniture had then dispersed. When the said magistrate had examined the wound of the injured person, he proceeded to the Roman Catholic mission with the object of warning them against further disturbance, but meanwhile the people from the Protestant mission in turn gathered many of their converts and went to the Catholic mission to wreak their vengeance. The magistrate and others endeavored to put a stop to this. Then they secretly went to the homes of the three Roman Catholic converts, Mr. Chen, Mr. Hsi, and Mr. Pan, and raised a disturbance, wounding three persons. The said magistrate again hastened to investigate and found that the wounds were fortunately slight. Nevertheless, the head man of the Protestant chapel and others persisted in their course, and that same night, with an increased number of men and arms, went to the Catholic mission and broke the tablet of the chapel over its entrance. The civil and military authorities repeatedly endeavored to prevent trouble. When the crowd saw that the authorities had received slight injuries, they desisted from breaking into the chapel and dispersed. At the time of the disturbance, at the request of the prefect of Lin-Kiang, Captain Ma, in command of the troops at Lin-Kiang, hastened to the scene with a small force to preserve order. At the same time the prefect deputed Ho Chang-chi to investigate the cause of the trouble, so that he might act jointly with the magistrate of Hsin-Chin to settle the matter. In the prefectural city of Lin-Kiang, there being only a Roman Catholic chapel, the prefect wrote to the head of the mission, Mr. Mei Wang-hsing, requesting him to enjoin upon the converts not to create any more disturbance.

The Protestants have not established a chapel in the prefectural city nor is there any Protestant missionary there, so the bureau of foreign affairs had to ask Mr. Lih Keh-sz, the Protestant missionary stationed at the provincial capital, Nanchang, to write to the missionary of the disturbed district to restrain their own converts from creating further disturbance.

When the above information was received from the prefect of Lin-kiang, the governor of Kiang-si deputized expectant-taotai, Kiang Feng-ching, acting in concert with the local, civil, and military authorities, to suppress the disturbance and to take proper measures to arrest and punish the offenders. In the meanwhile the governor instructed the bureau of foreign affairs to depute an official to inquire of Mr. Lih Keh-sz in person of the condition of affairs. He replied that no (foreign) missionary had been sent there to teach the Christian doctrine; that there were very few converts; that he had written to Mr. Chin Tiao-sheng, who had already been sent to that place to investigate into the case, to warn the people there not to create any disturbance, and that if they did not attend to their own business and submit to authority they would be handed over to the local authorities to be dealt with according to law. According to the report of expectant-taotai, Kiang Feng-ching, Yang Tsu-jui and Chen Peng-hsiang did not embrace the Christian faith until last year, when they formed partnership to open a store. Their trouble arose from their badly kept accounts. In the third moon of this year, Chen Peng-hsiang joined the Roman Catholic mission and Yang Tsu-jui the Protestant. They instituted a lawsuit in the fourth moon, and, each relying on the protection his mission afforded him, refused to obey the summons to appear before the court. The head of each mission listened only to one side of the story and did not examine into the other side. Consequently, on the 30th of last moon (July 15) Chen Peng-hsiang, together with a number of Roman Catholic converts, went to the Protestant mission, dragged Yang Tsu-jui out, assaulted and injured him; besides they destroyed a small portion of the furniture of the mission. After this occurrence, Yang Tsu-jui immediately collected a number of friends and proceeded to revenge himself. They broke the doors and windows of the Roman Catholic chapel and destroyed the furniture belonging to the families of three Catholic converts; they also slightly wounded a man and a woman. The civil and military authorities who went to suppress the disturbance were also slightly injured. On the sixth day Yang Tsu-jui's brother attacked and injured the Catholic convert, Liu Tai-lai, also. Chen Peng-hsiang and Yang Tsu-jui are the ringleaders of this trouble. As both have made their escape, their families are now urged to induce their return. The Protestant missionary is willing to search and produce the Protestant ringleader, but Mr. Mei Wang-hsing, the Roman Catholic missionary, in his letter openly put himself forward to protect his offending convert. On this account, Chen Peng-hsiang, relying on the protection of his mission, refused to appear before the court. It is now intended to direct the magistrate to discover and arrest all those involved in the trouble, without regard to their religion, and have them brought to trial and dealt with accordingly. At the same time the magistrate is to write to the heads of the Roman Catholic and the Protestant missions, requesting them to excommunicate Yang Tsu-jui and Chen Peng-hsiang, and that if they still refuse to appear before the court, they should be stripped of their official titles, arrested, and punished. The above is received from the governor.

On a former occasion, when trouble arose at a place called Shih-kong between Roman Catholics and the Protestants, the French consul-general sent the vice-consul to the place to inquire into the case. At that time all the converts of whatever religion who were involved in the disturbance were handed over to the local authorities to be dealt with; the American consul also agreed to help in the settlement of the matter. The governor of Kiang-si was requested to have the case investigated and fairly and justly dealt with.

In the present instance, the Roman Catholic and Protestant converts at the city of Hsin-chin, on account of the trifling matter of collecting debts, took sides with their respective principals in the case, fought each other, even injuring the local civil and military authorities. From this it may be seen that these converts availed themselves of mission protection to act in defiance of law. This is not only an injury to the country, but also a stain upon the good name of the missions. A united effort should be made to have the ringleaders of the trouble arrested and punished severely as a warning in the future. It is certainly not proper to afford them unlawful protection by which they can set the law at defiance, which would result in no end of trouble.

Moreover, if two sects of the same religion repeatedly antagonize each other, how could the converts and nonconverts be expected to live together in peace? As the object of the missionaries is to spread their doctrine and to exhort people to do good, they ought to devise a plan to restrain their converts and to refrain from receiving candidates into their churches without discrimination. In case of litigation between the converts it is hoped that the missionaries will give no more interference, but show impartiality to all, to the end that the different missions may not antagonize each other, and that the converts and nonconverts may live in harmony. This would not only be a blessing to the country, but also an evidence that the real intention of the Christian religion is to do good. Besides replying to the governor's dispatch and writing to the French and American consuls-general at Shanghai for their information and proper action and also to the officials concerned, I have the honor to bring this matter to your attention and beg you to confer with the honorable Secretary of State, in order that a satisfactory arrangement may be made by which the converts and the nonconverts may live in harmony in the future.

I await your reply.

Mr. Hay to Mr. Wu.

No. 184.]

DEPARTMENT OF STATE,
Washington, October 30, 1901.

SIR: I have the honor to acknowledge the receipt of your note No. 213 of the 25th instant, inclosing, for the Department's information, the translation of a dispatch addressed to you by His Excellency Liu Kun-Yih, viceroy at Nanking, relative to a recent rupture at Hsin-Chin between Chinese converts of the American Protestant mission and those of a Roman Catholic mission.

You express the hope that the foreign Governments concerned and the missionary societies will carefully consider the matter and accord to Chinese officials all possible cooperation in their efforts to promote and maintain peaceful and harmonious relations between Chinese chieftains of different sects, as well as between Christian and non-Christian Chinese.

In reply I have the honor to say that, in the absence of indication of the American missionary society of which the Protestant native mission at Hsin-Chin is an offshoot, the Department can at present do no more than communicate your note and its inclosure to the United States minister at Peking for an investigation.

I very much regret the state of things disclosed by Viceroy Liu's dispatch.

Accept, etc.,

JOHN HAY.

Mr. Hay to Mr. Conger.

No. 405.]

DEPARTMENT OF STATE,
Washington, October 30, 1901.

SIR: I inclose herewith, for your information and for an investigation and report by you of the facts of the case, a copy of a note^a from the Chinese minister here inclosing the translation of a dispatch addressed to him by the viceroy at Nanking relative to a recent rupture at Hsin-Chin between Chinese converts of the American Protestant mission and those of a Roman Catholic mission.

I am, etc.,

JOHN HAY.

Mr. Conger to Mr. Hay

No. 887.]

LEGATION OF THE UNITED STATES,
Peking, January 21, 1902.

SIR: Referring to Department's instructions No. 405 of the 30th October last, requesting a report as to the facts relative to a rupture between Protestant and Roman Catholic converts at Hsin-Chin, in the province of Kiangsi, I have the honor to inclose herewith copies of correspondence with Consul-General Goodnow on the subject.

The report is not quite so clear or satisfactory as it might be, but the essential facts of the case are evident from the consul-general's correspondence with the viceroy at Nanking.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

*Mr. Conger to Mr. Goodnow.*LEGATION OF THE UNITED STATES,
Peking, December 11, 1901.

SIR: I inclose herewith a copy of a dispatch from Viceroy Liu at Nankin to the Chinese minister at Washington regarding disturbances at Hsin-Chin caused by ill feeling between Protestant and Roman Catholic converts there.

I request that you will carefully investigate this matter and report the circumstances of the case fully to this legation as soon as possible.

I am, etc.,

E. H. CONGER.

[Inclosure 2.]

*Mr. Goodnow to Mr. Conger.*CONSULATE-GENERAL OF THE UNITED STATES,
Shanghai, January 8, 1902.

SIR: Replying to your No. 1271 of December 11, I have to inclose herewith letter from His Excellency Liu, viceroy at Nanking, and my reply thereto, both regarding the disturbances in Kiangsi, to which your dispatch refers. The viceroy answered expressing satisfaction with my reply, and I have heard of no further trouble affecting our missions.

Some months ago the French vice-consul visited Nanchang and the surrounding region. He seems to think that the missions are not so much to blame for the troubles in Kiangsi as are some people (Chinese) who take the name of converts for the protection gained therefrom. In many cases, he says, these people have absolutely no connection with any church.

If the above-mentioned inclosures do not give the information you wish, I shall do what I can to get further detailed information covering the present state of affairs in Kiangsi.

I am, etc.,

JOHN GOODNOW, *Consul-General*.

[Subinclosure 1.]

His Excellency Liu Kun-yih to Consul-General Goodnow, re disturbances in Kiangsi between Roman Catholics and Protestants.

On the 20th of the sixth moon, twenty-seventh year of Kuang-hsu (August 4, 1901), I received a communication from His Excellency Li, governor of Kiangsi, stating that on the 5th of the sixth moon the acting prefect of "Lin-kiang fu" reported to him that on the 2d of the sixth moon the Hon. "Chou hong Ket," district magistrate of Hsin-chin, brought to his notice that during the fourth moon the Roman Catholics and Protestants rented rooms in his district, put up their signs, and propagated their religion; that the two bodies numbered somewhere from 300 to 600 converts, most of whom entered the church on account of pending lawsuits. Complainants became Catholics and defendants entered the Protestant church in order to secure the protection of the church (literally, "priests and fathers"). The missionaries did not live in these chapels and had only a few men in charge of the place, who were unable to control the converts, so that each one did as he pleased.

The two parties being at variance, the district magistrate went in company with the military officer to exhort them till his tongue and lips were parched, yet neither Catholics nor Protestants would yield an inch. Suddenly in the afternoon of the 30th of the fifth moon he learned that a number of the Catholics intended to make a disturbance at the Protestant chapel, so he went at once with the military to maintain order, not dreaming that they would get there before him, and that they would have dragged out and beaten the Protestant leader of the trouble, "Yang Tsu-jui," who was slightly hurt. They also damaged the furniture of the chapel, after which they dispersed.

Having examined the injuries, the magistrate went to the Catholics to remonstrate. After this the Protestants collected a goodly number of their people and proceeded to the Catholic church to retaliate; and the magistrate went to restore order. At first the crowd dispersed, but stealthily they crept back to the three Catholic families, "Chen," "Hsi," and "Pan," to beat them, wounding three persons. The magistrate proceeded posthaste to stop them, and found on examination that the injuries inflicted were but slight.

Who would have thought that the Protestant ringleaders in this affray, "Yang Tsu-jui" and others, would persist in getting more men together to proceed at midnight to the Catholic church armed with weapons to make a disturbance in front of the church door, pulling down the sign and smashing it? Again and again the magistrate with the military officer went to restore order, and in so doing were themselves slightly wounded; but luckily the crowd was dispersed before they succeeded to break into the church.

About the same time the prefect requested the colonel of Sing Kiang to proceed at midnight with soldiers to quell this disturbance, and deputed the expectant-magistrate, "Ho Chang-chi," to proceed to the place to find out the origin of the trouble and to assist Mr. Chou, the magistrate of the place, in settling their disputes.

Now, within the city of Lin-kiang there is only the Catholic church, so the prefect sent a letter to the Catholic priest, Mei Wang-hsien, requesting him to enjoin on his church members that they must not cause any further disturbance of the place.

As there was no Protestant chapel in the city nor any Protestant preacher, word was asked to be sent to the bureau of foreign affairs with the request to ask Rev. Mr. Nichols at Nanchang to write at once to his preacher that the troublesome members should be kept under control to prevent further trouble.

The above reports being laid before me (the governor), I appointed Kiang Feng ching, an expectant-taotai, as well as the military officer, Chao Ching-ting, to proceed with 100 petty officers and braves to the place of trouble, and through the taotai I sent instructions to the local authorities to seize the disturbers of the peace and to deal with them. I also sent word to the bureau of foreign affairs asking the official in charge to send a deputy to interview.

Mr. Nichols said that he had sent no preacher there and that he knew of only a few (Protestant) Christians in the disturbed neighborhood. Steps were then taken to let the people of Lo chio fu know that they must not disturb the peace, and that the local authorities were empowered to seize and punish any one not complying with his orders.

Kiang Peng ting, the expectant-taotai, now reports that Yang Tsu-jui and Chen Peng hsiang had not previously entered the church, but that last year he had opened a shop in partnership with another man, when, finding himself in financial difficulties, he joined the Catholic Church in the 3d moon of the current year, and that Yang tsu-jui entered the Protestant Church. In the 4th moon they commenced litigations; both parties, relying on the protection they hoped to get (from the church), ignored the magistrate's summons for a trial. The elders of each denomination naturally held their own members to be in the right. On the 30th of the moon the Catholic, Chen feng hsiang, collected a crowd of men of like faith, who proceeded to the Protestant church, dragged Yang Tsu-jui outside of his door, and beat him. The injuries inflicted were slight, however. Yang Tsu-jui in his turn also collected men to make retaliation. They broke the doors and windows of the church and smashed the furniture of three Catholic families, one man and a woman getting slightly hurt in this affray. The magistrate and military proceeded posthaste to restore order and were slightly injured in their effort.

On the 6th of the moon a younger brother of Yang Tsu-jui assaulted Len Tai-lai of the Catholic Church and hurt him severely.

The deputed expectant-taotai ascertained the facts that Cheng Peng-hsiang and Yang Tsu-jui are the respective leaders of the affray. They having run away, instructions were given for the arrest of their families (or members thereof). On demanding the ringleader from the Protestants, the pastor promised to find and to deliver him to justice. On the other hand, Mei Wang-hsing, the Catholic priest, in his letter openly and defiantly screens Chen Peng-hsiang, and the latter, presuming on the priest's attitude, resists all the more the orders of the court.

Both parties to this feud are notorious persons, and as it makes no difference to which religion they belong, I have given orders to the magistrate and military to effect the arrest of these ringleaders and to have them punished. The missionaries on both sides have been asked by letter to dismiss from membership Yang Tsu-jui and Chen Peng-hsiang, after which they will be deprived of their official rank and severely dealt with.

The governor finds that at the bottom of this trouble is a debt (of money); that both parties, relying on their connection with the church, collected a crowd to fight each other; that the Catholics first attacked the Protestants, and that afterwards the Protestants retaliated on the Catholics, the disturbance reaching such a pitch that the civil and military local authorities received injuries in the *mélee*. Although the injured parties have recovered, such cases should be dealt with and punished, as they have broken the law of the land and infringed the rules of the church. The deputed expectant-taotai is therefore again instructed to arrest the ringleaders and to punish them, and this communication is sent to the American and French consuls asking them to instruct priest Mei Wang-hsiang, residing at King-Kiang, the Rev. Mr. Nichols, residing at Nanchang, to expel from the church the ringleaders, Chen Peng hsiang, Yang Tsu-jui, and other noted criminals in the case, and deliver them up to the local authorities and dealt with, in order that peace may be restored.

THE VICEROY'S REMARKS.

Some time ago there was a similar outbreak between Catholics and Protestants at Jen Keang, when the French consul-general sent his vice-consul Kai to make inquiries, with the message that no matter to what religion the breakers of the peace belonged, they were to be given up to the local authorities to be dealt with, and you, the consul-general, consented to give your support on this point and sent a letter to the governor of Kiangsi to the effect that the case was to be settled by him and leaving the matter to his sense of justice.

In the present case the Catholics and Protestants at Hsin Kau hsien, on account of some debt, collected a crowd of church members to create a disturbance and retaliated on each other. The civil and military authorities in their efforts to quell the riot, were themselves slightly wounded. Of late, these Christians, relying on their connection with the church, have acted contrary to and not in accordance with the law, which works harm, not simply to that neighborhood, but it also affects the honor of the church. The ringleaders of this disturbance should therefore be seized and severely dealt with. Such men should not be upheld nor screened, otherwise they will get bolder and bolder, leading to trouble without end.

Catholics and Protestants have repeatedly been at variance with each other. If no stop is put to these disturbances, how can the people live together in peace? As missionaries preach, exhorting men to do good, they should quickly devise ways and means to control their converts and do whatever is possible to stop the bad practice of receiving members indiscriminately into the church.

In case it should happen again that non-Christians bring lawsuits against native Christians, the missionaries should, according to rule, no longer interfere in such matters, so that all may be treated alike which would only result in good. It is also hoped that the Catholics and Protestants will not again offend against each other; still more do I hope that the people and Christians will be thoroughly disarmed of their suspicions and dislike of each other.

[Subinclosure 2.]

Mr. Goodnow to Viceroy Liu Kun-yi.

UNITED STATES CONSULATE-GENERAL,
Shanghai, August 29, 1901.

SIR: I have read very carefully your dispatch of August 26, regarding the disturbances in Kiangsi province between (so-called) Catholics and Protestants, and I have read carefully the letter inclosed from His Excellency Li and the reports of the magistrates on the trouble in Chinching district.

I do not find that anywhere is it charged that the Rev. Mr. Nichols, the American missionary, interfered to screen from justice the man who had become a member of his church. It is not necessary that the man should be dismissed from the church before he is punished by your officials. I hold that membership of an American church does not in any way lessen the obligations of a Chinese to his own Government, and its officers have constantly refused to take any part in a purely Chinese matter, even though one of the disputants might be a member of an American church; nor do we intend to interfere in such cases, unless, indeed, the man is persecuted on account of his religion.

I talked with the Rev. Nichols very recently and he assures me that he never takes a man in his church without going first to the magistrate of the district in which the man lives to find if there was reason against the man becoming a member of his church. For this cautious course I commended him.

I desire again to say to your excellency that your power is exactly the same over Chinese members of American churches as it is over any and all Chinese in your district, having due heed to the treaty prohibitions of persecution for religion's sake. In the particular case of which you write there is no reason why you should not deal with Yang Tsu-jui according to Chinese law and absolutely as though he were a Confucianist.

The gospel of Christ is preached by our missionaries not to subvert your authority nor to erect an empire within the Empire. It inculcates in the most positive terms that Christians shall render to the lawful authorities wherever they may be all the submission and obedience to which those authorities are entitled under the law.

With expressions of the highest respect, I am, etc.,

JOHN GOODNOW, *Consul-General.*

Mr. Hay to Mr. Wu.

No. 213.]

DEPARTMENT OF STATE,
Washington, March 11, 1902.

SIR: Referring to your note No. 213, of October 25 last, inclosing for the Department's information the translation of a dispatch addressed to you by His Excellency Liu Kun-yih, viceroy at Nanking, relative to a rupture at Hsin-Chin between Chinese converts of the American Protestant mission and those of a Roman Catholic mission, * * * I have the honor to inform you that the Department is in receipt of a dispatch, dated January 21 last, from Minister Conger, inclosing a copy of correspondence on the subject with the United States consul-general at Shanghai.

As showing how sedulously the American missionary societies in China endeavor to prevent such unseemly occurrences, I have the

honor to inclose herewith for your information a copy of a communication,^a dated August 26, from Viceroy Liu to the consul-general, and a copy of the latter's reply,^a dated August 29.

In this case the American mission at Nanchang, the nearest station, had no connection whatever with the matter. The correspondence exchanged between the consul-general and the viceroy in August makes this clear, and disposes of the viceroy's complaint addressed to you on August 19.

Accept, etc.,

JOHN HAY.

✓ **PROTECTION OF MISSIONARIES BY UNITED STATES NAVAL FORCES.**

Mr. Conger to Mr. Hay.

No. 845.]

LEGATION OF THE UNITED STATES,
Peking, December 12, 1901.

SIR: I have honor to inclose herewith copies of correspondence with Rear-Admiral George C. Remy, commanding United States naval force on Asiatic Station, and with the United States consuls, relative to a suggestion of Admiral Remy that the heads of the various American mission stations in China be asked to furnish him certain information as to the navigable ports nearest to the mission stations and the routes that should be taken by a relieving force to reach the members of the missions.

Deeming the suggestion a wise and timely one, I have instructed our consuls to assist the Admiral in securing the information he desires.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Rear-Admiral Remy to Mr. Conger.

YOKOHAMA, JAPAN, *November 20, 1901.*

SIR: On the recent occasion of a tour of the United States vice-consul at Canton through the districts around Swatow, China, Ensign E. Woods, U. S. Navy, of the U. S. S. *Monterey*, who accompanied the vice-consul, obtained much information and procured a number of maps of the country, all of this being of interest to the Navy Department, and possibly of valuable use. A great deal of Ensign Woods's report was made up from data furnished by missionaries in the country, some of whom had made the surveys from which these excellent maps were constructed.

2. This experience has led to the suggestion that missionaries in other parts of China may be in possession of much information that would be of use to the commander in chief of the navy force on this station, and also to the Navy Department. It was also the experience of the commander in chief during the Japanese-Chinese war that, in going to different ports to bring off missionaries and families who were threatened by local disturbances, the commanding officers of vessels were frequently embarrassed for lack of information as to the navigable ports nearest to the mission stations, and particularly as to the routes that should be taken by a relieving force to reach the members of the missions or meet them en route. It is therefore requested, if you concur in the expediency of the plan and see no objections to it, that the heads of outlying mission stations of our nationality be asked to send to this office such data as they have personal knowledge of, under the following general heads:

(a) A map, on as large a scale as possible, showing the location of the mission. A map is considered necessary on account of the lack of good standard maps, and particularly on account of the confused spelling of the Chinese names.

(b) Indicate on the map the nearest sea or river port to which a vessel should be sent in case it became necessary to relieve the mission; and trace the route one would probably take to reach this port, stating whether the route, or any part of it, would be practicable for field artillery.

(c) In the case of a river port, or any port that is not actually on the seacoast, and well known, it will be absolutely necessary to indicate the minimum depth of water at various seasons of the year between the sea and the port indicated.

(d) Local maps showing rivers and creeks that are navigable by ships and boats (giving depth of water when possible), the positions of walled towns and fortifications, and the nature of defenses on each, etc., will always be of great interest, and in time of trouble would be of the utmost importance to a relieving force. There should be no hesitancy in answering questions because of a lack of knowledge of the proper military and technical terms, or because perfectly reliable and complete information can not be given. Apparently insignificant items may sometimes be of great value. The sources of all information should, however, be always carefully and conscientiously stated, so that the commander of a relieving force may know what reliance to place on them.

Yours, respectfully,

GEO. C. REMEY,
Rear-Admiral U. S. Navy, Commander in Chief.

[Inclosure 2.]

Mr. Conger to Rear-Admiral Remy.

LEGATION OF THE UNITED STATES,
Peking, December 7, 1901.

SIR: I beg to acknowledge the receipt of your communication of the 20th ultimo suggesting that the heads of the various American missions be asked to furnish certain information desired by you regarding the navigable ports nearest to the mission stations and the routes that should be taken by a relieving force to reach the members of the missions or to meet them en route.

Fully approving of the suggestion, I have addressed the United States consuls in China instructing them to transmit the substance of your dispatch to the heads of the various American missions in their consular districts.

I am, etc.,

E. H. CONGER.

[Inclosure 3.]

Mr. Conger to United States Consuls in China.

LEGATION OF THE UNITED STATES,
Peking, December 7, 1901.

SIR: I inclose to you herewith a copy of a dispatch from Rear-Admiral George C. Remy, commander in chief, United States naval force on Asiatic Station, suggesting that the heads of American mission stations in China be asked to furnish certain information desired by our naval authorities; and printed memoranda specifying in detail the information desired.

You will transmit to the heads of the various American missions within your consular district the sense of Admiral Remy's dispatch and copies of the inclosed memorandum,^a requesting that the most careful attention be given this matter and that the information desired in as accurate and full detail as possible be sent to him.

I am, etc.,

E. H. CONGER.

Mr. Hay to Mr. Conger.

No. 442.]

DEPARTMENT OF STATE,
Washington, January 23, 1902.

SIR: I have to acknowledge the receipt of your dispatch, No. 845, of the 12th ultimo, reporting that you have instructed the United

^a Extracts from Admiral Remy's dispatch, printed, ante.

States consuls in China to assist Rear-Admiral Remey, U. S. Navy, commander in chief of the United States naval force on the Asiatic Station, in obtaining certain information desired by him regarding the navigable ports nearest to the mission stations and the routes that should be taken by a relieving force in order to reach the members of the missions or to meet them en route.

The Department cordially approves your action in the matter.

I am, etc.,

JOHN HAY.

REHABILITATION OF CHANG YIN-HUAN.

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Peking, December 31, 1901.

(Mr. Conger reports the rehabilitation of Chang Yin-huan.)

Mr. Conger to Mr. Hay.

No. 868.]

LEGATION OF THE UNITED STATES,
Pekin, January 2, 1902.

SIR: I have the honor to confirm my telegram of the 31st ultimo, in relation to the rehabilitation of Chang Yin-huan, and to inclose a translation of the imperial edict granting this favor.

Chang Yin-huan was a native of Kuang-tung province, and obtained office by purchase. In 1881 he was taot'ai of the port of Wuhu on the Yangtze, and in June, 1884, was made a minister of the Tsungli yamen, but was dismissed in September of the same year. In October of that year he was made taot'ai of the Ta-shun circuit in Chihli, and the next year was appointed minister of China to the United States and Peru. At the same time he was made an expectant director of the metropolitan court. Other titles were added in 1886 and 1887. In March, 1890, he was reappointed to the Tsungli yamen. He was made director of Court of revision in 1891, and afterwards held vice-presidencies in the Censorate and Board of revenue, being made senior vice-president of the latter in 1892. In June, 1895, he was appointed envoy to Japan to treat for peace, but was not acceptable to Japan because of his insufficient rank. In March, 1897, he was sent as special ambassador to Great Britain on the occasion of the Queen's jubilee. In August, 1898, he became a member of the railway board.

During 1898 he became sponsor to the court for Kang Yu-wei, whose far-reaching schemes aroused the fears of the conservatives, and when the coup d'état occurred in September, Chang was at once cashiered and banished to Chinese Turkestan. In the summer of 1900, when Prince Tuan was at the helm of state, orders were issued commanding his decapitation, and the sentence was at once executed.

The edict restoring his honors to him posthumously is very curt, and the intimation is plain that the favor is granted only in response to the requests of Great Britain and the United States.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Translation from Peking Gazette, December 31, 1901.

On the 18th of the eleventh moon the following imperial edict was received:
 "According to a memorial of Prince Ch'ing and others, the ministers of Great Britain and the United States have requested that Chang Yin-huan, who had suffered punishment, might be rehabilitated, etc.

"Let Chang Yin-huan, deceased, formerly the senior vice-president of the Board of revenue, as a mark of special mercy, be restored to his former official status in order to the promotion of friendly feelings.

"Respect this."

[Inclosure 2.]

Foreign office to Mr. Conger.

F. O. No. 312.]

Prince of Ch'ing, imperial commissioner, president of the board of foreign affairs, and Wang Wen-shao, acting plenipotentiary, minister of the grand council, grand secretary, minister of the board of foreign affairs, etc., send this dispatch:

We have the honor to acknowledge the receipt some time since of a communication from your excellency, concerning the punishment of the former minister (to the United States), Chang Yin-huan, saying that your Government earnestly requested that he might be rehabilitated and expressing the hope that we would memorialize the Throne, praying that his original rank might be restored, etc.

We, prince and minister, thereupon prepared and submitted a special memorial, and on the 19th of the eleventh moon (December 29, 1901) we received by telegraph an imperial edict, as follows:

"The ministers of Great Britain and the United States requested that Chang Yin-huan, who has suffered punishment, should be rehabilitated, etc. Let Chang Yin-huan, deceased, formerly the senior vice-president of the board of revenue, as a mark of special mercy, be restored to his former rank, in order to the promotion of friendly feeling.

"Respect this."

As in duty bound, we have reverently copied this edict and now transmit it to your excellency for your consideration, and trust that you will forward it to your Government.

Kuang-hsu, XXVII year, eleventh moon, 23d day (January 2, 1902).

Mr. Conger to Mr. Hay.

No. 924.]

LEGATION OF THE UNITED STATES,
Peking, February 25, 1902.

SIR: I have the honor to inclose copies of a telegram received from the children of the late Chang Yin-huan and of my reply thereto, and to be, etc.,

E. H. CONGER.

[Inclosure 1.]

Chang Kai-chin et al. to Mr. Conger.

[Telegram.]

FATSHAN, February 23, 1902.

The children of Chang Yin-huan offer their hearty thanks for the kindness shown to their deceased father.

CHANG KAI-CHIN.

[Inclosure 2.]

Mr. Conger to Chang Kai-chin.

[Telegram.]

LEGATION OF THE UNITED STATES,
Peking, February 24, 1902.

I am very much pleased to receive telegram of thanks from children of Chang Yin-huan. Appreciate it very highly.

CONGER.

RETURN OF CHINESE COURT TO PEKING.*Mr. Conger to Mr. Hay.*

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Peking, January 7, 1902.

(Mr. Conger reports that the Chinese court entered the imperial palace at 2 o'clock p. m., January 7, and that perfect order prevails.)

Mr. Conger to Mr. Hay.

No. 872.]

LEGATION OF THE UNITED STATES,
Peking, January 7, 1902.

SIR: I have the honor to confirm my telegram^a of to-day announcing the return of the imperial court to Peking this afternoon, and to inclose copies of imperial edict and correspondence with the foreign office in relation thereto.

In compliance with the request of the foreign office, that on the day of the court's return and that previous, foreigners would not use the imperial way, I addressed a circular letter to all Americans residing here, expressing the hope that the wishes of the Chinese Government would be respected. I am glad to say that this was generally done. The soldiers of the various legation guards were kept within their respective camps.

There was, however, no restriction placed upon the observation of the actual entry of the court so far as foreigners were concerned, and a great many availed themselves of the opportunity to see it from the city wall and other points of vantage. A courteous note was addressed to the legations, stating that provisions would be made for the comfort and convenience of such of their personnel as might desire to witness the imperial cortège, and most of the legation ladies, accompanied by secretaries and interpreters, accepted this invitation. The foreign office provided an escort for them, and they were conducted to one of the principal silk stores on the Chien men Great street in the Chinese city, from the balcony of which they were enabled to see all that passed. Every possible courtesy was shown them by those detailed to act as their escort.

Their majesties reached Machia-pu outside the wall of the Chinese city by train about 1 o'clock. Here they remained for some time to

^a Printed, ante.

rest. The foreign-drilled troops of Viceroy Yüan Shih-k'ai and Generals Ma and Chang were drawn up in double line from the gates of the palace to Machia-pu. As the imperial party passed, the Chinese officials and the troops stationed along the route knelt, but large bodies of troops marched as an escort before and behind the imperial cortège.

As the Empress Dowager was borne past the balcony on which the party from the legations stood, she leaned forward in her chair and returned their salutations with evident cordiality.

The military and civic parade was in every way creditable. Perfect order prevailed, not only along the route, but throughout the city.

Some time before the death of Li Hung-chang an informal request was made to the ministers to participate in the reception to the court outside the city on its return, but, as several of the ministers had not presented their credentials and for other reasons, this was not deemed advisable. Having thus refused to participate in the reception officially, they refrained from attending it out of mere curiosity. They did not, therefore, accompany the ladies and their staffs to the place of observation.

As indicated by the inclosed imperial edict, an audience will probably be granted to the diplomatic body at an early date. The Empress Dowager also expressed her desire to receive the wives of the foreign ministers. The tone of this edict is one of unusual friendliness.

On the 2d instant the ministers of the foreign office and the members of the various boards made their usual New Year's call upon the legation. They came in two parties, one headed by Prince Ch'ing, the other by Wang Wen-shao. During the call frequent reference was made by them to the friendly attitude of the United States toward China throughout her recent troubles and in the subsequent negotiations.

On the same day Generals Ma and Chang and His Excellency Hu, military governor of Peking, called at the legation and also upon Major Robertson, commanding the United States legation guard.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

The foreign office to Mr. Conger.

F. O., No. 311.]

We have received from the yamen of the general commandant of the gendarmerie a note saying that, as Their Majesties are returning to the capital, it behooves those in charge of the roads to put them in thorough repair in order to manifest proper respect, but that the soldiers and merchants of the various countries, going daily to and from the trains, pass in and out of the Cheng Yang Gate (Ch'ien Men), there was danger that such a multitude of carts and horses would cut up the road reserved for Their Majesties and hinder this very important work. They therefore request that we forward their statement to the several ministers of the foreign powers residing at Peking, and ask them to notify their soldiers and merchants that on the day of the court's return, and that preceding it, not to travel over the Imperial Way, etc. Having received this request, we have transmitted it to your excellency for your consideration.

We avail, etc.

Eleventh moon, 23d day (January 2, 1902).

Cards of Prince Ch'ing, Na-T'ung, Wang Wen-shao, and Lien-Fang.

[Inclosure 2.—Circular.]

*Mr. Conger to American citizens.*LEGATION OF THE UNITED STATES,
*Peking, January 4, 1902.**To all American citizens in Peking:*

I am directed by the minister to cause to be circulated among the American citizens resident in Peking the attached copy of a note received from the foreign office in regard to the return to Peking of the imperial court.

The minister of the United States expressed the hope that the wishes of the Chinese Government in this matter will be respected.

W. E. BAINBRIDGE, *Secretary.*

[Inclosure 3.]

Mr. Conger to Major Robertson.

Mis., No. 1059.]

LEGATION OF THE UNITED STATES,
Peking, January 4, 1902.

SIR: I inclose to you herewith a copy of a note received from the foreign office regarding the preparations making for the return of the court to Peking, and requesting that on the day of the court's return and that preceding it foreign soldiers and others be not permitted to travel over the Imperial Way, etc.

I have to request that proper orders may be issued to secure compliance with this request on the part of the United States legation guard.

I am, etc.,

E. H. CONGER.

[Inclosure 4.]

Mr. Conger to Major Robertson.

Mis., No. 1063.]

LEGATION OF THE UNITED STATES,
Peking, January 6, 1902.

SIR: The Chinese Government, in order to avoid every possibility of accident or trouble, have requested that the legation guards should be kept within their several camps during the entry of the imperial cortege on the 7th of January.

I have to request, therefore, that you will take this apparently wise precaution with the men under your command. This, of course, does not apply to sentinels on regular posts.

I am, etc.,

E. H. CONGER.

[Inclosure 5.]

*Orders to United States legation guard.*GENERAL ORDERS, }
No. 1. }UNITED STATES LEGATION GUARD,
Peking, China, January 4, 1902.

In compliance with the request of the United States minister, all officers, soldiers, and civilian employees of this command are forbidden to travel on or over the Imperial Way (Chien Men street) on the day of the arrival of the imperial Chinese court and the day preceding. Notice of these dates will be given later.

E. B. ROBERTSON,
*Major, Ninth Infantry, Commanding.*GENERAL ORDERS, }
No. 2. }UNITED STATES LEGATION GUARD,
Peking, China, January 6, 1902.

In compliance with the request of the United States minister, the troops of this command are forbidden to leave the barracks to-morrow during the entry of the imperial Chinese court.

[Inclosure 6.]

The foreign office to Mr. Conger.

The Board of foreign affairs has the honor to inform your excellency that on the 24th of the eleventh moon of the XXVII year of Kuanghsu they received the following imperial edict:

"We have received the commands of Her Imperial Majesty the Empress Dowager, as follows:

"The Government and the friendly powers have renewed their pledges, revived good feeling, and strengthened their cordial relations, which is a cause of mutual congratulation. The court being now about to return to Peking, it is urgently necessary to fix an early date when the ministers of the various powers may be received in audience, in order to give due recognition to the importance of our international relations and due weight to diplomatic affairs. After a date shall have been selected His Majesty the Emperor will receive the ministers of the various powers in audience in the Ch'ien Ch'ing Throne Hall. On a former occasion the wives of the foreign ministers paid a visit to the palace, which was a praiseworthy and courteous action, and one that was deeply appreciated. We now propose that a date shall also be fixed for an audience to be granted to the wives of the foreign ministers in the Ning Shou Throne Hall, in order that there may be a mutual manifestation of friendly feeling, etc.'

"Respect this."

Besides memorializing the throne in regard to the fixing of a date, of which we shall inform you later, our board as in duty bound has reverently copied the edict and transmits the same to your excellency that you may respectfully comply therewith.

Kuang-hsu XXVII year, eleventh moon, 26th day. (January 5, 1902.)

[Inclosure No. 7.]

Mr. Conger to the foreign office.

F. O., No. 330.]

LEGATION OF THE UNITED STATES,
Peking, January 6, 1902.

I have the honor to acknowledge the receipt of the dispatch of your highness and your excellencies of the 2d instant, requesting me to notify my nationals that on the day of the return of the court to Peking and on that preceding it the Chien Men and the Chien Men street will be closed to all traffic, etc.

I have the honor to inform your highness and your excellencies that I have complied with your request.

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

E. H. CONGER.

MUTUAL EMBARRASMENTS OF UNITED STATES AND RUSSIAN OFFICIALS AT NIUCHWANG—CONFLICT BETWEEN UNITED STATES SEAMEN AND RUSSIAN OFFICIALS—DELAYS IN TRANSMISSION OF TELEGRAMS, ETC.^a

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Peking, January 7, 1902.

(Mr. Conger reports that a memorandum has been left with him by the Russian minister reporting three attacks by American sailors on Russian soldiers at Niuchwang, one of the latter being wounded, and

^a See also under Russia, page 916.

reporting Admiral Alleexieff as saying that he fears a continuance of such conduct will compel him to take severe measures to protect his soldiers, and that henceforth he will disclaim all responsibility for resultant consequences; that relations between Russian and other officials there are much strained; and suggesting that the commander of the *Vicksburg* be instructed to use extra efforts to restrain his men.)

Mr. Conger to Mr. Hay.

No. 874.]

LEGATION OF THE UNITED STATES,
Peking, January 8, 1902.

SIR: I have the honor to confirm my telegram of the 7th instant.

On the 6th the Russian minister called on me, and after discussing in a friendly way the unfortunate situation at Niuchwang left a memorandum, which I inclose.

He not only complains of the acts of the sailors set out in his memorandum, but of the refusal of our consul to recognize the gravity of the situation, and of his and Commander Barry's unwillingness to cooperate, in a friendly and quiet way, to settle the affairs mentioned and to prevent the occurrence of others. I said to him that because telegraphic communication was cut off by the Russians at Niuchwang I had not yet received report of these troubles, and, of course, could not tell upon whom the prime responsibility rests, but I was sure there must have been some real or fancied provocation for the sailors' conduct; but at any rate I would at once wire to the United States consul to go to the farthest consistent limit in meeting in a friendly way the Russian officials, and to try every way possible to settle the matters quietly and amicably, and I would urge the commander of the United States gunboat to use extra efforts to control his men.

The situation at Niuchwang is undoubtedly very critical, and the strain is daily growing more severe, and unless better relations are established serious results may follow.

As far as I can learn, when the Russian captain, Eberhard, assumed the office of civil administrator, for some reason he did not call on the foreign consuls, as has always been the prevailing rule there and at other oriental ports; hence, when the English and American gunboats arrived their commanders did not call on him, finding sufficient reason in the fact that their respective consuls could not accompany and introduce them, and from this source I apprehend most of the trouble and ill feeling has arisen.

The Russians claim that the foreign consuls and naval officers treat them as if they were Chinese, and the consuls and naval officers claim that the Russian authorities are domineering, assuming, and doing much beyond their rights, etc.

The Russians have evidenced annoyance because the English and American gunboats came there without permission of or notice to them. The Russian minister asked me yesterday why this was done. I replied, because Niuchwang is an open treaty port, and we had quite as much right there as they, and neither their permission or special notice of the coming of the gunboat was necessary. I said further, that since the occupation of Niuchwang by the Russians was temporary, and it was understood that they were soon to leave, it was not thought, under

the unsettled conditions, to be safe to leave our interests and our citizens there unprotected during the long and icebound season. He quickly asked if that was the only reason the gunboat was sent there. I replied yes, so far as I was informed, and at any rate it was the only ground upon which I requested that the vessel should be sent. He said he was greatly pleased to know this, for the Russians had all believed that the coming of the *Algerine* and *Vicksburg* was a sort of combined naval demonstration against the Russians, and was evidently the cause of the apparent bitter feeling on the part of the officials at Niuchwang.

I said to him that he should also telegraph to his consul and other officials there, that they must also go to the farthest consistent limit to settle amicably, and to restrain their soldiers from unwarranted acts or provocation. This he promised to do. I to-day called on him and left a memorandum, copy of which I inclose.

Of course I can not speak intelligently of the attacks mentioned, because I have only the Russian account, and I am sure there are two sides to the story. You will undoubtedly have received full particulars from the consul before this reaches you. I have, however, believed it my duty to write to Mr. Miller that in view of the strained relations existing, and the constant probability of unhappy encounters between the soldiers and sailors, he ought not to depend upon the usual formal consular court procedure in cases like those mentioned, or waste time or temper in unnecessary official correspondence over them, but that consuls and military and naval officers should get together and settle them quietly and equitably, and especially should he urge Commander Barry to prescribe and carry out methods of discipline and control which would prevent the recurrence of like troubles. I inclose all the recent correspondence with Mr. Miller concerning the unfortunate situation.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

The Russian Minister to China to Mr. Conger.

MEMORANDUM.

On the 23d of December last, at Niuchwang, American sailors were the authors of disorders and of a quarrel, during which they beat two Russian soldiers belonging to the police.

On the evening of the 25th of December three American sailors attacked a Russian sentinel at the gate of the city. Thanks to the coolness and to the sentiment of discipline manifested by the sentinel, who, instead of exercising his right of firing, merely aimed at his aggressors, bloodshed was avoided and probably the life of an American sailor preserved.

In view of these incidents the administration of Niuchwang again called the attention of the United States consul at that place to the necessity of the establishment of a regulation for the conduct of sailors going ashore, and to the urgency of the punishment of the authors of the attack against the sentinel.

The United States consul refuses to recognize the gravity of the offense committed by the American sailors, and answered stiffly to Captain Eberhard by referring to the treaties, and said that he was ready to examine the matter in case a complaint were made to him according to the established rule; that is to say, if the sentinel presented himself at the consulate and gave his testimony.

On the night of January 1 a still graver incident took place. Two American sailors fired a revolver several times at a Russian soldier who was passing along the

street on his way to the telegraph office performing his duties, and wounded him in the arm.

In view of the provoking attitude of the American sailors and, contrary to their expectations, the refusal of the United States consul to amicably cooperate with the Russian authorities, General Alexieff's aid-de-camp believes himself obliged to take severe measures to protect his soldiers, and maintain at Niuchwang the order and respect of the authorities, and that he must henceforth decline the responsibility of the consequences which may result.

[Inclosure 2.]

Mr. Conger to the Russian Minister to China.

MEMORANDUM.

Because of the closing of the telegraph office by Russian authority at Niuchwang, no report of the troubles between American sailors and Russian soldiers has yet been received from the consul of the United States. Its arrival must await the slow course of the mails.

However, without waiting to ascertain definitely upon whom the prime responsibility for the disorders rests, telegrams have at once been sent to the United States consul and the commander of the United States gunboat to meet and confer with the Russian officials in a friendly spirit, and to go to the fullest consistent limit in cooperation with them to settle all matters quietly, quickly, and satisfactorily, and to devise such stringent regulations for the control and discipline of the sailors as to make it impossible for them to be the aggressors in any future disturbances.

It is to be hoped that no further troubles will occur, but in any event no one can avoid the final responsibility for the resultant consequences of any action he may take.

January 7, 1902.

[Inclosure 3.]

Mr. Miller to Mr. Conger.

No. 58.]

CONSULATE OF THE UNITED STATES,
Niuchwang, China, December 14, 1901.

SIR: I have to report to you the following notice received at this consulate yesterday: "Notice is hereby given that this office, the Chinese Eastern Railroad Telegraph station, Niuchwang, will be closed from 1st December, Russian date."

This means that this port will have no telegraphic communication with any part of the world outside of Russia.

Another office, under the control of the military authorities, will take messages and deliver them to any part of Manchuria and Russia.

We are at this time, therefore, absolutely without any means of sending messages to Peking or any country but Russia.

The military forces are trying gradually to assume entire direction of all affairs here.

We were for more than three weeks without any mail communication on account of the military refusing to allow mails to be carried on the trains from here to Port Arthur for either the Chinese or Japanese post.

Last winter mails were carried regularly for the Chinese post.

This difficulty has been corrected as far as the Chinese post is concerned; but they still refuse to carry the mail for the Japanese post, and complain that the Japanese have no right to establish a post-office here, and therefore our mail from the United States coming by the Japanese post is delayed and held up.

Now we are to be without telegraphic communication.

The Russian authorities have complained because the British and American gunboats came and docked here without notice to them.

The new administrator refuses to call upon the consuls and make their personal acquaintance, as has been the custom of this port.

All new officials call upon those in office. This is the custom with consuls and Chinese officials, and was practiced by the Japanese at the time of their occupation of the port.

We recognize the civil administrator as our equal, and expect him to follow the usual custom.

There is a growing feeling on the part of Russians generally that all foreigners are here by the grace and courtesy of Russia and not by treaty with China.

If you have any suggestions to offer in way of advice I shall be most happy to receive them.

I have, etc.,

HENRY B. MILLER, *United States Consul.*

[Inclosure 4.]

Mr. Conger to Mr. Miller.

LEGATION OF THE UNITED STATES,
Peking, December 28, 1901.

SIR: I have received your No. 58 of the 14th instant, with information that the Chinese Eastern Railroad Telegraph was closed, and in consequence you had no telegraph communication outside of Russia and Manchuria, etc.

In a conference with the Russian minister yesterday he informed me that this grows out of an existing arrangement with the Danish Telegraph Company, which Russia is bound to observe (the Danish company pretends to have a monopoly of international telegraphic service in China), but that the Russian consul at Niuchwang, as well as Admiral Alexieff, had telegraphed to St. Petersburg urging that some arrangement be made whereby telegraph service might be restored, and the minister expresses the belief that it will soon be accomplished.

If the Russian authorities make formal complaint to you that the American gun-boat came to Niuchwang without giving them notice, you might reply that Niuchwang is a treaty port, open to all nations, and you know of no rule requiring such notice, etc.

The rule of etiquette you mention as to calls is the general one in the Orient, and unless it has heretofore been modified by local practice at Niuchwang, you are correct in following it.

I am, etc.,

E. H. CONGER.

[Inclosure 5.]

Mr. Miller to Mr. Conger.

No. 60.]

CONSULATE OF THE UNITED STATES,
Niuchwang, December 20, 1901.

SIR: I have the honor to inclose you a copy of a dispatch from the Russian consul, Mr. Kristy, and my reply to the same.

This is simply a plan of annoyance and interference with Mr. McCaslin's property interests adjoining Russian Town, the terminus of the Russian railroad, 3 miles up the river. It is the beginning of a movement on the part of the Russians to irritate and annoy foreign interests, property owners and merchants, so as to destroy the business of foreigners in this port. I shall always stand ready to enforce decency and respect for law and order on the part of American citizens here, but I can not permit at the present time the complete domination of the Russian authorities and their unrestrained control over American interests here.

If my position is not tenable I beg you to cable me proper instructions.

I would thank you to advise me by wire if I am correct in my position.

I have, etc.,

HENRY B. MILLER, *United States Consul.*

[Subinclosure 1.]

Mr. Kristy to Mr. Miller.

No. 105.]

CONSULAT IMPERIAL DE RUSSIE AT NIUCHWANG,
Le 5 (18) Decembre, 1901.

SIR: There are some stone buildings near the Russian settlement belonging to an American citizen, Mr. McCaslin, and rented by the owner to Chinamen. All these

houses are inhabited only by Chinese element, and many of a very suspicious character and profession. Stolen railway materials of different kinds are hidden in these houses; again, railway tickets are forged and sold to the ignorant people going by the train up country; also, offenders against the law find refuge in the said houses; in short, deeds are committed of an undecorous nature.

Again, this port and its environs being infested with pest, the Russian authorities in the Russian settlement are very anxious to take the most important and necessary sanitary measures in all houses peopled by Chinese near the Russian settlement, particularly where the Russian troops are situated.

Under the above-mentioned circumstances I hope you will understand the state of affairs, as you will clearly see that it is against the interests of the railway company and also the Russian military authorities to have such disorder in the said houses.

As the above-mentioned houses being the property of an American citizen and peopled merely by Chinese, who live on an extraterritorial place, the latter no doubt thereby hope to carry on their nefarious traffic with impunity. I have the honor to inform you that the Russian authorities in the Russian settlement will take all steps and issue necessary orders to discover any crime, and also to take the necessary precautions to see to that the said houses are kept in a sanitary condition.

I have, etc.,

CH. KRISTY, *H. I. R. M., Acting Consul.*

[Subinclosure 2.]

Mr. Miller to Mr. Kristy.

No. 87.]

CONSULATE OF THE UNITED STATES,
Niuchwang, China, December 20, 1901.

SIR: I have the honor to acknowledge the receipt of your dispatch of the 18th instant, in which you say that "the Russian authorities in the Russian settlement will take all steps and issue necessary orders to discover any crime, and also offenders who find refuge in those houses owned by Mr. McCaslin, and also take the necessary precautions to see that the said houses are kept in a sanitary condition."

I beg to advise you that it will be my pleasure to assist you in preventing criminals from taking refuge in any property owned by American citizens, and to do whatever is necessary to have proper sanitary conditions maintained therein.

In this connection I beg to advise you that whatever may be required in arrests of occupants of these premises, it will be necessary to enter a complaint in this consulate and have the arrest made by my sanction. If complaints are justified I will send the United States marshal to make the arrest and turn over the offenders to the Chinese courts for trial and punishment.

I beg further to suggest that any complaints of unsanitary conditions of these premises be filed at this consulate, where they will receive prompt attention and correction.

Am I to understand that it is the intention of the Russian authorities to assume the jurisdiction and control of the property owned by Americans in Manchuria, and to assume the duties, responsibilities, and direction heretofore belonging to the consul of the United States of America?

If this is the meaning of your dispatch, will you be kind enough to inform me by what authority you supersede with Russian rule the treaty right under which American citizens have become property owners and under which they have carried on business affairs, and under which the consuls of the United States of America have performed their functions?

I have received no notice from my Government of any change or alteration in the right of American citizens or of my duties and official responsibilities. And until I receive them I shall endeavor to perform all the functions of consul heretofore belonging to the office.

In the absence of the Chinese authorities I understand that your Government is temporarily administering the affairs of the country, but in no way altering the rights and privileges of foreigners. I must therefore call your attention to the fact that the course you seem to indicate that your authorities propose to take in regard to Mr. McCaslin's property is a direct and absolute violation of these rights, and I insist that your officers must not interfere with the sanitary affairs or any others pertaining to Mr. McCaslin's property except by the authority of this consulate.

I must also insist that any arrest of occupants of those premises be sanctioned by me. This has been the mode of proceeding under the Chinese administration and should be maintained by your temporary administration.

Hoping that you will see the points of my views of a proper mode of proceeding in this matter, I have, etc.,

HENRY B. MILLER, *United States Consul.*

[Subinclosure 3.]

Mr. Kristy to Mr. Miller.

No. 106.]

CONSULAT IMPÉRIAL DE RUSSIE À NEWCHWANG,
Le 5 (18) Decembre, 1901.

SIR: I have the honor to acknowledge the receipt of your favors dated November 27 and 7th instant concerning the docking of a Russian launch on the ground belonging to one of your nationals, Mr. C. McCaslin.

In reply I have the honor to point out to you that none of the Russian authorities wanted intentionally to make depredations and unwarranted use of land belonging to one of your nationals. Even if the dock has been dug on the ground of an American citizen, it happened by a misunderstanding, which was the fault of the owner.

When we drove out together to see where the dock had been made, I called your attention to the fact that the stones with the owner's initials, marking the boundaries of your national's property, were placed beyond the dock.

This circumstance put the dock builder on a wrong scent, as he thought that the stones were in the proper place and acted according to the common sense and indications of people living in the Russian settlement.

Besides, according to the Chinese and Russian laws, a certain part of the ground from the bank of the river can not be anybody's property.

I have had a personal conversation about the matter with Mr. McCaslin to endeavor to settle this affair amicably, being firmly convinced that Mr. McCaslin would be modest in his claims. Now, Mr. McCaslin is unwilling to settle this matter for 500 rubles under the conditions mentioned in the copy of a letter which you sent to me from Mr. McCaslin.

This claim of Mr. McCaslin as a rent for a small dock, in comparison with the rent for which the provisional imperial Russian civil administration paid for rent for a much larger dock, in my opinion, is too immodest, the more so that the above-mentioned gentleman was at fault in this matter.

Therefore I absolutely refuse to give any attention to any claim of Mr. McCaslin. Owing to the complete undetermination of the boundaries of the land belonging to Mr. McCaslin near the Russian settlement, I have the honor to ask you kindly to let me have the plan of American property there.

This is necessary to enable me to inform the Russian authorities there distinctly where the property of Mr. McCaslin is situated, and what marks show the boundaries, thereby avoiding all unpleasantness and misunderstanding in the future.

I have, etc.,

CH. KRISTY.

[Subinclosure 4.]

Mr. Miller to Mr. Kristy.

No. 86.]

CONSULATE OF THE UNITED STATES,
Niuchwang, China, December 19, 1901.

I have the honor to acknowledge your dispatch of the 18th instant, concerning the docking of a launch owned by the Russian authorities. I am surprised at the position you take in saying:

"Therefore I absolutely refuse to give any attention to any claim of Mr. McCaslin."

You admitted to me in conversation over the matter that a wrong had been done, and that compensation would be made, but complained that Mr. McCaslin's demands were too much.

I am therefore astonished that you should refuse to do justice to an American citizen, and am at a loss to understand by what right you claim to enter upon his property without due compensation.

There was an abundance of river frontage owned by the Russian authorities, a mile or more, adjoining Mr. McCaslin's land, where your boat could have been docked as well as on Mr. McCaslin's land.

It is true that all of this river bank and land is subject to constant washings and destruction, and it would have increased the washing away of this land belonging to the Russian authorities to have broken the bank by docking a boat there, and this may have been the reason for not using their own land for that purpose.

The same condition of damage by washing, however, pertains to the land of Mr. McCaslin and the measure of damage that he claims is based upon this fact.

Your claim that the occupation of this land by Russian authority is the fault of the owner is a point that I fail to comprehend.

His agent there remonstrated at the time, and as soon as he was notified he addressed you a communication giving the terms and conditions upon which it could be occupied. After that the dock was completed, and long after the boat was docked there, and the action of your authorities in completing the dock and docking the boat after Mr. McCaslin's letter of notice and terms were received by you, and after I had called your attention to the violation of Mr. McCaslin's rights, was a practical acceptance of his terms.

Your claim that the boundary stones were beyond the limits of the dock has an appearance of an excuse for your getting on to Mr. McCaslin's land, but it is not a fair excuse for continued occupation.

The boundary stones to which you refer were not all of the original stones, as some have been washed away in the 150 feet of his land that has been destroyed and washed away.

Your further claim that by Chinese and Russian laws a certain part of the ground along the bank of the river can not belong to individuals does not, in my opinion, apply to this case.

I must beg you to point out to me when and by what authority "Russian law" has been substituted in lieu of the treaty rights of China guaranteed to American citizens here.

This Chinese law to which you refer is evidently the custom and regulation by which a passage along the river can not be closed by individuals.

The Chinese custom or law does not, however, give your people the right to close a passage to the river by docking a boat there without permission of the owner of the land adjoining; but on the other hand would be a perfect bar to your using the place for any such purpose. The motive and purpose of the law is to allow free passage along the river bank, and this law you have violated by obstructing the passage with a dock and a boat.

Because Mr. McCaslin demands a recompense that appears too large to you, you therefore refuse to pay any attention to the matter. I can not believe that your Government will sustain such violations of the rights of American citizens, and I can not, in so far as my duties extend, permit that Russian authorities should forcibly occupy land belonging to American citizens without due recompense.

This land is duly registered in this consulate as the property of Mr. Charles McCaslin, an American citizen, and I must therefore insist that settlement be made with him for its use.

Concerning your request for a map of Mr. McCaslin's land, I will say that such a map is not in the possession of the consulate, and you must apply to Mr. McCaslin, or secure it from the proper records. The land records of this consulate will be open to you for compiling such a map, if you will recognize the rights of American property owners.

If, however, you do not propose to pay any attention to the claims and rights of property of American citizens, I can see little use for such a map.

In conclusion, I beg to say that I consider that the property and treaty rights of Mr. McCaslin have been violated in this case; that a boat belonging to the Russian authorities has been docked upon his land without his consent, except on condition with which you refuse to comply; that this boat is to be continued on this land belonging to Mr. McCaslin for several months; to all of which I must enter my earnest protest, and the facts concerning which I must report to my Government.

I have, etc.,

HENRY B. MILLER.

[Subinclosure 5.]

Mr. Miller to Captain Eberhard.

No. 78.]

CONSULATE OF THE UNITED STATES,
Niuchwang, China, November 1, 1901.

SIR: Complaint has been filed in this office by Mr. C. McCaslin, an American citizen, against the action of your soldiers' taking possession of his land and digging dock for winter quarters for tugboats.

This land is registered at this consulate as the property of Mr. McCaslin, and you can readily understand that no one has a right to use or possession of it except by arrangements with Mr. McCaslin.

Your men were warned against using this land by Mr. McCaslin's agent.

I must therefore beg to call your attention to this matter, and urge that proper adjustment be made at an early date.

I have, etc.,

HENRY B. MILLER,
United States Consul.

[Subinclosure 6.]

Captain Eberhard to Mr. Miller.

No. 1462.]

9 (22) NOVEMBER, 1901.

In reply to your letter of this date, No. 78, I beg to inform you that Mr. McCaslin's property is beyond the limits of the city under my administration, and you have to address this complaint to the imperial Russian consulate.

I have, etc.,

A. EBERHARD,
Captain, I. R. M., Civil Administrator.

[Subinclosure 7.]

Mr. Miller to Captain Eberhard.

No. 79.]

CONSULATE OF THE UNITED STATES,
Niuchwang, China, November 25, 1901.

SIR: I have the honor to acknowledge your dispatch of the 22d instant, in which you say that the matter of Mr. McCaslin's complaint should be addressed to the Russian consulate.

I beg to inclose you a copy of Mr. McCaslin's letter to the Russian consul and a copy of his reply.

There surely must be someone here with the proper authority to deal with this matter, and I beg you to advise me to whom the case should be brought.

Such violations of the rights of American citizens should not be allowed by your people, and there ought to be means of prompt redress, and I beg you to point out to me the proper authorities.

I have, etc.,

HENRY B. MILLER,
United States Consul.

[Subinclosure 8.]

*Mr. McCaslin to Mr. Kristy.*NIUCHWANG, *November 17, 1901.*

DEAR MR. KRISTY: I am sorry to make a complaint to you again. This time it is against the people who are docking the steam launches. They started to-day to dig a dock on my ground next to the Russian settlement.

Anything they dock there they will have to pay for; each launch \$500, and if the *Sampson*, \$1,000; then the expenses of filling up the docks will have to be paid by the people who dug them.

These docks will cause my land to wash away twice as fast as if they had not been there.

It seems to me as though some of the Russian people here think they can do what they like with my land.

I do not wish to make trouble, but they are going a little too far. If you will notify the people who are digging the dock what they are doing, you will greatly oblige.

Yours, truly,

C. McCASLIN.

[Subinclosure 9.]

Mr. Kristy to Mr. McCaslin.

DEAR MR. McCASLIN: You are quite right in your to-day's letter, but I am sorry to say that I have nothing to do with the mentioned dock.

Please address to the administrator.

Yours, sincerely,

CH. KRISTY.

[Subinclosure 10.]

Captain Eberhard to Mr. Miller.

NOVEMBER 25, 1901.

SIR: I have the honor to acknowledge the receipt of your letter, No. 79, in which you say that the violations of the rights of the American citizens should not be allowed by our people and, further, that there surely must be some one here with the proper authority, etc. Though I am ignorant of whom you designate by the words "your people," I surely agree with your opinion.

Of course, an authority for any questions beyond my jurisdiction exists here, and, as I pointed out to you before, in the person of the imperial consul for Russia. I am sorry that you are guided more by the private correspondence between Messrs. Kristy and McCaslin than by my dispatch.

I have, etc.,

A. EBERHARD,

Captain, Imperial Russian Navy, Civil Administrator.

[Inclosure 6.—Telegram.]

Mr. Conger to Mr. Miller.

LEGATION OF THE UNITED STATES,

Peking, December 27, 1901.

Russian minister says he will telegraph consul that Russian authority only replaces Chinese, and that all treaty rights must be respected and all former lawful practices followed, and direct him to meet you and try amicably to settle all questions. You can hardly claim complete and exclusive jurisdiction of Chinese subjects because they live in American houses.

CONGER.

[Inclosure 7.]

Mr. Conger to Mr. Miller.

No. 1281.]

LEGATION OF THE UNITED STATES,

Peking, December 28, 1901.

SIR: I confirm my telegram of yesterday, and reply to your dispatch, No. 59, herewith.

You should in all cases do your best to settle questions amicably, and while maintaining with dignity all treaty and other rights, you should be sure that your demands are always within your rights, and that in presenting them you do not adopt a style that will unnecessarily give offense.

I note that Captain Eberhard objects to your use of "your people" in referring to the Russian authorities. It appears to me, also, that your note of December 19 would have been stronger had you left out the imputation of improper motives in the selection, by the Russians, of Mr. McCaslin's land for docking purposes instead of

their own. I trust you will be able, after the Russian consul receives the minister's telegram to confer amicably with him and come to a satisfactory settlement of Mr. McCaslin's claim. If you are not able to do this, then please send me in detail all the facts in the case, reporting all personal interviews concerning the matter, and giving information as to charges of other owners of land for like usage, and how much is paid for the *Vicksburg's* dock, etc.

I am, etc.,

E. H. CONGER.

[Inclosure 8.]

Mr. Conger to Mr. Miller.

LEGATION OF THE UNITED STATES,
Peking, December 28, 1901.

SIR: Continuing the subject-matter of my No. 1281, referring again to my telegram confirmed therein, and replying to your No. 60, in which you ask if your position is tenable, I have to say I can not quite agree with your position as stated in your letter to Mr. Kristy, of December 20, substantially claiming jurisdiction over all Chinese occupying American-owned houses, and particularly that you should undertake to decide whether or not arrests of Chinese by Chinese authorities were justifiable.

Russian authority might be permitted, under its assumed jurisdiction, to do whatever Chinese might have done before, but nothing more. It has been, so far as I can learn, the general custom not to permit Chinese in foreign employ to be arrested except with foreign consent, and within foreign settlements to require consular consent before arresting Chinese in foreign-owned buildings; but consent in the latter case is always given. Insistence by the consul that justification of arrest should be proven beforehand would, I apprehend, be an unwarrantable interference with Chinese administration. Outside of foreign settlements the consul might properly exercise a certain jurisdiction over foreign-owned property, but not over Chinese domiciled therein.

I am, etc.,

E. H. CONGER.

[Inclosure 9.]

Mr. Miller to Mr. Conger.

CONSULATE OF THE UNITED STATES,
Niuchwang, China, December 27, 1901.

No. 63.]

SIR: I have to report the inclosed copy of a dispatch received from the civil administrator, and my reply thereto.

This raises the question of the right of the United States to land troops in Manchuria.

While I have purposely evaded a reply to that question, I am firmly convinced that we ought not to surrender our right to land troops at any time that we consider it necessary for the protection of life and property of our citizens, and I am further convinced that it would not be wise, under existing conditions, to grant that Russia has the sole right to land troops in Manchuria.

It would be impolitic and injudicious to land troops to interfere with the civil or military administration of Russia, but we certainly ought not to grant Russia that we have no right to do so at any time we deem it imperative for the protection of American interests here.

The Russian administration is gradually pressing the claims of Russian authority in this port and over all Manchuria, and we are in almost daily receipt of some communication along these lines.

In this matter I have no doubt that Russia will object to the landing of the crew of the *Vicksburg* for drill.

I am of the opinion that we are entitled, as much as Russia, to land troops in this port, under existing conditions, and that we ought not to surrender that right by any intimidation.

As long as Russian administration protects American interests we ought not to interfere, and, so far as I am concerned, will not.

The circumstance that aroused the excitement of the civil administrator was the taking of six rifles and accouterments from the British ship *Algerme* to the public hall, where the crew of the ship were giving a theatrical performance in which they used these guns.

We are cut off telegraphic communication, and our postal connection is slow and bad, and we are being annoyed almost daily by petty complaints from the civil administrator; and the situation here in every way has the appearance on the part of the Russians of aggression against all foreign interests.

I have the honor to be, etc.,

HENRY B. MILLER.

[Subinclosure 1.]

Captain Eberhard to Mr. Miller.

No. 1728.]

DECEMBER 26, 1901.

SIR: I am just informed that to-day, after the sun set, about 40 men from the foreign men-of-war entered this city armed with rifles and swords.

According to my instructions from the Imperial Russian Government, I strongly protest against landing the armed men at this port occupied by the Imperial Russian forces, and I insist on their immediately withdrawing from the town.

I have, etc.,

A. EBERHARD, *Civil Administrator.*

[Subinclosure 2.]

Mr. Miller to Captain Eberhard.

No. 93.]

CONSULATE OF THE UNITED STATES,
Niuchwang, China, December 27, 1901.

SIR: I have the honor to acknowledge your dispatch of December 26, complaining that about 40 men from the foreign men-of-war entered this city armed with rifles and swords on the evening of the 26th instant.

I beg to advise you that none of these men belonged to the United States gunboat *Vicksburg* stationed here for the winter.

I have the honor, etc.,

HENRY B. MILLER.

[Inclosure 10.]

Mr. Conger to Mr. Miller.

No. 1292.]

PEKING, *January 7, 1902.*

SIR: I have received your No. 63 of the 27th ultimo, inclosing correspondence with the Russian civil administrator, which, you say, raises the question of the right of the United States to land troops in Manchuria.

It is true that the particular case mentioned (the landing of British marines with rifles to take part in a theatrical performance) does not at present require a discussion of the question on your part, but as you apprehend it is likely to arise at any time in relation to the going on shore for whatsoever purpose of the crew of the *Vicksburg*, you should be prepared for it.

In my judgment we have quite as much right to land troops at Niuchwang for the protection of American rights and interests as have the Russians, and particularly is this true under the present situation, where Russia has formally declared that her occupancy of Niuchwang was not in the nature of conquest, but simply a temporary occupation to protect Russian interests and to be terminated as soon as order was restored. I think, however, that during this temporary occupancy, in which Russia has taken upon herself the responsibility of keeping order and of civil administration, that without formally recognizing any right in the Russian authorities to do this, it would only be a prudent precaution to notify them of the intention before taking any of the crew on shore for any purpose. I hope that it will not be found difficult to have an amicable and satisfactory understanding in anticipation of any necessary or desired movement on shore. It would be wise for the commander of the *Vicksburg* to be provided with instructions from the Navy Department upon this question.

As to telegraphic communication, can you not send your telegrams to Port Arthur by mail for the present, under some arrangement for transmitting them hence by wire?

I am, etc.,

E. H. CONGER.

[Inclosure 11.]

Mr. Conger to Mr. Miller.

No. 1293.]

PEKING, January 7, 1902.

SIR: Confirming my telegram of this date, and in continuance of my dispatch No. 1292 of to-day, I have to say that the Russian minister called on me yesterday and left the memorandum,^a a copy of which is inclosed. Of course I had to say to him that I had not yet received written report from you of the affairs, and that since the Russians had cut off telegraphic communication you had been unable to wire me; that of course there could be no legal justification for such conduct if it had occurred as stated, but there must have been some previous provocation on the part of the Russians of which I would probably be informed later.

The minister complains of what he calls your curt reply to the civil administrator, and your demand that the formal proceedings of a trial should be had with the witnesses produced, etc., and that the officers of the *Vicksburg* and yourself are unwilling to cooperate in necessary regulations for and discipline of the United States sailors.

There certainly must be some misconception on the part of the Russian authorities of your statements, attitude, and actions, and it would be most unfortunate if serious troubles should grow out of an unnecessary misunderstanding. There is no doubt that the civil administrator is wrong in failing to call upon you, but you should not let this failure of his lead you to do anything unwarranted in retaliation.

It is very difficult to always preserve the peace where soldiers of different nationalities come in contact, and where they do commit indiscretions it is always best to settle all such difficulties quietly, by friendly conferences, agreements to punish, etc., instead of through the formality of court procedure. This has often had to be done here since the occupancy of foreign troops.

Several of the treaties require that special regulations for the discipline of sailors should be made during the stay of war vessels in Chinese ports, and it should always be done; and I presume the commander of the *Vicksburg* has taken every possible precaution in this direction. It would be a source of infinite regret if serious troubles should come and the United States representatives or officials were in any measure responsible. I must, therefore, again urge that both you and Captain Barry should go to the utmost consistent limit to lessen the present strain and avoid further troubles. You should keep both the Department and me opportunely and thoroughly advised.

I am, etc.,

E. H. CONGER.

Mr. Hay to Mr. Conger.

No. 448.]

DEPARTMENT OF STATE,

Washington, January 31, 1902.

SIR: I inclose herewith for your information a copy of a dispatch^b from the United States ambassador to Russia, reporting the view taken by the Russian Government respecting the recent conflict between seamen of the United States Navy and the Russian police at Niuchwang.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Conger.

No. 471.]

DEPARTMENT OF STATE,

Washington, March 1, 1902.

SIR: I have to acknowledge the receipt of your dispatch No. 874, of the 8th of January last, confirming your telegram of January 7,

^a Printed, ante, page 147.^b Printed under Russia, page 918.

on the subject of the strained relations between Russian soldiers and American sailors at Niuchwang.

Note has been taken of what you say regarding the attitude of Consul Miller toward the Russian authorities. Copies of an instruction and of its inclosures that had already been sent to him in the matter are herewith inclosed for your information.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Peirce to Mr. Miller.

No. 21.]

DEPARTMENT OF STATE,
Washington, December 31, 1901.

SIR: I inclose for your information a note^a addressed to the Secretary of State by the Russian ambassador on the 28th instant in regard to the tension which is said to exist between you and the Russian authorities; also a copy of Mr. Hay's reply^a to Count Cassini.

You will be governed in your official and personal intercourse with the Russian officers at Niuchwang by the wishes and sentiments expressed in Mr. Hay's note.

It is observed that the Russian communication speaks of your protection of Chinese persons of doubtful reputation. You will, of course, understand that no Chinaman is entitled to your protective intervention unless he establish beyond question the fact of lawful American citizenship. Any protection you may be required to exercise in favor of Chinese employees of American citizens is on behalf of the employers and not of the servants.

It is to be remembered, also, that you have no defined conventional rights of extra-territoriality as against the temporary local jurisdiction which is exercised by Russia in virtue of actual effective occupation of the territory for the time being.

Questions arising on this score should be met with prudence and discretion on your part and generally in a spirit of conciliation and with a desire to aid, so far as may be proper, the efforts of the Russian agents to secure order and regular administration during their provisional tenure, and thereby pave the way for earlier cessation of the Russian occupancy. As to all matters in which you may rightfully assert the immunities and privileges of your consular office a convenient measure of your prerogative may be found in the course adopted and the treatment enjoyed by your consular colleagues.

I am, etc.,

HERBERT H. D. PEIRCE,
Third Assistant Secretary.

Mr. Conger to Mr. Hay.

No. 963.]

LEGATION OF THE UNITED STATES,
Peking, April 2, 1902.

SIR: I have the honor to inclose to you herewith a copy of a dispatch from Consul Miller, of Niuchwang, in regard to the favorable impression among the Chinese from the presence there during the winter of the U. S. S. *Vicksburg*, and requesting that our Government be urged to keep a gunboat at Niuchwang until the place is returned to the Chinese authorities.

I have, etc.,

E. H. CONGER.

[Inclosure.]

Mr. Miller to Mr. Conger.

CONSULATE OF THE UNITED STATES,
Niuchwang, China, March 29, 1902.

SIR: I have to report that the presence at this port during the winter of the U. S. S. *Vicksburg* has had the effect of creating a most favorable impression among the

Chinese toward our country. They are increasing their interest in the affairs of the United States and are anxious to enter into business relations with our people.

This is especially marked in regard to mining concessions.

It would be a mistake for our Government to send the *Vicksburg* away from this port at this time without replacing her with another gunboat, as it would be interpreted by the Chinese to mean that we were abandoning our present rights and privileges in Manchuria.

These people are much influenced by these outward evidences, and they measure the interest and intentions of a nation by the appearance or absence of its gunboats. I beg therefore that you will urge upon this Government the importance of keeping a gunboat in this port until the place is returned to the Chinese authorities.

I have, etc.,

HENRY B. MILLER, *United States Consul.*

RIOTS, UPRISINGS, MASSACRES, ETC.

Mr. Conger to Mr. Hay.

No. 878.]

LEGATION OF THE UNITED STATES,
Peking, January 9, 1902.

SIR: I have the honor to inclose translations of four recent imperial edicts, which were published in local Chinese papers, and which deal with an anti-Christian outrage perpetrated a few days ago in the province of Kansu. Details have not yet come to hand. The only news so far received has come by telegraph to the Chinese officials. At first it was reported that one foreigner only had been killed, but in the last edict it is admitted that one other has succumbed to his wounds. The native Christians murdered are said to be but four. As the whole village was plundered, however, and then set on fire, the suffering has no doubt been much greater than would appear from the brief reports given. The village in which the disturbance occurred is known as Hsia-ying-tzu, and is situated in the district of Ping-lo, in the prefecture of Ning-hsia, not far from the border of the province of Shensi. The criminals are believed to be mounted bandits, of whom, we are told, several have already been captured.

Inasmuch as the late "Boxer" leaders, Prince Tuan and Tung Fu-hsiang are still loitering in the city of Ning-hsia, the outrage is ascribed by high officials in Peking to their incentive. This report is confirmed by information given me last evening, and coming from a credible source, according to which a memorial from the Yangtze viceroys dealing with the subject was discussed at an imperial audience held yesterday. The memorial, it is reported, holds Gen. Tung Fu-hsiang responsible for the massacre, and petitions for his punishment. It is understood, too, that as a result of yesterday's deliberations an edict will be issued commanding the viceroy of Kansu and Shensi to seize Gen. Tung Fu-hsiang and put him to death. Whether the viceroy is strong enough to execute such an edict remains to be seen. General Tung is in the midst of his friends and coreligionists (Mohammedans), who have shown themselves in the past easily excited to rebellion.

The murdered missionaries are believed to be Belgians, as there is a Belgian Roman Catholic mission in the district, but as the Chinese names only have been telegraphed it is impossible to identify them. We shall have to await the slow arrival of the native post for any reliable account of the affair. Meanwhile it is gratifying to note that the Government is apparently alive to its responsibility, and is showing

most commendable zeal in its efforts to punish the offenders and make due compensation for losses and injuries sustained.

I have, etc.,

E. H. CONGER.

[Inclosure 1.—Translation.]

From the Peking Daily News of December 30, 1901.

On the 17th instant (December 27) the grand secretariat received the following imperial edict:

“I-k’uang, Prince of Ch’ing, and Wang-wen-shao have telegraphed a memorial, saying that Sung-fan had telegraphed them to the effect that a number of bandits had made a sudden attack upon the village of Hsia-ying-tzu, in the district of Ping-lo, had set fire to the village, robbed the villagers, and plundered the mission, injuring the missionary, Mr. Mei, and several native Christians; that he had already sent troops to give protection, and had telegraphed the governor of Shansi to watch the several roads and stop and seize (the bandits), etc.

“The court looks upon the missions and missionaries of the various provinces with equal kindness, and has repeatedly issued strict commands ordering the magistrates to earnestly exert themselves to give protection and declaring that not the slightest carelessness would be tolerated. It thus appears that the district magistrate of the place in question has not exerted himself to obey, and the result is this murder of a missionary and of native Christians, which is truly most lamentable. Let Sung-fan first of all impeach the careless commander of the defence camp and the district magistrate according to the facts, and further consult with Tsen Ch’un-hsuan, and quickly issue orders for troops to be sent out and rewards offered for the arrest of the criminals within a stated time, and let them make it their duty to seize and punish them, that none may be allowed to escape, so that the majesty of the law may be asserted and international obligations observed.”

Respect this.

[Inclosure 2.—Translation.]

From the Peking Gazette of January 1, 1902.

In the matter of the burning of the village of Hsia-ying-tzu, in the district of Ping-lo, in Kansu, by bandits and the plundering of the villagers and the murder of a missionary. We already, on yesterday, issued an edict, strictly commanding Sung-fan to consult with Tsen Ch’un-hsuan and to promptly seize and deal with the criminals, and further ordering him first of all to severely impeach the commander of the local camp and the district magistrate. Sung-fan now reports that he has carefully inquired into the neglect of the several officials to afford protection and requests an edict condemning them to punishment.

Let the retiring district magistrate of Ping-lo, Wang Shu-hai and the magistrate who has just taken charge, Li Han-ching, together with the colonel commanding the camp at P’ing-lo, Yang Ch’ing-an, all alike be deprived of their rank, and let them be required within a specified time to seize the whole lot of bandits in the case, and, if they seize them, to punish them with the extreme penalty of the law. If by the expiration of the time they shall not have seized them, let the officials be forever forbidden to hold office. Let the aforesaid viceroy (Sung) command all the civil and military officials in his jurisdiction to conscientiously endeavor to seize the criminals that the matter may be speedily ended, and let them give extra care to protect the missions, missionaries, and native Christians in their districts. Any carelessness will surely bring the severest punishment.

[Inclosure 3.—Translation.]

From the Peking Daily News of January 2, 1902.

On the 20th of the eleventh moon (December 30, 1901) the following imperial edict was received:

“In the matter of the murder of a missionary and several native Christians at a village in the district of Ping-lo, in Kansu, we have already issued edicts depriving

the local officials of their rank, and fixing a period within which they shall earnestly endeavor to arrest the bandits and to punish them when seized. We have now received a memorial from Sung-fan stating that the missionary, Mei, and several native Christians, four persons in all, have died from the effects of their wounds, and that he has, in addition to others, appointed a Tao-tai, Chang Yen-chi, to assist in the search, to superintend the pursuit of the murderers, and give safe protection, etc. The local, civil, and military officials are all charged with the responsibility of protecting the chapels and missionaries, but this sort of protection is wanting in earnestness, and as a result the missionaries and others have lost their lives, which is most deeply regretted by the court. Let Sung-fan at once take steps to make compensation, and further let him hasten to seize the murderers and put them to death. Let the said local officials, Wang She-huai, Li Han-ching, and Yang Ch'ing-an, who have already been deprived of their rank by edict, if they do not seize the criminals, be at once forbidden forever to hold office again, in accordance with the terms of the treaty."

Respect this.

[Inclosure 4.—Translation.]

From the Chihli Gazette of January 3, 1902.

On the 23d instant (January 2, 1902) the grand secretariat received the following imperial edict:

"We have already issued several edicts with reference to the missionary case in P'ing-lo Hsien, strictly commanding prompt action in the matter. Now we learn from the report of Sung-fan that the missionary, P'eng, has also lost his life through the injuries received, and that four of the bandits have already been arrested, etc. Let Sung-fan still proceed, as directed in former edicts, and let him make satisfactory compensation to the missionaries. As for the bandits who have been seized, let them be tried properly and at once put to death. As for the rest of the bandits, let strenuous efforts be made to pursue and take them, and, when taken, let them be punished."

Respect this.

Mr. Conger to Mr. Hay.

No. 951.]

LEGATION OF THE UNITED STATES,
Peking, March 19, 1902.

SIR: I have the honor to inclose herewith copies of telegraphic correspondence with Consul McWade, of Canton, and of notes to and from the foreign office relating to recent disturbances in the province of Kuangsi.

The trouble was caused by disbanded soldiers, and for a short time threatened to become serious. As the inclosed correspondence shows, the Chinese Government recognized the danger, and took prompt and effective measures to suppress the insurrection. The seat of the trouble was near the French frontier, and it was reported that two French officers were killed by the rebels. The facts as to this are, however, that a party of French officers were invited to a Chinese feast across the frontier, and on going home late at night through the mountains, were attacked by robbers and one of them was killed. The others returned to the Chinese post. But the affair seems not to have been connected with the political disturbances in any way. Consul McWade's telegram of yesterday indicates that the Chinese Government has the rebellion practically crushed.

I have, etc.,

E. H. CONGER.

F R 1902, PT 1—11

[Inclosure 1.]

Mr. McWade to Mr. Conger.

[Telegram.]

CONSULATE OF THE UNITED STATES,
Canton, February 27, 1902.

Learnt almost midnight rebellion Nan-ning. Kuangsi missionaries ordered by me request governor Kuangsi leave immediately under pledged escort to Wuchow. Details later.

MCWADE.

[Inclosure 2.]

Mr. Conger to the Foreign office.

F. O., No. 355.]

LEGATION OF THE UNITED STATES,
Peking, February 27, 1902.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to inform your highness and your excellencies that I have just received a telegram from the United States consul at Canton, saying:

"Learned almost midnight rebellion Nan-ning. Kuangsi missionaries ordered by me request governor Kuangsi leave immediately under pledged escort to Wuchow."

I hasten to acquaint your highness and your excellencies with the contents of the telegram, and have to request that you will be good enough to inform me if you have any further details of the disturbance.

I avail, etc.,

E. H. CONGER.

[Inclosure 3.]

Mr. Conger to Mr. McWade.

[Telegram.]

LEGATION OF THE UNITED STATES,
Peking, February 28, 1902.

Telegram received. Insist with Chinese officials upon complete protection of missionaries and advise later as your knowledge of the situation warrants, urging them take every precaution. Chinese Government acknowledges situation at Nan-ning very serious, and is ordering stringent measures taken. Keep me posted.

CONGER.

[Inclosure 4.]

Mr. Conger to the Foreign office.

F. O., No. 356.]

LEGATION OF THE UNITED STATES,
Peking, February 28, 1902.

YOUR HIGHNESS: I have the honor to again call your highness' attention to the telegram from the United States consul at Canton, which I forwarded to your highness yesterday, and which is as yet unanswered.

The said telegram reported a serious rebellion in Nan-ning Fu in Kuangsi, and, as there are Americans residing in that city, I am anxious to know the exact condition of affairs there, and must urge your highness to communicate to me at once whatever information you may have received upon the subject.

I trust you will comply with this very reasonable request without further delay.

I avail, etc.,

E. H. CONGER.

[Inclosure 5.]

The Foreign office to Mr. Conger.

F. O., No. 336.]

We have the honor to acknowledge the receipt yesterday of your excellency's note, saying that you had just had a telegram from the United States consul at Canton, telling you that he had heard that there was a rebellion at Nan-ning and that the missionaries at that place had requested the governor of Kuangsi to send soldiers to escort them to Wuchow, and your excellency asked that we would send you any information that we might have received, etc.

Our board has just received a telegram from the governor of Kuangsi, saying that Su Yuan-ch'un (lieutenant-general of Hupeh, but recently holding the same office in Kuangsi), had discharged some soldiers, and that other soldiers had been discharged at Kuangnan in Yun-nan, and that these men had joined with roving bandits and were pillaging in all directions so that the roads had become impassable; that, moreover, he had already sent troops to attack and destroy them, but that it would be difficult at once to suppress the disturbance; that he had received a telegram from Hui-jung, the prefect of Nan-ning, saying that large numbers of missionaries of various nationalities were traveling about and were in a very pitiable plight; that besides telegraphing him to use extraordinary precautions in giving protection, he had to request our board to communicate with the ministers of the various powers in Peking, and ask them to telegraph the consuls to telegraph the various missionaries, directing them for the present not to travel about, and to say that, if any of those living in the disturbed districts wished to return to their own countries, or to go to some other port, the local authorities would send them out of the province under safe escort, and that any valuables they might have which they could not carry with them, they could list with their value, and having signed the list, turn them over to the local official who would take care of them, and after peace should be restored, when the missionaries should return, they would be restored to them; that thus any confusion or mistake would be avoided, etc.

Our board has already memorialized, asking that an edict be issued, giving stringent orders for the suppression of the rebellion, in the hope that it may quickly be brought to an end, and directing the most thorough protection to be given to the missionaries and merchants of the various countries, and forbidding the slightest negligence, and we have to earnestly request your excellency that if you have any nationals, merchants, or missionaries traveling or living in the region, you will telegraph them to act in accordance with the suggestions of the governor of Kuangsi, and exercise the greatest caution.

Hoping that you will do this, we avail ourselves, etc.

Cards of the members of the Board of foreign affairs.

First moon, 21st day (February 28, 1902).

[Inclosure 6.]

Mr. McWade to Mr. Conger.

[Telegram.]

CONSULATE OF THE UNITED STATES,
Canton, March 1, 1902.

Rebellion Kuangsi; cause, disbanded soldiers. My request viceroy detail additional troops; notified governor hold responsible safety missionaries; converts property. Watching developments.

McWADE.

[Inclosure 7.]

Mr. Conger to the Foreign office.

F. O., No. 357.]

LEGATION OF THE UNITED STATES,
Peking, March 1, 1902.

YOUR HIGHNESS: I have the honor to acknowledge the receipt last night of the note of your highness in reply to mine of day before yesterday, with regard to the rebellion at Nan-ning Fu, in Kuangsi.

I note that you have a telegram from the governor of Kuangsi, who reports that not less than 10,000 soldiers have been discharged in Kuangsi and Yunnan, and that it will be difficult to quell the disturbance at once, etc.

I am very much astonished to learn that such a large number of troops should be discharged at one time in one district, and I beg to remind your highness that when the "Boxer" disturbance first occurred there was the same excuse of inability to suppress it at once.

I must urge upon your highness the importance of immediately issuing to the provincial authorities concerned the most stringent orders for the most thorough protection of the missionaries in the region affected by the rebellion. I have already telegraphed to the United States consul at Canton to advise the missionaries to use every precaution to secure their safety.

I avail, etc.,

E. H. CONGER.

[Inclosure 8.]

The Foreign office to Mr. Conger.

F. O., No. 340.]

We have the honor to inform your excellency that on the 23d of this moon (March 2) we received a telegram from the viceroy of the Two Kuang, saying that the rebels in Kuangsi were very numerous, and that he had the day before received a telegram from Governor Ting telling him that he had already sent two camps of irregular troops to seize the road to Lien-chou and hasten to Nan-ning, there to consult with the civil and military authorities of the place and join them in exterminating the rebels; that he had also ordered the taot'ai of the Kao-Lien-Ch'en circuit, Mr. Ch'in Ping-chih, to take advantage of his nearness to direct their movements, etc.

As in duty bound we send this letter to inform your excellency, and avail, etc.

Cards of the members of the Board of foreign affairs.

First moon, 24th day (March 3, 1902).

[Inclosure 9.]

The Foreign office to Mr. Conger.

F. O., No. 341.]

Prince of Ch'ing, Imperial commissioner, President of the Board of foreign affairs etc., sends this dispatch:

"On the 21st of the first moon of the XXVIII year of Kuanghsu (February 28), I received the following Imperial edict:

"We have received a telegram from Ting Chen-to, saying that Su Yuan-ch'un had discharged his soldiers, who had not given up their arms, and had joined themselves to discharged soldiers in Yunnan and south Kuangsi to the number altogether of not less than 10,000 men, who had united with local bandits and were plundering in all directions, so that the roads were impassable; that he had already sent soldiers to attack and destroy them, but that it would be difficult at once to suppress the disturbance; that he had received a telegram from the prefect of Nan-ning Fu, Hui-jung, stating that large numbers of missionaries of various countries were traveling about, etc.

"The discharged soldiers and local bandits having joined together and raised a rebellion, it is of the utmost importance that they should be quickly attacked and destroyed, in order to pacify the district. Let T'ao Mu, Ting Chen-to, Wei Kuang-t'ao, Li Ching-hsi, and Teng Hua-hsi at once send troops and earnestly attack and destroy them, and take the rebels who have raised the disturbance and quickly exterminate them, that the whole district may be speedily tranquilized, but it will not be allowed to act oppressively and bring calamity (upon the district).

"As to the missions and missionaries of various countries, and the native Christians, they must all be given complete protection. Let there be extra precautions taken to furnish protection, every place being thoroughly secured. There must be no carelessness to the production of further revolution. If the trouble is allowed to spread it will involve other places in calamity, and the said viceroy, governors, and other officials, will be held responsible. Let them, as occasion may require, telegraph and memorialize us, reporting the real facts as to the situation."

"Respect this."

Our board has already promptly telegraphed, transmitting the above edict to the said viceroy and governors, directing them to reverently obey the same and deal with the matter as ordered.

And, as in duty bound, we have reverently copied the edict and dispatched it to your excellency for your information.

Kuanghsu, XXVIII year, first moon, 24th day (March 3, 1902).

[Inclosure 10.]

The Foreign office to Mr. Conger.

F. O., No. 342.]

Prince of Ch'ing, Imperial commissioner, President of the Board of foreign affairs, etc., sends this dispatch:

"On the 25th of the first moon of the XXVIII year of Kuanghsu (March 4, 1902), I received an Imperial edict, saying:

"We have received a telegram from Ting Chen-to to the effect that discharged troops and bandits had combined together on the borders of Kuangsi and were plundering that region; that he had already sent troops to attack and destroy them, etc. We have already strictly charged T'ao Mu, Ting Chen-to and others to quickly consult together to suppress the disorder and at once exterminate the rebels, and to thoroughly protect the missions and missionaries. Let it be the duty of Su Yuan-ch'un to hasten back to Kuangsi, and again take general command of the troops guarding the frontier, and to earnestly search out and seize these rebels and destroy them, and make a satisfactory settlement of the affair. Wherever the said lieutenant-general may be at present, let T'ao Mu and Ting Chen-to at once send him word to proceed at double pace, and let there be no delay."

"Respect this."

Our board telegraphed the same day to the viceroy and governor to reverently comply with this edict.

As in duty bound, we have reverently copied the same and forwarded it to your excellency for your information.

Kuanghsu, XXVIII, year, first moon, 27th day (March 6, 1902).

[Inclosure 11.]

Mr. McWade to Mr. Conger.

[Telegram.]

CONSULATE OF THE UNITED STATES,
Canton, March 18, 1902.

Viceroy reports rebellion Kuangsi almost crushed.

McWADE.

Mr. Conger to Mr. Hay.

No. 956.]

LEGATION OF THE UNITED STATES,
Peking, March 27, 1902.

SIR: I regret to report that on the 20th instant there was an uprising in the southern part of the province of Honan, at the villages of Pi Yang, Kao-tien, Ch'u-Wa, T'ung-po, and Ch'eng-tien, which resulted in the destruction of considerable Catholic property and the massacre of some fifteen native Christians, several of whom were burned with the buildings. No foreigners have been injured.

It is not as yet quite clear whether the cause of the trouble was an attempt to collect increased taxes for indemnity purposes, and the

resultant anger of the populace toward missionary work as being responsible for the increased taxation, or whether it was some local quarrel. However, the Imperial Government has acted promptly, and immediately issued a severe punitive decree, translation of which I inclose.

We have some missionaries at Sin-yang, which is in the vicinity of the trouble. Hence, I immediately sent our Chinese secretary to the Foreign office to demand their adequate protection. They assured me that this should be done; that the trouble should not spread, and promised that as soon as they received further information, for which they had telegraphed the governor of Honan, it should be given me.

I have, etc.,

E. H. CONGER.

[Inclosure.]

Translation from Peking Gazette, March 25, 1902.

We have received a telegram from Hsi-Liang (governor of Honan) stating that the country people at Kao-tien, in Pi-yang district, and other places in Honan, collected a crowd to vent their wrath on the native Christians because of the indemnity; that they proceeded to a place called Ch'u-wa and killed four Christians of the "Yeh" family, after which they went to Ch'eng-tien and killed one Christian there; that when they reached U-chin-uon, in the T'ung-po district, they burned and destroyed a chapel and burned four Christians alive, besides killing four others; that no foreigners were injured. The telegram states also that troops have already been sent to restore order and to apprehend the rioters, and that the magistrate in charge of the Pi-yang district has been removed.

RESCRIPT.

We regard with the same compassion the chapels, preachers, and Christians in all the provinces, and have repeatedly strictly decreed that the viceroys and governors should earnestly enjoin on all under their jurisdiction to give them real protection. We further commanded that the people be instructed from time to time to bring about peace between them and the Christians. Our solemn injunctions were given and made public again and again. We expect, therefore, that they be reverently carried out without the slightest remissness.

Now, a church has been destroyed at Pi-yang and fourteen Christians have been killed. This is a serious matter. Such foolish riots are indeed detestable. We command Hsi-Liang to instruct the local authorities to ascertain the number of the criminals, to arrest them promptly, and to try and execute them on the spot.

We command that "Fei Hung-nen," the magistrate of Pi-yang, be cashiered, and that he given a limited time to arrest the criminals.

The magistrate of T'ung-po will hardly be able to clear himself of blame in this matter. We therefore command that he also be examined and impeached.

We have exceeding pity for the Christians who suffered, and command that the governor grant them compensation; also that he bring this affair to a speedy settlement. Let there be no delay.

Respect this.

Dated the 16th day of the second moon (March 25, 1902).

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Peking, May 3, 1902.

(Mr. Conger reports serious disturbances in southern portion of the province of Chihli; that the first troops sent were overpowered, and a larger force is being sent by the viceroy.)

Mr. Conger to Mr. Hay.

No. 980.]

LEGATION OF THE UNITED STATES,
Peking, May 8, 1902.

SIR: I have the honor to confirm my telegram^a of the 3d instant.

I inclose clipping from the China Times of the 7th instant and a translation of an excerpt from a Chinese paper, the Chihli Gazette, upon the same subject.

As near as can be at present learned, one Ching Ting-pin, a military graduate, taking advantage of the antipathy and distress caused by the heavy taxes collected for indemnity payments, has organized the villagers over a large district surrounding Chu-lu, in the southern part of this province, killed a party of thirty unarmed recruits on their way to their rendezvous, murdered a French Catholic priest, killed a number of Chinese Christians, and put the whole district in a state of mutinous insurrection.

The local troops were not sufficient to put down the uprising, and the viceroy has sent a force of 3,500, composed of infantry, cavalry, and artillery, which ought to have arrived there yesterday or the day before, with instructions to immediately stamp out the trouble at any cost. I inclose also translation of a note from the foreign office, dated the 4th instant.

Three members of the Independent "Houlding Mission" (Americans) were supposed to be at Ta-ming, which is a walled city just on the borders of the disturbed district, and I at once demanded their prompt and adequate protection. I think they should have remained there; but this morning I am advised by the viceroy that they are now en route to Pao-ting Fu under a safe escort.

The viceroy, Yuan Shih-k'ai, I am sure, will immediately put down the trouble if it is possible, because he knows well that the city of Tientsin will not be restored to the Chinese by the allied forces, nor will there be any further removal of foreign troops from this province, until he demonstrates his ability to promptly restore order and protect lives and property.

The French minister has sent one of his staff to make a careful investigation, as near on the ground as possible, so we are, therefore, daily expecting more authentic information.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

From the China Times, May 7, 1902.

THE INSURRECTION IN SOUTHWESTERN CHIH LI—MURDER OF A MISSIONARY—EXTENT OF THE RISING.

The Rev. A. H. Bridge, of the London mission, who recently left his post at Lung-Ping, some fifty-odd li from Sha-t'u-ssü, and returned to Tientsin, communicates to us valuable information as to the true state of affairs in the southwestern portion of the province, whence have come so many conflicting rumors.

Mr. Bridge states that he received a letter from the Lung-Ping district magistrate, warning him of danger impending in Shun-te-fu, Kwang-tsung, and Chülühsiens. He had, however, already left, and the letter followed him to Tientsin. There had been trouble in Kwang-tsung for some months past. In the early part of the first

^a Printed ante.

moon troops were sent to the district to put down the trouble. They remained in the adjoining city of Nankung, engaged in nothing but "shwo hwo," or "making peace," a process which ended in making matters worse. On the 14th of this moon the military Wei-yuan, Pao by name, who had been enlisting recruits in Wei Hsien for Yuan Shih-kai's army, on his way back to Pao T'ing Fu, passed through Sha-t'u-ssü, about 8 li from Chü-lu city. The insurrectionists had already hoisted their flag at Sha-t'u-ssü, a fact which Pao, unfortunately, did not know. The insurrectionists took him by surprise. He was killed, together with about 60 of his recruits, while the rest of them took refuge in flight.

On the 17th, 1,500 from Nan-Kung, consisting of 1,300 foot and 200 cavalry, went out to avenge the deceased Wei-yuen and put down the rebellion. They were defeated with a loss of 200 to 300 men, and 70 or more of their horses were captured by the insurrectionists.

A Jesuit priest, Lo Shun-fu, M. Homuller, was attacked and killed on the 19th of this moon at a village called Chi-chien, and some of the native teachers of his mission were also put to death. The priest's head is still hung up at the south gate of Chi-chien village. Chi-chien is in Chü Lu Hsien and near Sha-t'u-ssü. There is a local rumor to the effect that there are over 10,000 men banded together in a secret league which has spread all over the districts of Kuang Tsung, Chü Lu, and Wei Hsien. The head man of the league is named Ching-t'ing-wu. It was the simultaneous "rising of thousands in so many villages" which prompted the Lung P'ing magistrate to give Mr. Bridge a friendly warning of danger.

More troops are now going south to meet the insurrectionists. Five thousand are to be stationed in Ning-shing-hsien and 3,000 in Lung-ping-hsien.

A word may be added with regard to reports that the troubles are due to discontent at the imposition of taxes on the people to meet the indemnity payments. There are no missionary indemnities due from the district. It may be, of course, that the officials are exacting them, but no claims have been made by missionaries. The Protestant missions had scarcely any interests there, and sustained no losses. Mr. Bridge's station in the adjoining district of Lung-p'ing was not touched during the Boxer outbreak. The Roman Catholic missions sustained very little, if any, damage. The people remained quiet throughout the troubles of 1900, and if they are now being taxed to pay indemnities for damage done by others, not much surprise can be felt at their indignation. The insurrection has been threatening since last year, at all events since the close of the Chinese year. Mr. Bridge states that he knew of it in January last, and attempted to impress upon the local authorities and the Fan-tai in Pao-ting-fu the fact that trouble was brewing. No strong effort has been made to stop it. Most of the villages for an area of 40 li in Kuang-tsung and Chü-luh-hsiens are under arms with their flags flying, and the recent development and activity has thrown the adjoining Hsiens into such a state of unrest and uncertainty that all business is stopped.

[Inclosure 2.]

Translation from the Chihli Gazette, dated May 6, 1902.

A friend from Shun-tien-fu writes:

"The district city, Chu-lu, has been captured by the rebels. At this moment it is not known what has become of the district magistrate, Chao, and his family. The leader of the rebels is Ching-ting-pin, a native of Kwang-tsung, a military graduate of the second degree, over 50 years old. Before starting on this business he killed the members of his own family. The rebels are under his direction.

"The troops from Ta-ming and braves from other districts went to punish him, but were themselves repeatedly defeated. Particulars will follow."

[Inclosure 3.]

The Foreign office to Mr. Conger.

F. O. No. 359.]

With reference to the rebels in the south of the imperial domain (Chihli) who have given trouble, a telegram was received last evening from the superintendent of the northern ports, stating that Ching Ting-pin, the leader of the rebels, gathered a crowd in Kuang-tsung, Chihli, and incited them to disorder; that after a little while this mob was dispersed, but that the leader of these rebels fled to Chu-lu where he

posted charms and gathered a crowd with whom he went off to kill (Chinese) officers; that on the 19th of the current moon (April 26) a French priest, Lo-tse-pu, came across these rebels on the road and met death at their hands, but that troops were ordered with lightning speed to proceed and destroy them; also that they should search for the body and head of the priest and give it decent burial.

This day we had the honor of receiving the following imperial edict:

"As the rebel Ching Ting-ping is misleading the people and schemes improper things, Yuan Shih-k'ai is hereby commanded to send at once more troops to apprehend the leader of those rebels, to punish him with the utmost rigor of the law, and to destroy the rest of the rebels, root and branch.

"We deeply lament the death of the priest Lo-tse-pu, who was killed for no offense whatever, and command that he be properly buried, and that the chapels, preachers, and members of churches in his district be thoroughly protected. Whatever officials, civil or military, are found remiss in this respect shall be denounced to the throne for a warning to others.

"Respect this."

Feeling in duty bound to send this for your excellency's perusal, I embrace this opportunity to wish your excellency the blessings of the season.

Dated 27th day of the third moon (May 4, 1902).

Cards of Prince Ch'ing, Wang Wen-shao, Chu Hung-chi, Na-tung, Lien-fang.

Mr. Conger to Mr. Hay.

No. 990.]

LEGATION OF THE UNITED STATES,

Peking, May 19, 1902.

SIR: Continuing the subject-matter of my dispatch No. 980, of the 8th instant, concerning the uprising in the southwest of this province, I inclose copy of a letter from Rev. Mr. Houlding, who recently came through the troubled district, and also of a note to our Chinese secretary, Dr. Barchet, from the secretaries of the foreign office, to whom I had sent him to inquire more particularly about the situation.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Mr. Houlding to Mr. Conger.

PAOTING, May 15, 1902.

DEAR MR. CONGER: In reply to your esteemed favor of May 12, thank you for sending to the viceroy in our behalf, knowing that we were in southern Chihli. Yes, the officials were kind to the last degree. Viceroy Yuan had given me letters of introduction which were passports to favor with all the local magistrates in our field, and when this trouble arose they saw that we were well escorted, even sending an escort on the train to Paotingfu from Chengting. Of course this last was useless, but it accorded with their ideas of necessary courtesy.

Re the beginning of this present uprising. An authority of the magistrate at Nan Loa, Tai Ming and Kuang Ping, who all told substantially the same story in personal conversation, it is this: A French priest from Wei Hsien (in Kuang Ping fu, of Chihli province, with Wei Hsien, of Shantung) visited Tai Ming, attending some one sick there. During his absence some of the members of the Roman Catholic church at Wei Hsien smashed some idols which the Chinese were carrying about, and to which they were praying for rain, saying that they were useless mud, etc. The worshipers retaliated by demolishing the Roman Catholic chapel. In the m \acute{e} l \acute{e} e "all" the Roman Catholics were killed (which may mean those who did not escape; we found in Tai Ming many refugees from different parts). And the French priest was killed, together with a Chinese gentleman and the carter, who were returning from Tai Ming, at a point 10 lis from Wei Hsien, by a party awaiting them in ambush.

It was reported that 20,000 people were banded thus against the soldiers who were gathering to put down the trouble. The taotai, P'ang Hang Shu, and the commander of troops, General Ho, had both gone from Tai Ming to the scene of the

trouble (from, perhaps, 50 to 100 lis from Tai Ming), and were talking peace between soldiers and people.

My helper said there was evidence of the existence of the old I Ho Chuan under a new name, Lien Chuang, which I take to mean the Allied or Banded Villages. The Chinese are easily alarmed, so I do not know how much there is in this latter.

We met considerable companies of troops going down from Paoting southward, and we were told by a German who is under appointment as instructor in the Chinese army that 4,000 had been sent down. I saw no evidence of anything like this number.

The crops are poor in the section where the trouble centers. In most of the country from Paoting to Chang An and Tung Ming, in the extreme south of the province, and around Tsaouchou-fu, Shantung, the crops are fair to good, so far as wheat is concerned, and I do not look for any general uprising.

We found the people quiet and for the most part well disposed toward us. Many more individual inquiries as to the Christian doctrine than I have ever before met, in proportion to the people seen. Yet there was need of care, and we avoided the fairs and markets very generally, as in two places, at least, there was evident a spirit of hostility. In two places the cry was raised, "They have come; they ought to be killed." The question was put to me whether the foreign troops had all left yet or not. Everywhere America was spoken of favorably by officials and people.

Respectfully,

HORACE W. HOULDING.

[Inclosure 2.]

The secretaries of the Foreign office to Dr. Barchet.

A day or two ago you came in person to inquire about the state of affairs at Kuang-tsung.

We are now in receipt of a telegram from the superintendent of trade for the northern ports, as follows:

"The consecutive reports which have come to hand are to the effect that the runaway rebel leader, Liu-hsi-hai, gathered together a gang of several hundred men, who plundered the people on their way as they pushed westward; but the detachments of soldiers on guard attacked them in the flank, and routed them at every point.

"On the 12th of May they came back to P'ing-hsiang and Ch'u-chow, only one hundred odd strong, but the drilled troops at Ta-ming cut them off, the rebel leader Liu being among the slain.

"The southern part of this province is now quite in peace.

"As to the fight at Chien-chih-ts'un, over a thousand were killed. According to the testimony of the clansmen and neighbors of Ching-t'ing-pin, who identified his body, this rebel chief was killed in that battle.

"I have instructed the several corps to keep a sharp lookout, and have delegated the taotais of Ch'ing-ho and Ta-ming to attend to the work of reconstruction with the help of the local prefects and magistrates, and thus hope that the trouble will be quite stamped out."

Feeling in duty bound to send you this note, we hope that you will convey the contents to His Excellency Conger.

With the compliments of the season.

Cards of the secretaries of the foreign office.

Dated May 17, 1902.

Mr. Conger to Mr. Hay.

No. 1061.]

LEGATION OF THE UNITED STATES,

Peking, August 6, 1902.

SIR: I have the honor to report recent serious antforeign riots near Chentu, in the province of Sze-ch'uan, in which a number of native Christians have been massacred and chapels destroyed.

My only information from our missionaries is contained in two telegrams from Dr. Canright, which I inclose, together with copy of my telegraphic reply.

However, the situation may be pretty well understood from the correspondence had with the foreign office, copies of which I inclose.

I have had, besides, two personal interviews at the foreign office, in which I have endeavored to impress upon them the importance of immediate and effective action, and that it was useless to be sending out orders to officials which were not obeyed.

I told the ministers that, judging from past experience, it was my opinion that the delinquent officials ought to be removed and others sent who could and would suppress the riots, preserve order, and protect life and property. They said they were taking every means possible, and that I might rely upon the early restoration of order.

I have, etc.,

E. H. CONGER.

[Inclosure 1.—Telegram.]

Dr. Canright to Mr. Conger.

CHENTU, June 20, 1902.

Sze-ch'uan repeating 1900. Chapel burned, 10 Christians killed. Boxers multiplying four months; officials lax.

CANRIGHT.

[Inclosure 2.—Telegram.]

Mr. Conger to Dr. Canright.

PEKING, June 23, 1902.

Telegram received. Demand from local officials adequate protection for missionaries and native Christians and keep me fully advised.

CONGER.

[Inclosure 3.]

Mr. Conger to Prince Ch'ing.

LEGATION OF THE UNITED STATES,

Peking, June 23, 1902.

YOUR HIGHNESS: I have this day received telegraphic information from Dr. Canright, an American medical missionary at Chentu, Sze-ch'uan, that 10 Christians have been killed and a chapel burned by Boxers, who are multiplying.

There are several American missionaries with many chapels and converts in the province of Sze-ch'uan, and it is my duty to bring this matter at once to the attention of your highness, in order that necessary and adequate measures may be quickly taken to preserve life and property there.

Experience has taught us that the only safety is in stamping out these troubles at their very inception.

I improve this opportunity to assure your highness of my highest consideration.

E. H. CONGER.

[Inclosure 4.]

Prince Ch'ing to Mr. Conger.

I beg to inform your excellency that we had the honor of receiving the following imperial edict:

"Some time ago a number of local outlaws banded together in the district of Tze-yang and made trouble, whereupon I dispatched troops to disperse them. The leading criminal, Li Kang-chung, and others, were arrested and executed; but now the

magistrate of the place, Ma Ch'eng-chi, reports that at T'ien-ku-chiao, in his district, outlaws over a thousand strong suddenly made a night attack and destroyed a church which the British or American society had built. The preacher, Chu-ch'eng-wei, and four church members were killed. They also burned some houses and killed three Christians. I sent troops in all haste and deputed besides an official with rank of taotai to proceed with braves to attend to this matter.

"Such fierce and lawless outbreaks should certainly be quickly put down. They must on no account be allowed to spread. We command Kwei-chun to strictly order the troops to disperse the rebels and their followers quickly, to seize the ringleaders and to punish them according to the rigor of the law, and so nip the rebellion in the bud.

"We feel great pity for the missionary or preacher, and others who for no fault of theirs have lost their lives, and command that adequate relief may at once be given.

"As for Ma Ch'eng-chi, the magistrate of Tze-yang, who, it is said has not been long in the office, because he was remiss in taking precautionary measures we command that he be removed from office and that he be given a limited time within which to capture the criminals.

"As there may be outlaws in other places who rouse the suspicions of people, spread rumors, and make trouble, the local authorities should be sternly instructed to make careful search and put a stop to all such things; to take special precautions so as to get rid of bad characters, and to encourage the law-abiding people. They must give real protection to the chapels and to the missionaries without the least remissness."

Besides sending a telegram to the viceroy of Sze-ch'uan that he should at once carry out the imperial will, as in duty bound, we have reverently copied the edict and send it for your excellency's information.

With compliments of the season.

Cards of Prince Ch'ing, ministers of the board of foreign affairs.

Dated 21st day of the fifth moon (June 26, 1902).

[Inclosure 5.]

Foreign office to Mr. Conger.

We have received a telegram from the viceroy of Sze-ch'uan to the effect that Chu ch'en wei was a Chinese, and that during the last few days telegrams from various officials report the capture and punishment of quite a number of the leading Boxers, and that they are on the sharp lookout for those still at large.

As in duty bound, we send this for your excellency's information, and with compliments of

WANG WEN-SHAO.
CH'U HUNG-CHI.
NA-TUNG.
LIEN-FANG.

Dated 2d of sixth moon (July 3, 1902).

[Inclosure 6.—Telegram.]

Dr. Canright to Mr. Conger.

CHENTU, July 29, 1902.

Demanded protection in vain. Massacre and robberies daily. All in great danger.
CANRIGHT.

[Inclosure 7.]

Mr. Conger to Prince Ch'ing.

LEGATION OF THE UNITED STATES,
Peking, July 30, 1902.

YOUR HIGHNESS: On the 23d of June I called the attention of your highness to the burning of a chapel and the murder of a number of Christians in the province of Sze-ch'uan, near Chentu.

On the 25th of June your highness replied, sending me a copy of an edict ordering the viceroy Kwei-chun to seize and punish the criminals, nip the rebellion in the bud, restore order, and give real protection to the missionaries, their chapels, etc.

But I regret to inform your highness that this edict has not answered the purpose, for I am just in receipt of a telegram from Dr. Canright, from Chentu, saying that he has demanded protection in vain; that robberies and massacres are occurring daily, and that all are in great danger.

It is evident, then, that some more effective measures must be taken by the Imperial Government in order to avoid the fearful responsibility of a further loss of life and property.

There are many American missionaries in that province and it is my duty to demand their full and complete protection.

I will thank your highness, also, to ascertain quickly the actual situation, and to inform me of the real condition of affairs there.

Confident that your highness will appreciate the necessity of prompt and effective action, I improve the occasion to reassure your highness of my highest consideration.

E. H. CONGER.

[Inclosure 8.]

Prince Ch'ing to Mr. Conger.

We are in receipt of your excellency's letter, drawing our attention to the burning of a chapel and the murder of a number of Christians in Chentu, province of Sze-ch'uan; and that according to a telegram from Dr. Canright, who demanded protection, robberies and massacres are of daily occurrence, and that all are in great danger. Your excellency points out that some more effective measures must be taken to avoid the fearful responsibility of a further loss of life and property, and asks us to ascertain quickly the actual situation and to let you know the real condition of affairs there.

With regard to the above, several edicts have been issued instructing the viceroy of Sze-ch'uan to take strong measures for the capture of the leading criminals, and to suppress the troubles at an early date, and not to be again remiss in his duty.

We are now in receipt of a telegram from the viceroy of Sze-ch'uan who states that the rebel, Hsiung Ch'ing-he, of Jen-shou-hsien, made his appearance suddenly at the head of a crowd and burned a chapel and some thirty odd (chien) houses early in the present moon, and also killed a Christian.

That the same crowd also disturbed the peace of P'eng-shan hsien, killing in that place three members of the family of a Christian, Yuan Tsu-sheng.

Whereupon, the viceroy instructed Taotai Ts'ao wei to proceed without delay at the head of a squad of soldiers, to capture and punish these outlaws; and as there were Boxers at Hwa-yang, Chin-t'ang, and Ch'ien-chow, committing plunder and murder, he dispatched troops to those places, who killed some twenty or more people.

According to a later telegram, the leader of the riot against the church at Jen-shou hsien, Hsiung Ch'ing-he, was captured by Ts'ao taotai, and orders were given to have him beheaded and his head exposed.

The rebels at Hwa-yang, Chin-t'ang, and Chien-chow were on the same day attacked by the Government troops, who fought all day and routed the rebels, killing from three to four hundred of them.

The judge of the province is superintending the suppression of the rioters, and he has given strict orders to afford adequate protection.

He further states that there is no need for the missionaries to seek temporary refuge.

As in duty bound, we send this for your excellency's information, with compliments.

Cards of Prince of Ch'ing and members of the board.

Dated 29th of sixth moon (August 2, 1902).

Mr. Conger to Mr. Hay.

No. 1063.]

LEGATION OF THE UNITED STATES,
Peking, August 7, 1902.

SIR: I have the honor to transmit translation of two Imperial edicts published in the Official Gazette yesterday, making several changes among provincial officials.

The most important is the removal of Kw'ei-chun as viceroy of Sze-ch'uan, and the appointment of Ts'en Ch'un-hsuan instead, occasioned, no doubt, by the failure of the former to suppress the recent serious disturbances there. (See my dispatch No. 1061, of this date.)

It will take the new viceroy three months to reach his post, but it is to be hoped that even the news of his coming will tend to improve the present situation.

The following is a very brief official history of the new appointees:

Ts'en Ch'un-hsuan, governor of Shan-si, was recently appointed governor of Kuang-tung. He is now suddenly appointed acting viceroy of Sze-ch'uan.

Li Hsing-jui was minister to Japan, 1887; retired to be taotai of Shan-tung, 1895; became salt commissioner, 1896; judicial commissioner Fu-kien, 1897; financial commissioner Fu-kien, 1899; governor of Kiang-si.

Ko Feng-shih, compiler Han-lin, literary chancellor Shen-si, 1888.

Ting Chen-toh, governor of Yun-nan, 1898; appointed governor of Shan-si, 1902.

Chao Erh-hsun, taotai of Kwei-chow, 1893; judicial commissioner of An-hui, 1895; judicial commissioner of Shan-si, 1898; financial commissioner of New Dominion, 1898.

I have, etc.,

E. H. CONGER.

[Inclosure 1.—Translation.]

From the Peking Gazette of August 5, 1902.

EDICT.

Ts'en Ch'un-hsuan is hereby commanded to come to Peking for audience. Ting Chen-toh not having as yet reached his post as governor of Shan-si, we command Chao Erh-hsun to be governor of that province for the time being. Respect this.

[Inclosure 2.—Translation.]

From the Peking Gazette of August 5, 1902.

EDICT.

Kw'ei-chun (viceroy of Sze-ch'uan) is hereby commanded to vacate his post. We command Ts'en Ch'un-hsuan (late governor of Shan-si) to be acting viceroy of Sze-ch'uan, and command Li Hsing-jui (governor of Kiang-si) to be acting governor of Kuang-tung instead of Ts'en.

Ko Feng-shih is commanded to take the place of Li as governor of Kiang-si as *locum tenens*.

Respect this.

Mr. Conger to Mr. Hay.

No. 1079.]

LEGATION OF THE UNITED STATES,
Peking, September 2, 1902.

SIR: On the 15th ultimo two British missionaries, J. R. Bruce and R. H. Lewis, were massacred at Ch'en-chow, in the province of Hunan.

The facts as at present reported are that during the recent scourge of cholera in that vicinity a great many deaths were occurring, and

some one started the story that the foreigners were giving out poisonous medicine which was the cause of these deaths. Many of the ignorant and superstitious Chinese believed this story, a mob was raised, and the burning of a chapel and the murder of two missionaries was the result.

The British minister immediately took up the matter and has sent a consular officer from Hankow to investigate.

An Imperial edict concerning the affair was promptly issued, copy of which I inclose, and the Chinese Government says everything possible is being done to prevent the trouble from spreading.

I have, etc.,

E. H. CONGER.

[Inclosure.]

Imperial edict.

We have this day had the honor to receive the following imperial decree:

“Yu Lien-san’s memorial is to the effect that the Wu-Ling-hsien magistrate reported that on the 12th day of the seventh moon (August 15, 1902), owing to the great prevalence of cholera, rumors were set afloat resulting in certain outlaws destroying a chapel; they also killed two missionaries, Pu Shao-tsu, J. R. Bruce, and Lo Kuo-ch’uan, R. H. Lewis, which facts had not yet been reported by the prefect and magistrate of the district. The distance between Ch’en-chow and the provincial city is over 800 li. The governor sent with great speed orders to the Ch’en-yuan taotai to proceed in person to make investigation and deal with the case.

“The governor also sent provincial troops to proceed posthaste and capture the criminals.

“With regard to the chapels and the missionaries throughout the provinces, the Throne has repeatedly issued edicts commanding that they be properly (adequately) protected, and yet there are still wicked fellows who recklessly start rumors inflaming stupid people, with the result that serious crimes are committed, which most certainly must be severely punished as a warning to any who might transgress in the same way.

“We command Yu Lien-san to send at once another high official to make joint investigation and trial, and by all means to get hold of the chief criminal and to punish him with the utmost rigor of the law according to his deserts.

“They must also protect the churches and the Christians, and not be in the least remiss in their duty.

“As to the British missionaries, Pu Shao-tsu and Lo Kuo-ch’uan, Messrs. Bruce and Lewis, who were killed, entirely innocent of the charge laid against them, we have great pity for them and command that proper relief be given.

“If the prefect and magistrate are found not to have exerted themselves to afford protection, we command that they be at once impeached. No leniency will be shown them by the Throne.”

Respect this.

Mr. Conger to Mr. Hay.

No. 1091.]

LEGATION OF THE UNITED STATES,
Peking, September 17, 1902.

SIR: Referring to my No. 1079, of the 2d instant, concerning the murder of two British missionaries at Ch’en-chow, in the province of Hu-nan, I have the honor to inclose copy of an imperial edict published on the 11th instant, and to be, etc.,

E. H. CONGER.

[Inclosure.]

Imperial edict of September 11, 1902.

With regard to the missionary case at Ch'en-chou in Hu-nan, we have already repeatedly ordered Yu Lien-san to promptly arrest the guilty parties and severely punish them, as well as to report the military officials, district magistrate, and other officers who were neglectful in giving protection, for cashiering by imperial decree.

We are now in receipt of a telegraphic memorial from the said governor, reporting that two of the criminals, Chang Pai-hou and Chang Yung-t'ai, have already been tried and beheaded; that in addition he has arrested several other rioters who are now undergoing examination, and impeaching several military and civil officials.

The acting district magistrate of Yuan-ling-Hsien, Wan Chao-hsin, was not energetic in suppressing the false rumors when they first began to spread about. Gen. Yen Wu-ling, commander of the I camp, did not take measures to secure protection, but permitted the trouble to grow to serious proportions. Both are deserving of punishment. Let them first of all be cashiered and remanded for examination in connection with the case.

Respect this.

Mr. Conger to Mr. Hay.

No. 1099.]

LEGATION OF THE UNITED STATES,
Peking, September 25, 1902.

SIR: Concerning the Boxer trouble in Sze-chuan, which was the subject-matter of my dispatch No. 1061, of August 2, I have the honor to inclose additional correspondence giving further particulars.

The occasion of my last note to the foreign office was the receipt by the French legation here of alarming telegrams from their missionaries at Chen-tu, which proved afterwards to have been somewhat exaggerated.

I do not think the troubles are over, but the Government seems to be alive to the situation, and doing what it reasonably can; but at so great a distance from the central government, and it not being able to rely absolutely either on the local officials or soldiery, has to manage affairs very carefully.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Dr. Canright to Mr. Conger.

CHENTU, WEST CHINA, *August 6, 1902.*

DEAR SIR: Your letter of June 25 just to hand. Allow me on behalf of my colleagues to thank you most heartily for your prompt care in this matter. As I was the first to learn of this movement and report it to the foreign office here, I will try to tell you something of its beginning.

Here the "Boxers" are called "Hung Lantern Society," "Boxing Bandits," and "Spirit Boxers." I first heard of them through our evangelist at Yang Hsien, which is about 100 hundred miles southeast of here. On February 28 I went to the foreign office and notified them of this uprising in that district. At that time these societies were practicing in about forty villages in the Tsi Cheo prefecture. Much money, rice, and wine had been given by the head men of these villages to the Boxers. Their motto or cry is, "Uphold the Ch'ing, exterminate the church, kill foreigners." Their practices are very similar to those of the north, with which you are already too familiar.

As practically nothing had been done about the matter, I was obliged to call at the foreign office again within a month and warn them more forcibly that this was an important movement which they must put down at once, or it would soon be beyond their control. Again fair promises were made, but nothing done to stop the practices and growth of the movement so far as we could learn.

Next thing we heard a band of 100 or more Boxers entered Yang Hsien about dark one night and went to the yamen. It was reported that they went to demand permission to destroy our place there. The magistrate paid little attention to them. They became enraged, overturned his tables, and smashed up things about the yamen. A fight followed in which one of his soldiers was killed. Then they were about to rush to the "Fu Yin Ta'ing" to destroy it, but the natives had closed and barricaded the street gate. Eventually the official opened one of the city gates and let them escape. *Next morning he sent soldiers to catch them!*

Soon after this two families of our converts in the country were attacked. The people escaped, but all of their property was destroyed. Later Yang Hsien itself was attacked, but the Boxers were driven off and over a dozen killed. This first showed the people that the Boxers' claims to having iron bodies, and that guns and knives could not kill them, were false. If this repulse had been followed by quick, summary punishment, the movement would have been checked, if not entirely stopped.

A few days later (June 18) we received a telegram in Chinese saying that our evangelist and nine others at a country station (T'ien Ku C'ho) had been massacred. Their dwellings and chapel were burned. The heads, hands, and feet of four were cut off and carried away. This has since been confirmed, except as to numbers. Only seven were killed. Three have recovered. Most of our converts have fled from there and the surrounding villages, but several others have been severely wounded and the homes of many destroyed. Refugees from T'ien Ku Ch'ow say the Boxers expected to find Rev. W. E. Manly of our mission at T'ien Ku Ch'ow the night of the massacre, but fortunately he had left early the previous morning. Of course we immediately reported this terrible thing to the foreign office, whereupon Cheo Tao Tai, the man who put out an infamous proclamation at the time of our riot here in 1895, was sent down at the head of some soldiers, but he only scattered the Boxers instead of destroying them, as he ought to have done.

Rev. A. W. Manly has since visited the scene of the massacre with a strong escort, but was unable to do anything toward settlement while present conditions last. This week he has been obliged to leave the prefecture entirely, leaving us quite dependent upon native reports for our information from Tsi Cheo. All through that prefecture south and east of here the Boxers seem to have everything pretty much their own way now, hence rob and murder not only Christians, but all who oppose them.

On July 28, in Kin Ta'ng Hsien district, 30 miles northeast of here, the foreign office reported 10,000 Boxers. Several villages have been destroyed by them. More soldiers were sent out and many on both sides killed. Not a few villages are deserted, and still large bands of these marauders continue their work of destruction. When attacked in one place they disperse only to appear elsewhere.

At present time there is serious fighting in Han Cheo district, one day to the north of us. Soldiers said to be victorious.

The immediate cause of my telegram of July 29^a was the suggestion from the foreign office that we here be prepared to flee on short notice into the imperial city (examination halls) for protection if matters grew worse. That was two weeks ago. We have since had many disquieting rumors, but nothing more serious. The officials were evidently frightened, and they scared us. Even now it is difficult to judge if they are really in earnest about putting down this business. When the officials themselves report 10,000 Boxers in one place and they have only about half that number of poor soldiers, the situation certainly does not look reassuring.

Conditions have been propitious here this year for such an uprising as this. It has been very dry until within six weeks. Only had two good rains from January to July. Thus famine stared many in the face, and it is not, at any time, an easy matter to govern people when they are hungry. When this movement sprang up it seemed to provide an outlet for a local manifestation of the general unrest which is so prevalent all over the Empire.

Ma, the magistrate at Yang Hsien, has been degraded entirely, and has been here begging us to interfere in his behalf. Of course we can not do it, although he may not be entirely at fault.

Nine foreigners who were away at the mountains for the summer have hastily returned to the city. Three foreign families have been obliged to leave their homes in smaller cities and come into the capital.

Triennial examinations are set for early in September, which, under present circumstances, makes us rather anxious. Our compound is constantly guarded by

^a Printed, page 172.

several tens of soldiers and runners. We are ordered to be very careful about admitting strangers to the place, and are warned not to go on the street without an official escort.

I hope this too-long letter will give you some idea of the conditions in which we are living.

H. L. CANRIGHT.

[Inclosure 2.]

Mr. Manly to Mr. Wilcox.

CHUNG-KING, CHINA, August 18, 1902.

DEAR SIR: I take the liberty of reporting to you the Boxer troubles in this province, and the attack made upon a missionary station over which I have charge.

The disaster occurred June 17 at a place called Tien Ku Chow, which is under the jurisdiction of Yang Shien and Tsi Cheo. Tien Ku Chow is situated in the country, and consists of a cluster of eight Chinese houses and the church. There were about ninety people living there, all more or less connected with the church. Of the Boxers who made the attack, some were of the vicinity and some came from a distance.

They came at midnight, and first attacked the church. They broke in the door, and the preacher living there, a fine old man, was the first killed. Next they set fire to the house near the church and burned the inmates to death—father, mother, and son.

Then they killed three others of those trying to escape, and wounded three more. After that they looted and burned all the houses excepting the church, which, not being very inflammable, was only partly destroyed. Lastly, they cut off the heads, hands, and feet of their victims.

Their next move was to go into a hill fortress some fifteen miles from Tsi-cheo, where they intrenched themselves. Soon a large number of Boxers collected, doubtlessly 500 or more. Soldiers were brought from Chentu. At first their number was entirely insufficient, but when this difficulty was overcome the great mistake was made of ordering the soldiers to disperse the Boxers, not kill them. Since then they have several times gathered together, committed some depredation, and disbanded.

The conditions have been favorable to their continuing a menace to peace and good government. The severest droughts of many years have prevailed over a large portion of this province. Rice is very dear. In a number of places hundreds of poor people have banded together as beggars. Besides this, the officials were very negligent in their management of the affair. It is thought that the viceroy himself gave orders to this effect. It is certain that the local officials in all the villages did nothing to oppose the Boxers.

Mr. Cady, of Chentu, telegraphed the news to Peking. Minister Conger asked him to keep him well informed. I do not know that he has sent him any more information, since there was so little definitely known. The dead were buried, the wounded were sent to Chentu for treatment, and the refugees to the number of 70 went to Tsi-cheo or Chentu. Negotiations were soon begun with the foreign office at Chentu and the Cheo official at Tsi-cheo in regard to a settlement of the affair. We did not assume authority to settle the trouble, but distinctly told them that anything which they might agree to with us would be referred to the United States authorities for their decision. Without any suggestion from us, the Shien official was degraded according to treaty. The Cheo official was retained, and we on our part do not object to this, provided he finishes the business justly. He has not been honest in some of his dealings with us, but has done as well or better than the average Chinese official.

The terms of settlement which we discussed with them were as follows:

First. That a committee of some of the local officials and gentry assist in fixing the amount of the indemnity for property.

Second. That a bond be given by each of the three following parties, namely, the Cheo official, the Shien official, and the local officials of the three villages nearest Tien Ku Chow, to the effect that if such a disaster of such magnitude should again occur in connection with the Tien Ku Chow church the three parties would each forfeit to the American Methodist Episcopal Church the sum of 5,000 taels of silver, the bonds to be made secure by report to the throne, erection of a tablet at Tien Ku Chow, etc.

Third. That the members of the church are not to use their connection with the church to aid them in lawsuits, and, on the other hand, equal justice is to be given them as others.

Fourth. That if these conditions are carried out we will not ask for indemnity for lives taken.

The first three clauses were to be engraved on the proposed tablet. The first clause was carried out, though I told them that I would not consent to the estimate unless the other conditions were carried out. The amount agreed upon was 2,000 taels only, since our people were very poor. As to the second clause, it would be perfectly satisfactory to have the amount of each bond reduced to 3,000 taels. It was understood that a loss greater or less than this one was to be reckoned accordingly.

I was going on to press for this settlement, subject to your decision, when greater troubles near Chentu made it impossible to do anything more at the time. The fresh disturbances made it necessary to call in the Christians of the neighboring villages to Tsi-cheo for safety. After doing what I could for their protection I returned to Chung-king.

I should be glad to know what you think of the plan of settlement outlined. Expect to start for Tsi-cheo about September 2 unless the indications are that it would be unsafe. There is a telegraph station at Tsi-cheo. Should be glad to have any instructions or communications from you.

Will you kindly send the inclosed copy of this letter to Minister Conger, inasmuch as he desired to be kept informed of these affairs.

I remain, etc.,

W. E. MANLY.

[Inclosure 3.—Telegram.]

Dr. Canright to Mr. Conger.

CHENTU, August 28, 1902.

Situation still serious. Urge new viceroy hasten.

CANRIGHT.

[Inclosure 4.]

Mr. Conger to Prince Ch'ing.

LEGATION OF THE UNITED STATES,
Peking, August 30, 1902.

YOUR HIGHNESS: A recent telegram from Chentu indicates that the state of affairs there is still serious.

I must therefore urge the Chinese Government to take prompt measures to restore order in the disturbed district.

I embrace, etc.,

E. H. CONGER.

[Inclosure 5.]

Mr. Conger to Prince Ch'ing.

LEGATION OF THE UNITED STATES,
Peking, September 18, 1902.

YOUR HIGHNESS: I regret to again be compelled to call the attention of your highness to the very serious troubles in the province of Szechuen; but recent telegraphic information from Chentu reports increasing disturbance and danger there, instead of a suppression thereof.

The movement seems to be a veritable repetition of the Boxer uprising of 1900; the action of local officials the same; the efforts of the Government no more successful; and the ultimate result must be the same.

The experience of 1900 proves that the terrible massacre of that year might have been prevented by prompt, energetic, and repressive action by the Government. I believe the same might be accomplished in this case.

All Europe and America are watching the progress of this revival of "Boxerism"

in Szechuan; and China can ill afford to let the impression go forth that she either can not or will not immediately suppress it.

There are several Americans in the disturbed province, and it is my duty to again demand that such prompt and effective measures be taken as will insure their safety and protection.

I improve the opportunity, etc.,

E. H. CONGER.

[Inclosure 6.]

Foreign office to Mr. Conger.

F. O., No. 415.]

We have the honor to make the following reply:

A few days ago we received your note saying that the disturbance in Szechuan was daily increasing and that some steps should be taken to suppress it and give protection, etc.

Our board at once sent a telegram to the viceroy of Szechuen, and has now received a reply from the said viceroy saying that on the 14th (instant) the rioters recklessly entered the provincial capital to the number of twenty odd, of whom 14 were at once seized and beheaded; the next day, outside the north gate near the church, several more of the fleeing rioters were seized; that now the cities of Tzu-chou, Tzu-yang, and An-yo, all nests of the rebels, have already been captured; that eastward as far as Chien-chou and in that vicinity the balance of the rebels have also been seized after repeated efforts, but that in T'ai-ho Chen of the T'ung-ch'uan prefecture the rebels had gathered together to the number of several hundred, and that when the soldiers would come that way they would go into hiding; but, when the soldiers would take their departure, they would reassemble, and then there would suddenly occur a robbery of travelers; that there was no truth in the report that there were more than 30,000 rebels, that the provincial capital was surrounded, and that the missions in and out of the city were in distress; that at present the examinations were being conducted and that they were being completed in perfect peace, which was clear evidence of the real situation; that the people of Szechuen were easily excited, and too many false rumors were afloat; that within a month several camps of soldiers would be added and an organization of militia effected, which could be employed for purposes of protection; that the acting viceroy, Ts'en, had already reached Mien-chou and before many days would be in the capital, etc.

As in duty bound we send the substance of this telegram in reply to your excellency.

We avail, etc.

Cards inclosed.

Eighth moon, 23d day (September 24, 1902).

Cards of Wang Wen-shao, Na-t'ung, Ch'u Hung-chi, and Lien-fang.

Mr. Conger to Mr. Hay.

No. 1104.]

LEGATION OF THE UNITED STATES,

Peking, October 3, 1902.

SIR: Continuing the subject-matter of my Nos. 1061, of August 2, 1902, and 1099, of September 25, 1902, regarding the "Boxer" disturbances in Szechuen, and inclosing a copy of a note from the foreign office of September 28.

I have, etc.

E. H. CONGER.

[Inclosure.]

The Foreign office to Mr. Conger.

We have the honor to inform your excellency that we have just received a telegram from the viceroy of Szechuen, saying that T'ai-ho Chen in the prefecture of T'ung-Ch'uan, the nest of a big gang of "Boxers," had been thoroughly pacified by their extermination; that the Boxers in the district of An-yo, Tzu-chou, and Tzu-yang, and the region round about had also been routed and scattered. We received

another telegram also, saying that measures had been taken for the protection of all churches, schools, and hospitals in Szechuen; that in times when there is no trouble the department and district magistrates send police to protect them, and in times of trouble send soldiers in addition to remain on guard; that sometimes where the people and church are on friendly terms they object to the presence of soldiers and police, and in some cases, in wild out-of-the-way places and in mountain nooks, it is difficult to look after them, but in no case do they fail to exhaust their minds and strength to take measures for their protection, etc.

As in duty bound, on receiving this telegram we have transmitted it to your excellency for your information.

We avail ourselves of the opportunity to wish your excellency the compliments of the day.

Cards inclosed.

Eighth moon, 27th day (September 28).

REFORM ELICITS AIMING AT REORGANIZATION OF INSTITUTIONS OF LEARNING, AND RESTORATION OF FRIENDLY INTERCOURSE WITH FOREIGNERS.

Mr. Conger to Mr. Hay.

No. 885.]

LEGATION OF THE UNITED STATES,
Peking, January 16, 1902.

SIR: I have the honor to transmit herewith translations of several edicts which have appeared within the past week, and which seem to show an earnest desire on the part of the Chinese court to placate the foreign powers by the punishment of several officials implicated in the "Boxer" outrages, by strict orders for the protection of the missionaries, and by educational reforms which may secure more intelligent officials for the management of international affairs than have been available in the past.

The usual depreciation of western learning appears, however, in the expectation that within a few months enough may be learned to render men efficient in the discussion of the problems which need an acquaintance with modern science for their solution.

This cheap estimate of any knowledge which the West can give them has vitiated all the educational reforms that have been projected by the Chinese in the past.

The decision to reopen the Imperial University at Peking is an important one, but the trusting of its entire management to Mr. Chang Po-hsi does not augur well for its success, although he is a progressive man and was one of the supporters of K'ang Yu-wei. He is a man of thorough Chinese education, but he has no such intimate acquaintance with western sciences or educational methods, as to fit him for such an important post as that of preparing the courses of study and regulations of the university.

It is true, of course, that there is a faculty composed of European and American scholars, of which our countryman, Dr. W. A. P. Martin, is the president, and he will naturally consult with them, but it is understood that these are all to be discharged and others engaged in their places; and so long as the Chinese show an entire unwillingness to trust the entire management of their schools for a time to capable foreign educators they will fail, as they have in the past, to make these schools anything more than a sham. The "T'ung-wen Kuan" mentioned in one of the edicts as having placed under the same management as the university is the old school of languages established many years

ago in Peking, of which Dr. Martin was president before assuming the more responsible post of president of the university.

The edict depriving certain officials of their rank and prohibiting their reemployment in any official capacity because of their connection with the "Boxer" movement, as well as that charging the various provincial and local authorities with the more careful protection of missions and the suppression of evil societies, are both commendable, but their value will depend entirely upon the care which the Government may take in promulgating and enforcing them. * * *

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Translation from the Peking Gazette of January 10, 1901.

On the 1st of the twelfth moon the following Imperial edict was received:

"The Hanlin Academy is an institution intended for the culture of talent. As its members ordinarily have no public duties to discharge and enjoy quiet leisure, they ought to thoroughly acquaint themselves with political economy, that they may develop useful talents and fit themselves for the service of the state. Let the chancellor of the academy direct the members of the institution to exert themselves in the study of the ancient and modern methods of government and in Chinese and western branches of learning, that, whether holding office or otherwise, they may alike keep themselves posted as to current affairs and not fall into ruts. After the expiration of five months let them be classified according to their talents. Let the said chancellor examine them and separate the proficient from the worthless, and prepare and present a memorial reporting on the subject.

"Let there be no deception."

Respect this.

[Inclosure 2.]

Translation from the Peking Gazette of January 10, 1902.

The following edict was issued on January 10:

"The establishment of schools for the cultivation of talent is a most important thing at the present time. The capital is the chief place in the Empire, and there should extra care be taken, therefore, to adopt there such methods as may serve for an example to be followed elsewhere.

"The Imperial University, which was established here some time ago, ought at once to be set going in thorough earnest, and we appoint Chang Po-hsi to be chancellor of said university, and, in all matters pertaining to it, charge him with the responsibility of management. We must search for the best methods to produce that general intelligence and understanding of principles and practice which will give us efficient men. We further direct him to carefully consider and decide upon the regulations which ought to be adopted and report to us as occasion may require."

Respect this.

[Inclosure 3.]

Translation from the Peking Gazette of January 11, 1902.

The following edict was received on the 2d of the twelfth moon (January 11):

"Yesterday we issued an edict concerning the administration of the Imperial University of Peking, and appointed Chang Po-hsi to be chancellor thereof. As to the T'ung Wen Kuan, established a long time ago, let it no longer be controlled by the foreign office, but let its management be included in the duties of Chang Po-hsi, and let him at once earnestly employ himself in a conscientious effort to put things in order and to enforce discipline, that he may fulfill the obligations of his office."

Respect this.

[Inclosure 4.]

Translation from the Peking Gazette of January 13, 1902.

The Peking Gazette of January 13 contained the following edict issued the same day:

“Last year the ‘Boxers’ stirred up confusion in the country which gradually grew into a great calamity. It was all due to the lack of wisdom on the part of princes and ministers who connived at the corrupt practice of magic, and by the intimidation of the court accomplished their cruel purposes. Their guilt, therefore, can not be overlooked. At that time their stupid followers, anticipating their designs, fawned upon them, and what the one called for the other accomplished. Their clamorous talking and planning grew to such proportions as to confuse the senses and really threatened destruction to the state. Although the doings of some were less guilty than those of others it is difficult for them to escape the Imperial notice. They ought all to be punished in order to awaken a proper respect for official regulations.

“We command that Ho Nai-ying, the senior vice-president of the censorate, who has already been removed from his post, the expositor of the Hanlin Academy, P’eng Ch’ing-li; the Hanlin compiler, Wang Lung-wen; the prefect of Han-chou Fu in Kiangsi, Lien Wen-chung, and the expectant-prefect of Shensi, Tseng Shih-wei, be all deprived of their ranks and forbidden forever to hold office.”

Respect this.

[Inclosure 5.]

Translation from the Peking Gazette of January 13, 1902.

We have received the commands of Her Imperial Majesty the Empress Dowager, Tzu-hsi, etc., as follows:

“The Government has entered into treaty relations with the foreign powers and reestablished good feeling, which is all very just. For over a year we have exhorted all the officials who have been summoned to audience, whether high or low, to acquaint themselves with current affairs, and to strengthen our relations with foreign powers. We have constantly urged upon the various department and district magistrates that they should regard the court as looking with the same kindly feeling upon missions and missionaries as upon others, and that they must use extra care to give them protection, as well as exhort the people and set the example in the matter of promoting good feeling between the people and the church, and that they must thoroughly remove all suspicions that are likely to breed trouble. This sort of exhortation we have given not thrice nor five times, so that there are plenty of these officials who understand the good intentions of the court. But those who have not sincerely observed these injunctions are also not few. Henceforth they must put away their prejudices, manifest sincerity, and show justice, choose the good and follow it. Mutual politeness will naturally enable China and the foreign powers to maintain friendliness, and together attain a lasting peace. Will this not be a fortunate circumstance, relieving those in authority and perfecting the conditions of those under their control? The character of the people in the different provinces is not uniform; and, even though the good and gentle may be in the majority, it has often happened that the evil and treacherous have, by their suggestions, stirred up suspicion, manufactured rumors, and produced trouble that has gradually grown into a missionary case, and the masses have become entangled in it and found no way of escape, when they have afterwards repented. The remedy lies in having the local officials keep in friendly relations with their people and in their leading them as occasion may require.

“If the people and the church get into a quarrel they should hear and decide the case with justice, without any prejudice, and without stirring up feeling. As to those who turn to the practices of evil societies, like the ‘White Lily’ or the ‘Eight Trigrams’ societies, and others of that sort, and employ those to sow suspicions among the people, they are such as the laws can not tolerate. Such societies have been long ago forbidden, and the officials must at once publish this for the information of all, and issue strict orders and make investigation. Should there be lawbreakers, they must punish them in order to correct the hearts of the people and secure respect for the law. Let the various Tartar generals, viceroys, and governors all proceed as directed and publish this edict for general information.”

Respect this.

RESTORATION OF TIENSIN TO CHINESE AUTHORITIES.

Mr. Wu to Mr. Hay.

No. 226.]

CHINESE LEGATION,
Washington, January 20, 1902.

SIR: Confirming the conversation I had the honor of having with you last Saturday, informing you of my receipt of a telegram from His Excellency Yuan Shih Kai, viceroy of Chihli, regarding the international provisional government at Tientsin, China, I beg to state that, in view of the fact that the Imperial court has returned to Peking, that peace and order have now been completely restored, and as Tientsin is the port of Peking and the seat of the viceregal Government of Chihli, it should at once be restored to the administration of the Chinese authorities, so that the viceroy may assume full charge of his office. Viceroy Yuan states that the foreign ministers in Peking have already expressed their consent to the proposition, but up to this date it has not been carried out.

I am therefore asked to bring the matter before you, with the request that you will kindly use your friendly offices with the Governments of the other great powers, to the end that a day may be fixed for the immediate restoration of the city of Tientsin and its suburbs to the Chinese authorities.

Accept, etc.,

WU TING-FANG.

Mr. Hay to Mr. Wu.

No. 201.]

DEPARTMENT OF STATE,
Washington, January 30, 1902.

SIR: I have the honor to acknowledge the receipt of your note No. 226 of the 20th instant, in which, in view of the fact that the Imperial court has returned to Peking, and that peace and order have been restored, and as Tientsin is the port of Peking and the seat of the viceregal government of Chihli, the opinion is expressed that the city should be restored to the administration of the Chinese authorities, so that the viceroy may assume full charge of his office, and the request is made that I will use my good offices with the governments of the powers to the end that a date may be fixed for the restoration of Tientsin and its suburbs to Chinese authority.

The Government of the United States has favored the early evacuation of Tientsin, and will consult the occupying powers.

Accept, etc.,

JOHN HAY.

Mr. Hay to Mr. Conger.

No. 445.]

DEPARTMENT OF STATE,
Washington, January 30, 1902.

SIR: I inclose herewith copy of a note^a from the Chinese minister at this capital, in which, in view of the fact that the Imperial Court has returned to Peking and peace and order have been restored, and as Tientsin is the port of Peking and the seat of the vice-regal government

^a Printed, ante.

of Chihli, the opinion is expressed that the city should be restored to the administration of the Chinese authorities, so that the viceroy may assume full charge of his office; and the request is made that I will use my good offices with the Governments of the powers to the end that a date may be fixed for the restoration of Tientsin and its suburbs to Chinese authority.

With a view to uniform suggestion by you to your colleagues I also inclose a copy of the instruction^a which I have sent *mutatis mutandis* to the ambassadors of the United States at London, Paris, Berlin, and Rome, and to the minister at Tokyo, on the subject.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Porter.^b

No. 976.]

DEPARTMENT OF STATE,
Washington, January 29, 1902.

SIR: I inclose herewith a copy of a note^c from the Chinese minister, in which, in view of the fact that the Imperial Court has returned to Peking and that peace and order have been restored, and as Tientsin is the port of Peking and the seat of the vice-regal government of Chihli, the opinion is expressed that the city should be restored to the administration of the Chinese authorities, so that the viceroy may assume full charge of his office; and the request is made that I will use my good offices with the Governments of the powers to the end that a date may be fixed for the restoration of Tientsin and its suburbs to Chinese authority.

As early as May 28, 1901, Mr. Rockhill, special plenipotentiary of the United States to China, reported to the Department that the diplomatic corps at Peking believed "that the evacuation of the native city of Tientsin and the transfer by the provisional government to the Chinese authorities of the authority with which it had been intrusted by the commanders of the troops in North China during the period of disorganization resulting from the occupation of Tientsin, should be brought to a close as soon as possible."

It is my understanding that the diplomatic body always adhered to the opinion that this occupation should be promptly terminated, without prejudice, of course, to the question of the presence at Tientsin of a military force for the purpose of assisting in maintaining open communication between Peking and the sea.

This Government inclines to think that the continued existence of the provisional government of the Chinese city and district of Tientsin, which interferes with the general administration of affairs in the province, hampers the efforts of the Chinese Government to control the people and administer the laws, and interferes with the collection of duties pledged to the payment of the indemnities, is not consistent with the terms of the final protocol for the withdrawal of the powers from Chihli, and that the restoration of the city and district to the Chinese authorities at the earliest day practicable would be conducive to the ends sought in the adjustment of the issues between the powers and China. This would in no wise affect the question of the presence

^a Printed, below.

^b Also to embassies at London, Berlin, and Rome, and legation at Tokyo.

^c Printed, ante.

of the detachment of troops of the powers for the maintenance of open communication between the capital and the sea.

You may make use of this instruction in ascertaining the views of the French Government in the matter, which I shall be pleased to have you report.

Similar instructions have this day been addressed to your colleagues at London, Berlin, Rome, and Tokyo.

I am, etc.,

JOHN HAY.

Mr. Porter to Mr. Hay.

No. 965.]

EMBASSY OF THE UNITED STATES,
Paris, February 17, 1902.

SIR: Day before yesterday I had a conversation with Mr. Delcassé regarding the subject of withdrawing the foreign forces from Tientsin and turning over the city to the native civil government without affecting the question of the presence of troops there for the maintenance of communication between Peking and the sea.

He stated to me that he fully shares the views of our Government, that the time has come when it is advisable to take such action. His information is that a majority of the Governments interested are now of this opinion. He says that the reports from Tientsin are to the effect that the representative of but one of the powers has been interposing any active opposition, and he hopes that all may soon be in accord as to bringing about the desired action.

To-day I received from Mr. Delcassé a note stating that instructions had been sent to the French representative in China to confer with the other diplomatic representatives of the powers and directing him to give his assent to such a solution of the question as may receive a general approval and which will comply as soon as possible with the desire expressed by the Chinese authorities and by the United States. A copy and a translation of the note are herewith inclosed.

I have, etc.,

HORACE PORTER.

[Inclosure.—Translation.]

Mr. Delcassé to Mr. Porter.

In the course of last month the Government of the United States was good enough to apprise that of the French Republic of the reasons on account of which it esteems the maintenance of the provisional government instituted at Tientsin prejudicial to the efficient administration of affairs in general.

That question has several times and again recently, on the occasion of a proposition in which the new viceroy of Pechili took the initiative, been examined very attentively by the French Government. As a result instructions have been sent to the representative of the Republic in China authorizing him to consult with his colleagues on this subject and to agree to such a solution as, having obtained the common assent, shall meet, as far as possible, the desire expressed by the Chinese authorities, and to which the Federal Government associates itself; the only restriction which it has seemed advisable to specify, in case the diplomatic representatives should be unanimous in recognizing the advantages of a return to the former state of affairs, is that sufficient precautions assure the achievement of the works of general utility undertaken by order and under the supervision of the members of the provisional government.

Paris, February 16, 1902.

Mr. Choate to Mr. Hay.

No. 778.]

AMERICAN EMBASSY,
London, February 12, 1902.

SIR: I have the honor to report that upon the receipt of your instruction^a (No. 823) of January 29, which came to hand on the 10th instant, I sought an interview with His Majesty's secretary of state for foreign affairs, and communicated to him the contents of the Chinese minister's note to you of January 20.

He told me that at almost the same date a communication of substantially similar tenor was made to him by the Chinese minister here.

Lord Lansdowne expressed himself as emphatically in favor of the speedy withdrawal of the provisional government, and was in full accord with your own sentiments and views as set forth in your instruction; that it had always been the intent of his Government, as he believed of all the powers represented in China, to transfer the administration of Tientsin to the Chinese authorities as soon as practicable. He thought with you that the continued existence of the provisional government was not only unnecessary, but an undesirable interference with the control by the Chinese Government of affairs in that district with the administration of the laws and the collection of duties, and agreed that it would conflict with the last stipulation of the final protocol. In fact I could not discover any difference of views between you and Lord Lansdowne on the subject.

He further stated to me that his Government is now arranging to reduce its force in China from 6,000 to 2,000 (not inclusive of its legation guard at Peking), which would be distributed among the various localities mentioned in article 9 of the final protocol (including Tientsin, of course), for the purpose of keeping open communication between the capital and the sea.

He also informed me that China accompanied or followed its note to him, already mentioned, with the request that the date for the transfer of the administration in Tientsin from the provisional government to the Chinese authorities be fixed at April 1; that Germany proposed "about the 1st of June," and that he himself with a view, as it were, to a compromise had suggested the 1st of May, and that these varying suggestions had been sent out to their representatives in China for them to agree upon the date, so that I do not see that the desire of China for the recovery of its normal authority in Tientsin can be much delayed beyond the date which China itself suggested.

I have, etc.,

JOSEPH H. CHOATE.

Mr. White to Mr. Hay.

No. 1866.]

EMBASSY OF THE UNITED STATES,
Berlin, February 26, 1902.

SIR: Referring to you instruction^a (No. 1287) of the 29th ultimo, regarding the evacuation of Tientsin, I have the honor to report that I called yesterday upon Baron von Richthofen, imperial secretary of state for foreign affairs, and stated your views to him, laying especial

^a See No. 976 to France, printed page 185.

stress upon the necessity of a speedy relinquishment of the Tientsin territory in the interest not only of China, but of the powers for whom indemnity must be provided. Baron von Richthofen acknowledged the justice of your view, stating that the German Government acquiesces wholly in the policy you present, appreciates fully the arguments on which your view is based, and would be glad to see Tientsin relinquished immediately, but for the one thing which stands in the way, namely, the Chinese delay in improving the channel of the Peiho.

At this I reminded him of the Chinese contention that the presence and authority of the viceroy is needed in Tientsin for this very purpose. To this he answered that no doubt the viceroy's presence is desirable, and that the German Government is entirely ready to take her full share in the withdrawal of foreign troops just as soon as proper guaranties for the completion of the Peiho improvement shall be given.

At this I inquired what sort of guaranties are needed to meet the views of the Imperial Government. He answered:

Anything that will insure the completion of the work, and probably the only guaranty which will be effective will be a pecuniary one.

At this I inquired whether he had reason to expect that the Chinese Government would be able and willing to give such a guaranty and in such shape that it would prove effective. To this he answered that he believed it could be arranged and speedily; that he saw no serious difficulty in the matter. He then went on to say that, to my note to him of February 12 on the subject, he had already prepared an answer, which I would undoubtedly receive within a few days.

I am, etc.,

AND. D. WHITE.

Mr. White to Mr. Hay.

No. 1868.]

EMBASSY OF THE UNITED STATES,
Berlin, February 26, 1902.

SIR: Referring to my dispatch (No. 1866) of to-day's date, I have the honor to inform you of the receipt this afternoon of the written communication promised me by Baron Richthofen with regard to the provisional government at Tientsin, China.

A copy of this note, which is in reply to a note addressed by me to the foreign office on the 12th instant, embodying the contents of your instruction (No. 1287) of January 29, as well as a translation of the same, is appended hereto.

I am, etc.,

AND. D. WHITE.

[Inclosure.—Translation.]

Baron von Richthofen to Mr. White.

BERLIN, February 25, 1902.

In reply to his note of the 12th instant (F. O., No. 1108) the undersigned has the honor to inform his excellency the ambassador extraordinary and plenipotentiary of the United States of America, Dr. Andrew D. White, as follows:

The Imperial Government is entirely in accordance with the views of the Government of the United States in looking upon the establishment of the provisional government in Tientsin merely as a necessary expedient which should be done away with as soon as possible. The Imperial Government, however, is in doubt as to whether the provisional government can be done away with at the present moment

without making uncertain the early completion of the improvement of the river Peiho, which is indispensable for the safety of the foreign legations in Peking. Besides, the foreigners in Tientsin, as well as the Chinese there, especially the merchants, according to reports which have been received here, are satisfied with the provisional government on account of the advantages offered by an integrant administration. Nevertheless, in consideration of the wishes of the American Government, the Imperial Government is ready to state its willingness to fix a date, say about the middle of the current year, for the abolition of the provisional government. In doing this measures must be taken to insure the immediate carrying out of the regulation of the river bed up to Tientsin, including the removal of the bars before the mouth of the Peiho (for the safety of the foreigners in Peking, a matter of equal interest to all the powers), and to preserve to the foreign military element a certain amount of control over this work.

The undersigned avails himself of the occasion, etc.,

RICHTHOFEN.

Mr. Meyer to Mr. Hay.

No. 145.]

AMERICAN EMBASSY,
Rome, Italy, February 24, 1902.

SIR: Referring to the Department's No. 71,^a of January 29 last, relative to the note of the Chinese minister at Washington, dated January 20, 1902, I beg leave now to inclose to you herewith a copy of a note from the minister for foreign affairs replying to my note of February 14, and stating that while the Government of the King does not see, on principle, any difficulty in complying with the requesting of Yuan Shih-kai, it withholds its definite reply until it can act in accord with the other powers to which China may have made a similar request.

I am, etc.,

G. V. L. MEYER.

[Inclosure.—Translation.]

Mr. Prinetti to Mr. Meyer.

ROME, *February 21, 1902.*

MR. AMBASSADOR: Replying to the note which your excellency addressed to me on the 14th instant, I have the honor to inform you that the Chinese minister to the royal court also called upon me a few days ago expressing the wish of the viceroy of Chihli, Yuan Shih-kai, that the temporary government established at Tientsin by the powers be discontinued and that the regular administration of the city be returned to the Chinese authorities.

The Government of the King does not see, on principle, any objection to complying with the request of Yuan Shih-kai; it has, however, withheld its definite answer to the Chinese minister in order that it may be possible to act jointly with the powers near which China may have taken similar steps, and whose views I have already taken pains to ask.

Pray accept, etc.,

PRINETTI.

Mr. Buck to Mr. Hay.

No. 623.]

UNITED STATES LEGATION,
Tokio, Japan, March 7, 1902.

SIR: I have the honor to acknowledge the receipt on the 1st instant of instruction^a No. 385, of date of January 29 last, respecting the res-

^a See No. 976 to France, printed, p. 185.

toration as soon as practicable of the city of Tientsin and its suburbs to Chinese authority, and stating that I may make use of the instruction in ascertaining the views of the Japanese Government in that matter, concerning which you would be pleased to have my report.

To obtain the views of the Japanese Government, as instructed, on the 3d instant I addressed a note to his excellency, the minister of foreign affairs (copy herewith), and to-day I have received his reply (copy inclosed), stating that the Imperial Government share the views of the United States Government that the abolition of the provisional government at Tientsin at an early date is very desirable, without affecting the question of the presence of foreign detachments for the maintenance of free communication between Peking and the sea, and that his Government will make no objection, in event that all the other powers actually participating agree to it.

I have, etc.,

A. E. BUCK.

[Inclosure 1.]

Mr. Buck to Baron Komura.

No. 332.]

UNITED STATES LEGATION,
Tokio, March 3, 1902.

MONSIEUR LE MINISTRE: Pursuant to instruction of my Government I have the honor to submit to your excellency its views, as expressed in the accompanying copy of said instruction, respecting the restoration of Tientsin and its suburbs to Chinese authority. Immediate restoration is urged by his excellency, the Chinese minister at Washington, who, in a note to the Secretary of State of the United States (copy also inclosed), has asked the United States' friendly offices with the Governments of the other powers to that end.

That I may, as directed and as soon as practicable, report to my Government the views of His Majesty's Government upon this important matter, I venture to express the desire that I may be informed of them at as early a date as may suit the convenience of the Imperial Government.

I avail, etc.,

A. E. BUCK.

[Inclosure 2.—Translation.]

Baron Komura to Mr. Buck.

No. 7.]

DEPARTMENT OF FOREIGN AFFAIRS,
Tokio, March 6, 1902.

MONSIEUR LE MINISTRE: I have the honor to acknowledge the receipt of your excellency's note of March 3 on the subject of the restoration of Tientsin and its suburbs to Chinese administration.

In reply I beg to state that the Imperial Government fully shares the views of the United States Government that the abolition of the provisional government at Tientsin at the earliest date is highly desirable in various respects, without affecting in any way the question of the presence of the foreign detachments for the purpose of maintaining free communication between Peking and the sea. Consequently the Imperial Government will have no objection whatever to its abolition, provided that all the other powers actually participating in the provisional government agree to the same.

I avail, etc.,

BARON KOMURA,
Minister for Foreign Affairs.

Mr. Conger to Mr. Hay.

No. 1013.]

LEGATION OF THE UNITED STATES,
Peking, June 11, 1902.

SIR: I have the honor to inclose copy of conditions which have been substantially agreed upon by the generals and ministers of the seven

powers who are represented on the provisional government of Tientsin, or have troops in the garrisons in that city, and upon the acceptance of which by the Chinese Government they are willing to restore the city.

Two of the ministers represented have informed me that these conditions will soon be laid before the full diplomatic corps for approval, after which they will be presented to the Chinese Government for acceptance and execution.

In order simply to restore the city to the Chinese the powers represented in its present government may do this without reference to the other powers, but they have no right to exact or make conditions which have an international or political significance or which go beyond or in any way contravene the provisions of the final protocol.

By article 12 of the protocol the powers distinctly agreed that, with the exception of the legation guards, all international troops would completely evacuate the entire province of Chihli, except the places mentioned in article 9. And now they propose to add a new condition, that the evacuation will not take place unless the Chinese will agree to bring no troops, except a police guard of 2,500 in Tientsin, anywhere within a radius of 30 kilometers of the city, but that foreign troops may go and come at will within the said zone. This would certainly be humiliating to the Chinese and a constant source of danger to all foreigners within the outer portion of this circle.

No such provision is made for Peking, and certainly if it is safe to permit Chinese soldiers to approach at will right up to the gates and within the walls of this city, 100 miles from the coast, it ought to be quite as safe in Tientsin, only 30 miles therefrom.

The proposition, in my judgment, is inconsistent with the promises of the protocol, is grossly unfair to the Chinese, and I shall not support it unless so instructed. There are other objectionable conditions in the proposals, but I only name this one.

I have, etc.,

E. H. CONGER.

[Inclosure.]

Proposition for the restoration of the government of Tientsin, etc., drawn up at the conference of the commandants of the troops in Chihli province, held at Tientsin on April 12, 1902.

Present: First Major-General von Rohrecheidt, Germany; First Naval Captain Kirchmayr, Austria; General Sucillon, France; Major-General Creagh, Great Britain; Lieutenant-Colonel Salsa, Italy; Colonel Akiyama, Japan; Major-General de Wogack, Russia.

All the commandants were of the opinion that the situation of the contingents at Tientsin will be difficult without the provisional government, but if, for political reasons, the diplomatic corps considers that the restoration of the Tientsin government is necessary, the commandants believe that restoration can not take place except under the following conditions:

1. The Tientsin government shall be maintained until the destruction of the forts mentioned in the list established by the provisions of the conference of the generals in chief of April 6, 1902, be completed.

It being understood that the destruction of the forts will be completed June 25, the restoration will take place, in principle, July 1, with the understanding that should it be found necessary the date will be extended to four weeks after the acceptance of the proposition of the allies by the Chinese Government.

2. The Chinese Government will guarantee that the forts will not be rebuilt and that other forts will not be built within a zone of 30 kilometers on either side of the Peking-Ting-Kou-Shan-Hai-Kwan Railway; in this zone there shall be prohibited the construction of places for batteries or subterranean mines.

3. The city of Tientsin must not be fortified; its ramparts shall not be rebuilt by the Chinese.

4. As long as the foreign troops shall occupy Tientsin there can be no Chinese military garrison in the localities situated in the present district of the city.

5. The police force for the maintenance of order of the Chinese Government shall be 2,500 men in the city of Tientsin and for the present territory of the district of the provisional government; for the personal guard of the viceroy of Chihli there shall be 300 men.

6. The Chinese garrisons which are at present within less than 30 kilometers of the Peking-Tongku-Shan-Hai-Kwan Railway will not be increased under any circumstances. The Chinese Government will make known the locations and the numbers of these garrisons on the 1st of April.

7. The restoration of the Peking-Shan-Hai-Kwan Railway to the Chinese will not take place until after an understanding with the council of the commandants of the allied forces.

8. The Chinese troops will not be permitted to approach nearer than 30 kilometers of the city of Tientsin.

9. The foreign troops will be permitted to freely pass through the cities which they occupy, and to maneuver, exercise at target practice and campaign service in the vicinity—that is to say, within a limit of 30 kilometers—without notifying the Chinese authorities, except in cases of long-range practice, when notice shall be given. Moreover, the military, as well as persons belonging to the contingents, will have the right to freely go and come in the limits indicated.

10. An international guard shall be established in the Chinese city of Tientsin, and in all places where there shall be foreign troops, for the surveillance of foreign soldiers.

11. In the case where a Chinese employed by the contingents shall commit an offense of whatever nature the guilty shall be punished by his commandant officer, or delivered to the Chinese authorities to be judged, according as his commandant officer may consider proper. The Chinese employed by the foreign contingents shall be provided with a card of identification written in Chinese.

12. The Chinese Government must guarantee the freedom and protection of all Chinese which are or have been employed in the service of the foreign contingent or of the provisional government, and in case where arrests of such employees are made they must be delivered up to the foreign military authorities, if such be demanded.

13. The foreign troops and their provisions, clothing, and alimentary merchandise shall be exempt from all imposts and taxes.

14. The foreign troops will have the right to purchase provisions in the markets and to buy on the ground everything which they may need. The Chinese Government must impose neither boycott nor restrictions of any kind on sales made to foreigners.

15. The foreign troops will reserve the right to occupy their present quarters belonging to the Government as long as there shall exist a foreign garrison in North China.

16. The troops will be free to occupy summer country quarters at Pei Ta Ho and on the hills west of Peking, according as they may consider necessary.

17. The Chinese must not place torpedos or establish submarine mines or other maritime defenses at Taku, Chin Wang Tao, and Shan Hai Kwan.

18. The foreign military authorities will have the right to communicate directly with the local Chinese authorities, and, in the particular case of the city of Tientsin, the commandants of the allied troops will communicate directly with the viceroy.

19. The Chinese authorities must give every facility to a commission delegated by the commandants of the allied forces to assure the execution of the above stipulations.

20. The authority of the minutes of the council of the provisional government of Tientsin shall be maintained, so that all the acts of the council may be thoroughly known and that force and effect may be given to them by the Chinese Government.

To assure this it will be necessary that the Chinese authorities be requested to publish a proclamation that since it assumes the control of that district the continuation of the Government is assured, and that all the preceding acts are valid, as if they had been made in the name of the Imperial Chinese authorities themselves.

It will be necessary that the archives of the council be placed in secure hands, and the following plan must be adopted:

That the minutes of the meetings of the council be translated into Chinese and French (the French text being legally recognized), that they be printed, and that certified copies be delivered to all the members of the diplomatic corps at Peking and to all the commandants of the different allied contingents.

The original minutes should be placed in the hands of the senior military commandant to be transmitted to the dean of the consular body after all the contingents

are reduced to a permanent state. One of the conditions of the restoration of the provisional government should be that each person having any interest whatever in these minutes can consult them through the medium of his consul, and that the rights to which these minutes may pretend be recognized by the Chinese authorities if these rights should be proven valid by the minutes.

As all the acts of the different departments and district powers of the government finally depend (in that which concerns their authority) upon the decisions of the council as related in the minutes, it would be well if all the accounts of the departments and districts should become a part of the archives of the council, and that they be disposed of at the same time and in the same manner, without preparing printed copies.

In this manner all persons claiming rights or immunities by reason of the acts of whatever service of the government could establish his right to the claim, if such claim be supported by the accounts rendered of the services and by authority of the council, as established in the minutes.

It is to be remarked that the minutes of the meetings of the council of the provisional government of Tientsin contain a complete and detailed account of all the executive acts of the council. These minutes are the only authority for the acts of the government "de facto" in the districts governed by the provisional government since the Chinese ceased to administer this territory up to the moment when they can again assume charge.

According to the regulations which were imposed on the council by the commandants of the allied forces, the council has received full power and was constituted depository of an absolute authority on the territory which was submitted to it with full consent of the commandants of the allied troops.

This government has continued for nearly two years with the support of the allied powers, and without any protestations being made against any of its acts.

It is to be noted that notwithstanding the fact that the council has changed in its personnel, and that but one of the officers remains of those who were originally placed in charge, the minutes of the council have always been regarded as beyond discussion, and as being the law.

It being understood that the allied powers have always maintained that they were not at war with China, the provisional government must be regarded as having acted for the Chinese Government, and the Chinese Government must recognize the validity of all its acts as if they had been made in the name of the Imperial Chinese authorities themselves.

If it were permitted now to contest the validity of these acts in any one of the details, injury would be done to the founders of the Government, all theory of its existence would be denied, and the door would be opened to disorders and to an interminable confusion.

21. Copies of all proclamations made in the name of the provisional government shall be transmitted to each of the legations at Peking, to each of the foreign consuls at Tientsin, to each of the commandants of the foreign contingents, and to the Chinese authorities, and insistence shall be made upon their execution in so far as it shall not be in opposition with Chinese customs: *Provided*, That in all cases all contract obligations be maintained.

22. There shall be established three posts of international guard of 20 men each, with a subofficer in command of each post. These three posts will be distributed as follows: One for Hou-Chia-Hou and Ho-Pe, one for the west quarter, and one for the old walled city.

An officer shall be appointed to command the three subofficers and posts.

23. The Chinese Government agrees to prohibit the construction of houses or the establishment of shops, tents, etc., on the streets constructed by the provisional government on the dock, the boulevards around the city, the roadway of the north gate, at the Yuho, and on the dock of the Yuho, etc.

24. The convention with the traction and electric light company and with the water company will be formally accepted by the Chinese authorities, as also that passed for the drainage of the city.

25. The Chinese Government must agree not to oppose the construction of an iron tumbidge forming the junction between the banks of the river in the concessions.

26. No change shall be made in the present system of imposts without first publishing a three months' notice of such change, and the Chinese Government must admit that the Chinese population has performed its duties in regard to the imposts, and that no claim must be made on it for any arrearages.

27. A list of prisoners, with their sentences, shall be remitted to the Chinese authorities, and the Chinese authorities will see to the execution of such sentences.

28. The council asks that the Chinese Government agree to the continuation of

the uncompleted works of the provisional government, the funds for this purpose having been placed aside to be given to the Chinese authorities at the surrender of the government.

PROPOSITIONS (TO BE SUGGESTED TO THE CHINESE GOVERNMENT, WITHOUT INSISTING UPON THEIR ADOPTION).

1. It should be advisable to say to the Chinese Government that two years of the provisional government administration of Tientsin has shown how indispensable the river police is, and to recommend to it the establishment of an effective port and river police.

2. It is advisable to recommend that the road service and the cleaning of the city be continued by the Chinese authorities.

PROPOSITIONS CONCERNING THE METHOD OF TRANSFERRING THE TIENSIN GOVERNMENT.

1. The agents of the Chinese authorities will come two weeks before the transfer of the provisional government to consult with its representatives as to the details of the transfer.

2. It will be necessary that the viceroy be present on the date on which the provisional government shall be transferred.

A part of the present general secretariat of the provisional government of Tientsin (1 general secretary, 1 assistant secretary, 2 subsecretaries, with the necessary Chinese personnel) will be maintained to gather the archives of the departments, classify them, assure their purpose, and to execute the orders of the council of the allied forces. These duties shall cease whenever the council of the commandants shall judge proper. The salaries of the personnel and its expenses will be provided for by the present provisional government of Tientsin for three months after the dissolution of the provisional government.

After the dissolution of the provisional government and during the military occupation the international commission provided for in article 19, above, will be qualified to control the execution of the detailed conditions in the convention for the return of the provisional government of Tientsin.

Conference of April 6, 1901, of the commanding generals in chief of the allied forces.

LIST OF FORTS AND CHINESE WORKS TO BE DESTROYED.

1. The intrenched camp of Yang Tsoun (unless the troops left for the protection of the railway desire to utilize it).
2. Sikou arsenal.
3. The yellow fort.
4. The black fort.
5. The east arsenal.
6. The two intrenched camps of Chun Liang Cheng.
7. The camps of Hsin Ho.
8. The Taku forts.
9. The forts at Peitang.
10. The Lutsi camps, situated at less than 2,000 meters of the railway.
11. The camps between Tang Ho and Shan Hai Kwan, and the forts of Shan Hai Kwan.

PROVISIONAL GOVERNMENT.

List of forts and works destroyed or which will be destroyed before June 25, 1902.

	Date at which the destruction will be accomplished.	Total sum expended or to be expended.
1. Can be utilized by the German detachment.....	.....	.....
2.	Terminated	.....
3. Tientsin yellow fort:		
Cheng Ying	do	\$950
Ya Wei Tze	do	1,000
Chien Ying and Hou Ying.....	do	770
4. Tientsin black fort.....	do	8,200
5. Tientsin east arsenal.....	May 31	10,000
6. Hsing Chang forts and ramparts.....	June 29	68,500
7. Hsing Ho camps	Terminated	1,450

List of forts and works destroyed or which will be destroyed before June 25, 1902—Cont'd.

	Date at which the destruction will be accomplished.	Total sum expended or to be expended.
8. Taku:		
North fort.....	April 30	\$8,000
Northeast fort.....	do	6,350
Magazine	April 15	4,755
South fort—		
I.....	April 30	24,500
II.....	do	8,950
III.....	do	7,000
IV.....	do	3,800
9. Peitang fort No.—		
I.....	do	8,600
II.....	do	8,600
III.....	April 15	3,550
IV (magazine).....	Terminated	2,100
V.....	April 15	5,150
VI.....	April 30	6,250
10. Lutai, forts and camps.....	Terminated	10,500
11. Shan Hai Kwan fort No.—		
I.....	June 15	30,000
II.....	May 15	10,500
III.....	do	10,000
IV.....	April 30	4,500
V.....	April 15	4,500
Total.....		258,475

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Peking, June 28, 1902.

(Mr. Conger reports that at a meeting of the diplomatic corps on June 28, ministers of powers having military representatives on the provisional government proposed to restore Tientsin to the Chinese Government on the following conditions:

That neither forts nor city wall be restored; that shops be kept off certain streets; that no Chinese soldiers except police come within 30 li of the city; that concessions made by the provisional government for electric lights, railways, drains, waterworks, bridges, etc., are to be carried out by the Chinese Government.

All agreed except the Russian minister and Mr. Conger, the latter refusing to join because the conditions seem unnecessarily onerous, and add burdens in contravention of protocol, for which his Government is not responsible.)

Mr. Conger to Mr. Hay.

No. 1035.]

LEGATION OF THE UNITED STATES,
Peking, July 2, 1902.

SIR: Continuing the subject-matter of my dispatch No. 1013, of June 11 last, and confirming my telegram of the 28th ultimo concerning the proposed return of the city of Tientsin to the Chinese Government, I inclose copy of a note to the dean by his excellency the German minister, in which he transmits draft of a proposed note to be sent to the foreign office by the diplomatic corps. I do not inclose

copy of this note, because it simply repeats the conditions sent you in my No. 1013, of the 11th ultimo.

Although the Russian minister joined in the preparation of the note addressed to the foreign office, yet at the meeting of the corps he notified his colleagues that he had been instructed by his Government to take no part in the proposing of conditions for the return of Tientsin, and to withdraw from all responsibility therefor. I refused to take part, for the reasons given in my telegram. All the other representatives signified their willingness to join in sending the proposed note to the foreign office, but as it was not unanimous, nothing could be done.

The probability is that the powers taking part in the provisional government and being responsible for its continuance will be obliged to surrender the city on such terms as they themselves can exact from the Chinese.

I inclose also copy of a letter from the military commandants, giving a list of important contracts entered into or concessions granted by the Tientsin provisional government.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Mr. von Mumm to the Dean of the diplomatic corps.

PEKING, June 25, 1902.

MR. DEAN AND DEAR COLLEAGUE: I have the honor to transmit to you herewith, in the name of my colleagues, the British, French, Russian, Japanese, and Italian ministers, and in mine, draft of letter addressed to the Chinese plenipotentiaries in answer to their communication of March 5 last, on the subject of the return of the city of Tientsin to the Imperial Chinese authorities.

This letter contains the conditions which we believe should be proposed for the surrender and suppression of the provisional government.

The conditions in question have been the subjects of long deliberations between us and the generals commanding the foreign corps at Tientsin. We have endeavored in determining these conditions to confine ourselves to the stipulations of the protocol of September 7, 1901. We believe, on the other hand, that as presently drawn up, these conditions, if collectively put into execution, would assure the security of the troops which our Governments maintain in Chihli and the proper discipline among them. It has appeared to us equally indispensable to point out the validity of the acts of the provisional government during the two years it has acted in the name of the generals commanding our troops.

We would be grateful to you if you would be kind enough to circulate the documents in question among our colleagues, and to call at the earliest possible date a meeting of the diplomatic corps, in which we would study the measures necessary to assure the execution of these conditions by the Chinese Government.

Please accept, etc.,

A. MUMM.

[Inclosure 2.]

The generals and commandants of the contingents in China to the Dean of the diplomatic corps.

TIENTSIN, June 17, 1902.

SIR: I have the honor to acknowledge the receipt of the letter from the members of the diplomatic corps, dated June 7, on the return by the provisional government of Tientsin to the Chinese authorities, and in accordance with the demand expressed in paragraph 9 of said letter to inclose you herewith a list of the contracts entered into by the provisional government. I must remark that it is our unanimous

desire that this list be not communicated to the Chinese authorities before they shall have accepted in principle the maintenance of the validity of these contracts, etc.

Please accept, etc.,

VON ROHRECHEIDT,
General, Commanding the German Forces in China.
 KIRCHMAYR,
Commanding Austrian Forces in China.
 O. M. CREAGH,
Major-General, Commanding British Forces in China.
 J. LEFEVRE,
General, Commanding French Troops in China.
 S. W. AMEGLIO,
Colonel, Commanding Italian Forces in China.
 AKIYAMA,
Colonel, Commanding Japanese Forces in China.
 _____,
Colonel, Commanding Russian Forces in China.

[Subinclosure.]

Contracts entered into by the Tientsin provisional government.

(a) THE COUNCIL.

1. March 13, 1901, with the founders of the water company in the Chinese city of Tientsin for the establishment of works for furnishing water to the Chinese city.
2. November 11, 1901, with the electric light and traction company, for the establishment of electric light and tramways in the Chinese city.
3. May 26, 1902, with the Tientsin Land Improvement Company, to establish a drainage system in the city.
4. A turn bridge over the Pei-ho River, near the railway station.

(b) TREASURY.

5. Contract entered into by Colonel O'Sullivan on behalf of the council for the payment of the duties and the transfer of the treasury to the Imperial Chinese maritime customs.
6. The purchase of a steamer.

(c) PUBLIC WORKS.

7. Contract for stone.
8. Drain around the city.
9. Drain along the south boulevard and contract entered into for filling up the southeast and southwest corners of the city.
10. Bridge on Taku road.
11. Construction of a likin bureau at Chen Chia Ko.
12. Construction of a likin bureau at Si pei Men.
13. Construction of a likin bureau at Yang Chia Chuang.
14. Construction of a likin bureau at Ta Hung Chiao.
15. New building for the treasury.
16. A road from the city to the match factory.
17. Bridge on Hsi Pai Men road.
18. For removing the excrements deposited on the banks of the river.
- Demolition of the forts of—
19. Hsin Chong.
20. South of Taku.
21. North of Taku.
22. Northwest of Taku.
23. No. 1 of the Peitang.
24. Nos. 2 and 3, Peitang.
25. Nos. 5 and 6, Peitang.
26. Nos. 2 and 3 of Shanhaikuan.
27. Contract for a fort of Shanhaikuan (Gueden & Marcadier).

(d) SANITARY SERVICE.

28. With Li Yuen Cheng, for three years, for the construction and maintenance of public privies.

(e) POLICE DEPARTMENT.

29. Contract entered into for the maintenance and clothing of the police and prisoners.

DISTRICTS.

North of Tientsin.—Contract entered into for the leasing of lands belonging to the Government to subjects:

1. Chang Chia Wan, terminating December 31, 1902.
2. Mu Chia Ch., terminating December 31, 1902.
3. Li Chia Tsui, terminating December 31, 1902.
4. Ma Lo and Ching Fu, terminating December 31, 1902.

South of Tientsin.—No contract.

Tongku.—5. Contract with two Chinese, named Chang Hsi Chuang and Tschang Tze Ping, for cutting the reeds during 1902.

Chung Liang Cheng.—6. Lease with various farmers for the rice farms of Hsiao Chan.

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 2, 1902.

(Mr. Hay acknowledges Mr. Conger's telegram of June 28, reporting the terms proposed for the restoration of Tientsin to the Chinese authorities, and approves Mr. Conger's dissent therefrom. Mr. Hay states that he is informed that the British Government also regard the terms as harsh, and directs Mr. Conger to endeavor to reach practical adjustment of protective zone, so that China can fulfill the demanded obligation to maintain order therein, and to refrain from supporting any excessive grants made by the provisional government.)

Mr. Conger to Mr. Hay.

No. 1046.]

LEGATION OF THE UNITED STATES,
Peking, July 15, 1902.

SIR: Referring to my No. 1035 of the 2d instant, I have the honor to report that the five ministers of the powers having representatives on the provisional government of Tientsin, viz, Great Britain, Germany, France, Japan, and Italy, have sent identical notes to the foreign office, naming the conditions upon the acceptance of which by the Chinese they will be willing to turn over to them the city of Tientsin.

I inclose a copy of the conditions named. You will observe that they have reduced the protective zone from 18 miles to about 6, and have left out the other objectionable features.

While the 6-mile limit of a protective zone seems to me still too large, yet it being so great a reduction from the former conditions, if the Chinese Government is willing to accept these conditions I shall make no further formal opposition.

I have, etc.,

E. H. CONGER.

[Inclosure.]

Sir Ernest Satow to Prince Ch'ing.

YOUR HIGHNESS: I have the honor to acknowledge the receipt of Your Highness's note of the 5th instant, inclosing copy of a letter from his excellency the viceroy

Yuan, urging reasons why the administration of the city of Tientsin should be handed back to his excellency at an early date.

In reply I have the honor to state to Your Highness that, in accord with my colleagues representing powers that still have delegates on the council of the Tientsin provisional government, I am authorized by my Government to consent to the dissolution of that body, provided that the Chinese Government signifies its adherence to the following propositions:

By Article VIII of the final protocol of September 7, 1901, it was declared that the Chinese Government agreed to have the forts at Taku, and others which might interfere with free communication between Peking and the sea, demolished; and it was added that arrangements had been made for this purpose.

The Chinese plenipotentiaries having expressed to the diplomatic body their desire to be relieved of the direct responsibility for carrying out this article, the representatives of the signatory powers intrusted the work to the Tientsin provisional government. It is not yet entirely completed. In order therefore to insure the fulfillment of this article, I have the honor to propose to Your Highness that the work of demolition shall, from the moment of the dissolution of the Tientsin provisional government, be placed in the hands of the G. O. C.'s at Tientsin, the necessary funds being provided out of the moneys then remaining in the treasury of the Tientsin provisional government.

By Article IX of the same protocol it is provided that the powers shall have the right of occupying certain points between Peking and the sea, of which the whole town of Tientsin is one. Consequently, after the dissolution of the Tientsin provisional government, foreign troops will continue as hitherto to be stationed there, in the places actually occupied by them, and their supplies of all sorts continuing, as at present, to be exempt from all taxes or dues whatsoever. They will have the right of carrying on field exercises and rifle practice, etc., without informing the Chinese authorities, except in the case of *feux de guerre*.

It is desirable, however, to avoid as far as possible occasions of collision between the foreign troops and those of China. I propose, therefore, that with this object the Chinese Government shall undertake not to station or march any troops within 20 Chinese li (6 $\frac{2}{3}$ English miles) of the city or of the troops stationed at Tientsin; further, in correspondence exchanged between the foreign representatives and the Chinese plenipotentiaries, of whom Your Highness was one, previous to the signature of the protocol, it was agreed that the jurisdiction of the commanders of the posts to be established along the line of communications should extend to a distance of 2 miles on either side of the railway, and this arrangement ought to be maintained as long as the line of posts specified in Article IX of the protocol continue to be occupied.

I am willing, however, in concert with my colleagues, to consent that the viceroy should have the right of maintaining a personal bodyguard in the city of Tientsin not exceeding in number 300 men; and also that his excellency may maintain an efficient body of river police along the line of the river, even where it runs within the 2-mile limit above mentioned.

The demolition of the forts implies an obligation upon China not to reconstruct them, and the same obligation applies to the walls of Tientsin city, which, during the troubles of 1900, were made use of as a fortification directed against the security of the foreign settlements. We can not, however, consent that the Chinese Government establish maritime defenses at the mouth of the Peiho at Chungwangtao or at Shanhaikuan.

We propose that the accounts of revenue and expenditure of the Tientsin provisional government be audited by two competent persons, one to be chosen by the G. O. C.'s at Tientsin, the other by the viceroy, and the balance, after deduction of the sum required to complete the demolition of the forts, be handed over to the provincial treasury.

Your Highness will no doubt think it right to agree that no Chinese subject who has been in the service of the Tientsin provisional government or of the foreign contingent shall be in any way molested on the ground of such service.

Chinese subjects in the employ of the foreign forces on the lines of communication will be provided with certificates of identity. It appears to me necessary that the Chinese Government should admit that in case any such Chinese person commits an offense the commandant in whose service he is should have the right of punishing him or of handing him over to the Chinese authorities as may, in his opinion, be best calculated to secure the ends of justice.

The right of foreign troops to occupy summer quarters when necessary ought, in my opinion, to be recognized.

A list of unexpired punishments imposed by the Tientsin provisional government will be furnished when that body is dissolved to the provincial government, which

ought to undertake to carry them out. No action, either criminal or civil, adjudicated by the provisional government can ever be opened anew.

The archives of the Tientsin provisional government I consider should be intrusted to the senior consul, and application can be made to him by any person entitled to consult them.

As regards taxation, I consider that the inhabitants of the city and district should be regarded as having discharged their duty to the Chinese Government during the period of the continuance of the administration of the Tientsin provisional government and that no arrears ought to be demanded of them under this heading.

Such are the proposals which I consider it my duty to place before Your Highness for the acceptance of the Chinese Government, and I have the honor to declare that I am ready to consent to the dissolution of the Tientsin provisional government four weeks after I receive from Your Highness an intimation that they are accepted. I have only further to request that Your Highness will be so good as to designate the official to whom formal delivery of the city and district can be made by the council of the Tientsin provisional government.

I have, etc.,

E. S.

Mr. Conger to Mr. Hay

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Peking, July 18, 1902.

(Mr. Conger reports that greatly modified conditions for the restoration of Tientsin have been accepted by the Chinese Government, and that the transfer will take place in a month.)

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 18, 1902.

(Mr. Hay extends congratulations to Mr. Conger on the conclusion of the Tientsin matter.)

Mr. Conger to Mr. Hay.

No. 1051.]

LEGATION OF THE UNITED STATES,
Peking, July 19, 1902.

SIR: I have the honor to confirm my telegram^a of the 18th instant, announcing the agreement to return to the Chinese authorities the city of Tientsin, and your congratulatory message^a to me of the same date.

For the latter I thank you sincerely. It is, however, well known here by the representatives of the powers, and by the Chinese Government, that it is solely to your successful efforts with the Governments at London, Berlin, and Paris, that the severe conditions were modified and the early surrender of the city made possible. The Chinese are very grateful for your help in this connection, and bid me so inform you.

I inclose herewith copies of note from Prince Ch'ing, informing me

^a Printed, ante.

that the modified conditions have been accepted, and my reply thereto. Copy of the conditions were sent you in my dispatch, No. 1046, of the 15th instant.

I have etc.,

E. H. CONGER.

[Inclosure 1.]

Prince Ch'ing to Mr. Conger.

F. O., No. 396.]

On the 10th of the sixth moon, twenty-eighth year of Kuang-hsu (July 14, 1902), I received a dispatch from certain ministers of the treaty powers, stating that in regard to the transfer of the city of Tientsin and the country adjacent to the jurisdiction of the viceroy of Chihli, these foreign ministers were agreed (of the same opinion). They also had had the honor of receiving the sanction of their respective governments for the abrogation of the provisional government, provided only that the Chinese Government should, first of all, distinctly consent to the conditions proposed, when they, on their part, would promise that in four weeks from the day on which consent was given, the provisional government of Tientsin should be abrogated. They therefore request that it be clearly pointed out to whom, when the time arrives, and into whose hands the provisional government should transfer Tientsin city and the country adjacent.

I have carefully perused the dispatch with regard to the point that military posts should be established along the highway or line of communication from Peking to the sea, with powers to control and punish, the distance to extend as far as two English miles on each side of the railroad.

I would remark that according to the doyen, His Excellency Cologan's dispatch of the sixth moon, twenty-seventh year of Kuang-hsu (July, 1901), military control would only refer to offenses against the railroad, the telegraph lines, or against the allies or their property.

As to the remaining articles I have no objection to make.

On the 13th of the current moon (July 17) I memorialized the Throne on the subject and had the honor of receiving the sanction of the Throne by imperial decree.

Whereupon, I at once sent replies to the ministers of the treaty powers, in order that they might transmit the same to the provisional government of Tientsin, that the provisional government be abolished within four weeks, and the city of Tientsin and its adjacent country be returned to Chinese administration and handed over to the superintendent of the northern ports, who, at the head of the local officials, civil and military, will be there to receive it.

Hereafter, whenever there is need for consultation, the foreign civil and military authorities can, from time to time, consult with his excellency the superintendent of northern ports, which, I hope, will be for the good of the place.

I sincerely appreciate and can not but express my gratitude to your excellency for the just and friendly way in which you have helped us to obtain the confidence of other nationalities in this matter.

As in duty bound I send this for your excellency's information.

A necessary dispatch.

Dated 14th of the sixth moon, twenty-eighth year of Kuang-hsu (July 18, 1902).

[Inclosure 2.]

Mr. Conger to Prince Ch'ing.

F. O., No. 407.]

I have the honor to acknowledge the receipt of Your Highness's note of July 18, informing me that the ministers having representatives on the provisional government of Tientsin had proposed to return the city to the Chinese authorities in one month upon conditions which the Chinese Government had accepted.

I congratulate Your Highness upon the happy termination of this matter, and am pleased that the efforts of the honorable Secretary of State of the United States with the European Governments have contributed so materially to bringing it about.

I beg to avail, etc.,

E. H. CONGER.

REQUEST OF TAOT'AI OF KIUKIANG FOR RECALL OF NATIVE MISSIONARIES.

Mr. Conger to Mr. Hay.

No. 890.]

LEGATION OF THE UNITED STATES,
Peking, January 22, 1902.

SIR: I have the honor to inclose herewith copies of correspondence with Consul Wilcox, of Hankow, and with the foreign office regarding the action of the taot'ai of Kiukiang in demanding the recall of Chinese Christians engaged as evangelists in the interior.

In view of the plain provisions of the treaty of 1858, the attitude of the provincial bureau of foreign affairs and the taot'ai is a somewhat remarkable one. The foreign office evidently recognizes it as a violation of treaty rights. The proposed census of native pastors and converts is obnoxious as emphasizing the distinction between Christians and non-Christians, and might easily be used for purposes of annoyance and persecution. Trusting that my action in this matter will meet with your approval,

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Mr. Wilcox to Mr. Conger.

UNITED STATES CONSULATE,
Hankow, Chint, December 19, 1901.

SIR: I have the honor to herewith inclose a copy of a dispatch received from the Kiukiang taot'ai. I send it in the original text, thinking Mr. Williams can give a more correct translation than I am able to send you.

I should like your advice before replying to the taot'ai. He is the same official who insists on our missionaries paying tonnage dues on their chartered junks and house boats, while carrying supplies for their missions.

I have, etc.,

L. S. WILCOX, *Consul.*

[Subinclosure.]

Taot'ai Ming to Mr. Wilcox.

Ming, by imperial appointment an official of the second rank, decorated with the peacock's plume, taot'ai of the Kuang-Jao-Chiu-Nan circuit, etc., sends this dispatch: On the 21st of the tenth moon of the twenty-seventh year of Kuanghsu, I received the following dispatch from the provincial office:

"The establishment of churches and the propagation of the (Christian) religion is an affair of the foreign missionaries. If Chinese persons practice the religion of the Roman Catholics or the Protestants, they ought to join with the missionaries in worship, but they ought not, because they depend upon the church, in their turn preach the religion to the violation of the provisions of the treaties. But recently those Chinese who have become followers of the church have been continually renting houses, establishing chapels, and propagating the religion in every department and district, gathering crowds of disciples and stirring up trouble at their pleasure, and it is difficult to guarantee that disorder will not arise therefrom. We ought, of course, in accordance with the regulations (of the treaties) to prohibit this. Certainly none but missionaries may establish churches, and, although they may appoint Chinese to live in the chapels and take care of them, this is quite different from propagating the religion. However, in their case also, there should be investigation in order that protection may be afforded as needed.

"As in duty bound, we have communicated with you and submit this to your consideration, hoping that you will send dispatches to the various consuls of the powers requesting them to instruct the missionaries to carefully note what Chinese are out

preaching the religion, and that they must recall them all; that it is not permitted them (the Chinese) to overstep the limits prescribed by propagating the religion in violation of the treaties. Should there be any falsely representing themselves as evangelists, the local officials should arrest them and punish them.

"As to the Chinese Christians appointed to take care of the various mission chapels, they (the missionaries) should be requested to prepare a list of the localities, chapels, and the names of the care takers, giving the birthplace of the latter, and send the same to our office, so as to provide evidence upon which we may instruct the various local officials to exert themselves to give due protection, and avoid any neglect or mistake. We trust you will favor us with a reply, etc."

Having received the above, I sent dispatches to the other consuls, and now, as in duty bound, address this communication to you, requesting you to give yourself the trouble to examine it, and hoping that you will instruct the missionaries inland to carefully note how many Chinese are now preaching the religion, at what places they are, and have them all recalled in accordance with the treaties; and, as to the Chinese Christians employed as care takers at the various chapels, request them to prepare a list of the names of the places, the chapels, and the men so employed, with the birthplace of the latter, and send the same to me as evidence which I may transmit to the foreign office, so as to enable them to direct the various local officials to give such protection as the occasion may demand.

Trusting that you will favor me with a reply, I have, etc.

Kuanghsu, twenty-seventh year, tenth moon, 29th day (December 9, 1901).

[Inclosure 2.]

Mr. Conger to the Foreign office.

No. 331.]

UNITED STATES LEGATION,
Peking, January 9, 1902.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to inclose herewith a copy of a dispatch dated December 9, 1901, from the taot'ai of the Kuang-Tao-Chiu-Nan circuit of Kiangsi to the United States consul at Hankow, in which the said taot'ai, quoting a communication from the bureau of foreign affairs of Kiangsi, requests the United States consul to instruct the American missionaries in Kiangsi to recall all Chinese who may be out preaching the Christian faith, which it is held is a violation of the treaties with foreign powers. He further asks that the missionaries be required to prepare a list of their mission stations, chapels, and helpers, stating the family and nativity of the latter, in order that due protection may be given, etc.

I have the honor to point out to your highness and your excellencies that this action of the provincial bureau of foreign affairs and of the taot'ai mentioned is in direct violation of the treaty of 1858 between China and the United States. So far from forbidding the Chinese Christians to propagate their faith, the treaty expressly provides that they shall not be hindered in doing so. Article XXIX of the said treaty contains the following paragraph:

"Hereafter those who quietly profess and teach these doctrines shall not be harassed or persecuted on account of their faith. Any person, whether citizen of the United States or Chinese convert, who according to these tenets peaceably teaches and practices the principles of Christianity shall in no case be interfered with or molested."

I confess that I am very much surprised to read such a dispatch as that of the Kiukiang taot'ai, after the very friendly sentiments expressed by the Chinese Government toward foreigners in general and toward missionaries and their work, and especially at this time, when such amiable relations are being renewed, as we trust, between our Governments. I can not believe that your highness and your excellencies will indorse this action of the provincial bureau of foreign affairs of Kiangsi, and I have to request that you will at once direct the said bureau and the taot'ai at Kiukiang to observe the provisions of the treaty and refrain from interfering with the Chinese evangelists in the work of propagating their religion.

As for the proposed census of Chinese helpers, it is altogether unnecessary. Chinese Christians deserve the same protection as other Chinese subjects, and no more is asked for them. There is reason to believe, too, that such enrollment as is suggested would be viewed with suspicion by the said helpers, and that it might be employed hereafter, perhaps, by unscrupulous persons for the purpose of injuring them.

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

E. H. CONGER.

[Inclosure 3.]

Mr. Conger to Mr. Wilcox.

Con., No. 1295.]

LEGATION OF THE UNITED STATES,
Peking, January 9, 1902.

SIR: I have received your No. 97 of December 19, inclosing a copy of the Chinese text of a letter to you from the taot'ai of Kiukiang.

I have had the letter translated, and find it a most outrageous document, a copy of which I shall send to the Wai Wu Pu. In the meantime you should reply to him in substance that there is no law or regulation prohibiting Chinese converts from promulgating their religion, but on the contrary the treaties, in so many words, permit and authorize them to do so; therefore you can not comply with his request, etc.

Please accompany every Chinese document with a translation, even if it may not be the best.

I am, etc.,

E. H. CONGER.

[Inclosure 4.]

Foreign office to Mr. Conger.

I have the honor to acknowledge the receipt, on the 1st of the twelfth moon of the twenty-seventh year of Kuangsu, of your excellency's dispatch, saying that you had recently received a copy of a dispatch from the customs taot'ai at Kiukiang to the United States consul at Hankow, in which he requested the consul to direct the missionaries to recall all Chinese who might be propagating Christianity, and said that the propagation of Christianity by the Chinese is not in accordance with the treaties, and in which he also asked that a list might be prepared and sent to him of the stations of the missions, their chapels, and the names and birthplaces of the helpers in charge, as evidence in accordance with which they might be protected, etc. Your excellency said that you had examined the treaties and found therein these words:

"Hereafter those who quietly profess and teach these doctrines shall not be harassed or persecuted on account of their faith. Any person, whether citizen of the United States or convert, who, according to these tenets, peaceably teaches and practices the principles of Christianity shall in no case be interfered with or molested."

The dispatch written by the said taot'ai, your excellency says, causes you much astonishment, and you express the hope that I will direct the provincial bureau of foreign affairs and the customs taot'ai at Kiukiang to carefully observe the treaties and not interfere with the Chinese evangelists in the discharge of their duties. Your excellency observes that as to the Chinese Christians they deserve the same protection as other Chinese subjects, and that if a census should be taken of the Chinese helpers in charge of the chapels, it may awaken suspicion and anxiety, etc.

The ministers of the board and myself have, in accordance with the terms of your excellency's dispatch, communicated with the superintendent of trade for the south, directing him to order the customs taot'ai at Kiukiang and the officers of the provincial bureau of foreign affairs to proceed in accordance with the treaties.

As in duty bound, I send this reply for your excellency's information.

Kuangsu, twenty-seventh year, twelfth moon, 3d day (January 12, 1902).

Mr. Hill to Mr. Conger.

No. 478.]

DEPARTMENT OF STATE,
Washington, March 14, 1902.

SIR: I have to acknowledge the receipt of your dispatch No. 890, of January 22 last, inclosing a copy of correspondence in relation to the unfriendly attitude of the taot'ai of Kiukiang toward native Christians.

You are quite correct in your views as to the general rights of native Christians in China. The Department is, however, of the opinion that if the missionaries are willing to give a list of the chapels or mis-

sion stations occupied by them in the interior, it would be an additional means of securing adequate protection at all times and under all circumstances.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

**AUDIENCE OF DIPLOMATIC CORPS WITH EMPEROR AND
EMPERESS DOWAGER OF CHINA, AND RECEPTION BY THE
LATTER OF THE LADIES OF THE DIPLOMATIC CORPS.**

Mr. Conger to Mr. Hay.

No. 906.]

LEGATION OF THE UNITED STATES,
Peking, February 5, 1902.

SIR: I have the honor to report that on Tuesday, January 28 last, Their Majesties received the diplomatic body in audience in the Chien Ching throne hall.

The audience was conducted throughout with more formality and dignity and with a greater outward show of respect for the foreign representatives than heretofore. The event was especially noteworthy as being the first occasion on which the Empress Dowager has openly appeared in an audience to the ministers of the foreign powers.

The Emperor was seated upon a raised platform near the entrance to the hall. The Empress Dowager occupied the throne itself immediately behind him. When the dean had read his address and the Emperor made his reply, the ministers were conducted up the steps to the throne and in turn presented to Her Majesty. After they had retired, the *chargés d'affaires* were in like manner introduced.

I inclose herewith copies of the address of Baron Czikann, dean of the diplomatic corps, and the replies of the Emperor and the Empress Dowager, and also *présis* of the ceremonial observed on the occasion.

On Saturday, the 1st instant, the Empress Dowager accorded a reception to the ladies of the diplomatic corps in the Yang Hsin Tien. Mrs. Conger, as *doyenne*, made the address on behalf of the visitors, to which Her Majesty cordially responded. The Emperor and Empress and numerous princesses of the court were present. The Empress Dowager asked particularly to have presented to her the ladies who were in Peking during the siege. Besides Mrs. Conger these were Mrs. Bainbridge, of this legation, and Madame Saussine, of the French legation. Her Majesty showed deep feeling in greeting these ladies, and wept as she spoke to them. She moved freely among her guests, speaking to them with earnestness and great cordiality, and giving assurances of future pleasant relations. The entire function was characterized by a heartiness and respect unusual heretofore in Chinese intercourse with foreigners, which, if sincere, are indeed significant. I inclose copies of Mrs. Conger's address and Her Majesty's reply.

I have, etc.,

E. H. CONGER.

[Inclosure 1.—Translation.]

Address of Baron Czikann, Dean of the diplomatic corps, at imperial audience, January 28, 1902.

SIRE: I have the honor to present to Your Majesty, in the name of the representatives of the foreign powers at Peking, our respectful homage.

The deplorable events of the year 1900, which led to the departure of the Imperial Court from Peking and disturbed, for more than a year, diplomatic relations with the Chinese Government, have necessitated prolonged negotiations with the plenipotentiaries of Your Majesty. The final protocol of these negotiations, signed on the 7th of September, 1901, has happily and, as we are convinced, with mutual satisfaction reestablished the former friendly relations between our Governments and the Chinese Empire. It has created a new basis for the future, on which, by the faithful fulfillment of its clauses, these relations may be cultivated and rendered more and more close.

We are pleased to consider the return of Your Majesty to Peking and the gracious reception of the diplomatic corps as the consummation of this work and as evidence of Your Majesty's desire to develop a cordial understanding between our Governments and to secure perpetual peace between our countries.

We can assure Your Majesty that the august sovereigns and rulers of the powers which we have the honor to represent are animated with the same desire.

We are therefore happy to be able to express to Your Majesty, on the occasion of your return to Peking, the very sincere wishes which we entertain for the happiness of Your Majesty and for the welfare of the Chinese Empire.

[Inclosure 2.]

The Emperor's informal reply to the address of the Dean of the diplomatic corps, January 28, 1902.

I am very much gratified by the visit of your excellencies at this time. Henceforth the friendly relations between China and the Western powers will grow more intimate. To-day Her Majesty the Empress Dowager also desires to see your excellencies and speak a few words to you in person.

[Inclosure 3.]

The Emperor's formal reply to the address of the Dean of the diplomatic corps, January 28, 1902.

The address which your excellencies have united in presenting to us, expressing your kind feelings, has been heard by us with deepest pleasure.

The troubles of last year, stirred up by the "Boxers," having caused our sudden departure, we especially appointed a prince and high minister as plenipotentiaries, and commanded them to return to Peking and negotiate and conclude a satisfactory treaty.

That our temples and altars are restored to peace and the people saved from suffering is certainly due to the friendly feelings entertained by the Emperors, Kings, and Presidents of your several States, as well as to the efforts of your excellencies in our behalf.

The united rejoicings of Chinese and foreigners at the return of our Court will ever be gratefully remembered, and gives us added pleasures and satisfaction.

We heartily share the sentiments of your excellencies that henceforth we should together, by the manifestation of sincerity and justice, secure confidence and righteousness, maintain harmony in our international intercourse, and thus give peace to the whole world.

[Inclosure 4.]

The Empress Dowager's reply to the address of the Dean of the diplomatic corps, January 28, 1902.

This audience with your excellencies to-day gives me very great pleasure. When your excellencies were being terrified in the capital last year, my heart was filled with great uneasiness. Henceforth China and the Western powers will renew their friendly relations, which will daily grow more intimate. Furthermore, I hope that while your excellencies reside in Peking you may have every good that you may desire and together enjoy the blessings of peace.

[Inclosure 5.]

Ceremonial observed at audience to diplomatic corps, January 28, 1902.

At the appointed time the various ministers, riding in their chairs, will be escorted by officers appointed by the board of foreign affairs, who will conduct them through the Tung-Hua gate. The secretaries, attachés, interpreters, etc., will leave their chairs outside the Shang Ssu Yuan (the Palace Stud), and will follow on foot. Outside the Ching Yun gate the ministers will exchange their chairs for the palace chairs, prepared by the department of the Imperial household, and will leave these chairs at the foot of the steps outside of the Ch'ien Ch'ing gate, and will pass on foot through the middle Ch'ien Ch'ing gate to the Imperial study, where they will wait a few moments. At 1 o'clock the Emperor will enter the hall, and the ministers of the foreign office will lead in the ministers, their secretaries, attachés, interpreters, and others according to their rank. In the first rank will be the ministers, the doyen, and one interpreter, who will stand behind the doyen. The second row will contain the secretaries and attachés, and the remainder will constitute the third row. At the middle door of the hall one bow will be made, on entering the hall a few steps a second bow will be made, and when before the steps of the throne, a third bow. The doyen will then read his address, which the interpreter will translate, and when he shall have finished translating, the Emperor will make his reply through Prince Ch'ing, which the interpreter will translate to the several ministers. When they shall have finished listening to the address, they will make a bow and retire a few steps, bow a second time, then retire to the hall door and bow a third time. When the ceremony is completed, they will lead their secretaries, attachés, and interpreters sidewise to the left gate and pass out backward. At the Imperial study they will rest awhile, and then pass out through the middle Ch'ien Ch'ing gate, enter the palace chairs, and ride through the Ching Yun gate, where they will leave the palace chairs and enter their own, to be carried back to their legations.

[Inclosure 6.]

Address of Mrs. Conger, doyenne, at the reception of the Empress Dowager to the ladies of the diplomatic corps, February 1, 1902.

YOUR MAJESTY: The ladies of the diplomatic corps have responded with pleasure to your kind invitation to this audience, and we must heartily congratulate you and all the Imperial Court that the unfortunate situation which led you to abandon your beautiful capital has been so happily resolved that you are now permitted to return to it in freedom and in peace. Your safe return to Peking and to this palace undestroyed will furnish pages to future history little comprehended at this time. The events of the past two years must be as painful to you as they are to the rest of the world, but the sting of the sad experience may be eliminated, and we sincerely hope it will be, by the establishment of better, franker, more trustful, and friendlier relations between Chinese and the other peoples of the earth.

The world is moving forward. The tide of progress can not be stayed, and it is to be hoped that China will join the great sisterhood of nations in the grand march. May all the nations united manifest forbearance, respect, and good will, moving on to the mutual good of all.

The recent Imperial edicts give promise of great good to come to your people and to your vast Empire, and it is our earnest prayer that God may preserve Your Majesty and the Emperor, and guide you to the fullest fruition of this promise.

[Inclosure 7.]

Reply of Her Imperial Majesty the Empress Dowager to the address of Mrs. Conger, February 1, 1902.

The very kind sentiments expressed by the ladies of the diplomatic corps in the address which they have united in presenting to us have given us the deepest pleasure.

Last year the dissensions in the capital caused a revolution which compelled us suddenly to take our departure, but it is a great gratification to us to know that our return now is a cause of rejoicing both in China and abroad, and to see that Mrs. Conger is entirely well, and that all the ladies are in everything prosperous.

Your coming to the palace on this occasion for an audience and the good wishes you express in your address for the prosperity of China are a sure proof of your sincerity.

Henceforth the friendly intercourse between our several countries will grow more intimate and the blessings of peace will rest upon us all. We desire only that you may all, while in China, have your desires gratified in all things, and find happiness and blessing. For this we earnestly hope.

REFORM EDICTS REMOVING PROHIBITION OF MARRIAGE BETWEEN MANCHUS AND CHINESE, AND PROVIDING FOR SELECTION OF STUDENTS TO BE SENT ABROAD.

Mr. Conger to Mr. Hay.

No. 910.]

LEGATION OF THE UNITED STATES,
Peking, February 6, 1902.

SIR: I have the honor to inclose herewith copies of two imperial edicts recently issued which indicate the loosening of the bonds of old custom and the present trend toward a new order.

The removal of the prohibition of intermarriage between Manchus and Chinese is of significance politically as indicating a desire to emphasize less strongly the distinction between rulers and ruled.

The other edict is in line with the policy declared in a number of recent edicts to encourage the study of western methods.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Translation from the Peking Gazette of February 1, 1902.

The following imperial edict was issued to-day:

“We have received this decree from her Imperial Majesty Tzu-hsi, etc., Empress Dowager:

“Our Dynasty, distinguished for its benevolence, has richly bestowed its benefits in overflowing measure throughout the whole Empire. No partiality has been shown to Manchu or Chinese, whether high official or people. But, according to an old custom, there has been no intermarriage between them. This was originally because when the Dynasty was first established the customs and speech of the two peoples were considerably unlike and therefore the prohibition was made. Now, however, customs and beliefs are alike, and more than two hundred years having passed, we ought to defer to the general feeling and remove the prohibition, and therefore we command that Manchu and Chinese, whether officials or people, be allowed to intermarry. Let there be no bigoted adherence to old custom. But, as for the Chinese women, for the most part, they have followed for a long time the custom of foot binding, which is an injury to the good order of creation. Hereafter let the officials and gentry all exert themselves to gently persuade and lead the

people and cause them all to understand, in the hope that this old custom may be gradually abolished. But on no account will it be permitted officials, clerks, or the slippery yamen runners to take advantage of this to go about harassing the people with their prohibitions. But at the times for selecting girls for palace attendants, the Manchus must still be chosen; there must not be any selection of Chinese, lest we fall into the corrupt practices of the former Ming Dynasty. We therefore make this restriction out of deference to the feelings of the (Chinese) people. Let this edict be published abroad for general information.

"Respect this."

[Inclosure 2.]

Translation from the Peking Gazette of February 1, 1902.

The following edict was issued on the 23d of the twelfth moon (February 1, 1902): "Our international relations are of the utmost importance. At the present time when we are seeking to restore prosperity to the people and the Government, we ought more than ever to gather together those of superior merit. If those who go abroad will devote themselves earnestly to the investigation of foreign methods of government and the sciences of those countries, we may hope to so increase our talents as in some measure to meet the needs of the Government. At present there are many students from the various provinces, zealous in acquainting themselves with current affairs, who have gone abroad to study in foreign schools and learn a profession. This practice has never obtained among the Imperial Clansmen and the Eight Banners, and it is urgently necessary that they become more liberally educated. Let the Imperial Clan court and the lieutenants-general of the Eight Banners select young men from each banner between the ages of 15 and 25, of good character, intelligent minds and sound bodies, and prepare a list to be sent to the Grand Council, who may report to us and await our appointment of an official to reexamine and make a selection of a certain number, who shall be furnished with means and sent abroad to travel and study, availing themselves of the opportunity to familiarize themselves (with foreign methods) and enlarge their experience that they may assist the Court in its purpose to cultivate talent for the service of the Government."

Respect this.

ARGUMENTS AGAINST THE UNITED STATES LAWS FOR THE EXCLUSION OF CHINESE.

Mr. Wu to Mr. Hay.

No. 229.]

CHINESE LEGATION,
Washington, February 7, 1902.

SIR: I have the honor to inform you that I have just received a telegram from the Chinese consul-general at San Francisco, forwarding a petition of the Chinese Merchants' Association of California to the Committee on Immigration of the Senate and Committee on Foreign Relations of the House of Representatives, which have now under consideration a bill to prohibit the coming into and to regulate the residence within the United States, its Territories, and all possessions and all territory under its jurisdiction, and the District of Columbia, of Chinese persons and persons of Chinese descent.

I beg to inclose the original and two copies of the telegram referred to, and to request that you will kindly transmit the same to the respective committees of the Senate and House of Representatives for their favorable consideration.

Accept, etc.,

WU TING-FANG.

[Inclosure.]

Chinese consul-general at San Francisco to Mr. Wu.

[Telegram.]

SAN FRANCISCO, CAL., *February 6, 1902.*

The Chinese merchants here have requested me to forward to you the following petition and ask you to transmit same to Senate and House committee, now in session on Chinese exclusion.

Ho Yow, *Consul-General.*

[Subinclosure.]

Petition of Chinese Merchants' Association to committees of the Senate and House of Representatives.

We respectfully draw your attention to the fact, which can be proven, that the recent convention convened in San Francisco to petition Congress to exclude Chinese did not represent the true sentiments of the large majority of the people of the State of California. The great majority of delegates were labor unionists and politicians. Farmers, manufacturers, capitalists, etc., had no chance to register their general opinions. The convention was not sincere, as many of its delegates were actual employers of Chinese. The convention was instigated by a few for political purposes, as the sentiment against the Chinese has changed, and conditions are not what they were years ago.

We respectfully pray that Congress send an impartial commission to investigate the whole matter and ascertain the true feeling of the country. If necessary, the exclusion act can be extended temporarily until completion of investigation. If friends of exclusion are so confident of the needs and justice of their cause, they certainly need not fear this proposed honest commission. This general investigation must result to the benefit of both countries, and would pave the way for a clear and useful treaty, as the present one expires in 1904.

We further pray that this, our prayer, be brought before the full House and Senate for consideration.

CHINESE MERCHANTS' ASSOCIATION.

Mr. Hay to Mr. Wu.

No. 202.]

DEPARTMENT OF STATE,
Washington, February 11, 1902.

SIR: I have the honor to acknowledge the receipt of your note of the 7th instant, forwarding a petition from the Chinese Merchants' Association of California, and to inform you that, in compliance with the request which you make, I have communicated copies of your note and its inclosures to the Committee on Immigration of the Senate and to the Committee on Foreign Affairs of the House of Representatives, for their consideration in connection with the bill to prohibit the coming into and to regulate the residence within the United States, its Territories, and all possessions and all territory under its jurisdiction, and the District of Columbia, of Chinese persons and persons of Chinese descent.

Accept, etc.,

JOHN HAY.

Mr. Wu to Mr. Hay.

No. 240.]

CHINESE LEGATION,
Washington, March 22, 1902.

SIR: When the Chinese Government consented in 1880 to a modification of the treaty of 1868, whereby the free immigration of Chinese

laborers into the United States was restricted, it was provided in the treaty that where the legislation of Congress authorized by that convention was likely to work hardship on the Chinese subjects the minister in Washington would be permitted to communicate with the Secretary of State to the end that mutual and unqualified benefit might result.

In making use at this time of the privilege granted in the cited treaty provision, I desire not to be understood as antagonizing the just provisions of pending legislation or influencing Congressional action, but to bring to your attention, and through you to Congress, some of the hardships which will inevitably result to the subjects of China in case some of the proposed legislation should become a law. Should I remain silent until the bills now before Congress be enacted into law, it will then be too late to remedy the evil. I trust, therefore, that what I say to you may aid the honorable Congress in making a right conclusion on the subject.

I desire especially to direct attention to the bill, Senate No. 2960, which has been reported to the Senate from the Committee on Immigration. In the concluding paragraph of the report which accompanies the bill it is said:

There can be no doubt that under a wise, humane, and fearless enforcement of this act the importation of Chinese laborers will be prevented and the ingress of Chinese merchants and others of the exempt classes facilitated, and that the present relations between the United States and China will be strengthened thereby.

I feel it my duty to say to you, and through you to the Congress, which will soon be called to act upon this bill, that if it becomes a law it will have just the contrary effect from that stated by the committee. It can not fail to seriously disturb the friendly relations which have up to the present existed between the two Governments and peoples.

I do not wish to go into the different provisions of the bill in detail, but I should like to call your attention in a general way to its effects. It restricts the privileged Chinese persons, other than laborers, to come to the United States to only five classes, viz, officials, teachers, students, merchants, and travelers, in direct contravention to the treaty of 1880, in Article I, where it states that the limitation or suspension of immigration shall apply only to laborers, "other classes not being included in the limitation." So also the history of the negotiation shows that it was the intention of the two Governments that laborers alone were to be excluded. Under the bill there would be excluded bankers, capitalists, commercial agents or brokers, and even merchants who come only to make purchases; also scholars and professors, of which there are many in China of high attainments; also physicians, clergymen, and many other classes which do not fall under the five exempt classes by the bill. The provisions of the bill as to the five exempt classes are so restrictive as to practically nullify the treaty in regard to them. The definitions as to teachers, students, and merchants are so contrary to the spirit of the treaty as to make them almost impossible of observance.

A woman married according to the Chinese custom to a person of the exempt classes would be prohibited from entering the country, because, according to the provision of the bill, it is necessary that the marriage shall be legal and binding by the laws of the United States.

The bill requires that all Chinese laborers now in the United States shall undergo a new registration. It will be remembered that my Government remonstrated against the first registration that was pro-

posed under the Geary law, and only consented to it at the earnest request of the Secretary of State at the time. All the Chinese laborers submitted to that requirement, and were registered, and now it is proposed to nullify all that and subject them to the annoyance and trouble of a new registration. It is an unnecessary hardship and should not be required.

The bill also contemplates the registration of all merchants and of others of the exempt class. This can not be required under the treaty, but the bill attempts to obviate that obstacle by making the failure to register a serious prejudice of their rights.

I have heretofore complained to you of the great hardships to which laborers, merchants, and others are subjected, after they have been admitted to the United States and are lawfully domiciled in this country. Past experience shows that Chinese have been arrested by the wholesale, placed in jeopardy, and subjected to molestation and insult. When found innocent, no redress is obtained for such illegal arrest. Persons charged with being unlawfully in the country and taken before a court are denied the privilege of bail, but must remain in jail until their case is decided. The bill, in place of providing some relief for these hardships, rather adds restrictions thereto.

The provisions with regard to transit across the United States imposed by this bill are almost impossible to be complied with, because people who are passing through the United States en route to other countries do not know the laws of the country and they can not understand the intricate rules and regulations made by the Commissioner-General of Immigration.

The report of the committee says that—

The greatest degree of fairness and justice to the exempt classes will be insured by the provisions of the bill, which provides better means for the investigation and disposition of their claims.

And, again, it says:

The features of the bill * * * will tend to protect the worthy immigrant in his treaty rights and privileges.

I have referred to the fact that the provisions as to the admission of the exempt classes are in direct violation of the treaty, and in addition to this the bill provides that the exempt classes must submit their right to admission to the adjudication of the Immigration Bureau, which, as I showed in my note ^a to you of December 10 last, was a purely ex parte investigation, where the claimant was not permitted to confront the witnesses, was deprived of the privilege of counsel, and was excluded from an appeal to the courts. I can not understand how the committee can style this "the greatest degree of fairness and justice," or how the "worthy immigrant is protected in his treaty rights and privileges." It seems to me, on the contrary, that his treaty rights are taken away from him.

The provisions of the bill above referred to, and others which might be cited, place so many restrictions upon Chinese persons and require them to comply with such strict provisions that no Chinese having the least respect for himself would submit to such indignities and come to this country. I fear the effect of the bill, if it becomes a law, will be that Chinese merchants will not come here to buy goods nor students come for educational purposes.

^a Printed in Foreign Relations, 1901, p. 75.

Another feature of the bill must be alluded to. The new possessions of the United States, such as Porto Rico, the Hawaiian Islands, the Philippines, and others which may hereafter be acquired, are subjected to its provisions. It can not be claimed that they were considered when the treaty was negotiated, and it is hardly just or in accordance with international comity that the treaty should be extended to them without the consent of China.

I have received repeated instructions from the Imperial Government, in view of the reenactment of the exclusion laws, to exert myself to see that treaty rights are observed and that no unnecessary hardships are placed upon Chinese subjects, and I feel that on account of the pendency of the legislation referred to I could not refrain from asking you to lay before the honorable Congress the views above set forth. You know that in regard to the exclusion of laborers my Government and myself have stood ready to cooperate with your Government in making the treaty prohibition effective. But with regard to the exempt classes who seek to come here for trading, educational, and other legitimate purposes, I must earnestly protest against the unwarranted and unjust provisions of the bill. In place of insuring "the greatest degree of fairness and justice," as stated by the immigration committee, it would impose such indignities and hardships upon these classes that few, if any, would come here. And notwithstanding the sincere wish of my Government and myself to maintain and cement closer the friendly relations between the two countries, I greatly fear that these friendly relations would be endangered by the enforcement of the act.

Accept, etc.,

WU TING-FANG.

Mr. Hay to Mr. Wu.

No. 218.]

DEPARTMENT OF STATE,
Washington, March 26, 1902.

SIR: I have the honor to acknowledge the receipt of your note, No. 240, of the 22d instant, calling attention to some of the hardships which you believe will inevitably result to the subjects of China in case some of the legislation proposed in the bill now pending in Congress for the restriction of Chinese immigration to the United States should become a law.

In reply I have the honor to inform you that copies of your note have been sent to the Senate Committee on Immigration and the House Committee on Foreign Affairs for their information.

Accept, etc.,

JOHN HAY.

Mr. Wu to Mr. Hay.

No. 243.]

CHINESE LEGATION,
Washington, April 29, 1902.

SIR: I am informed that there has been passed a bill by the Congress of the United States prohibiting and regulating the coming of Chinese persons into the territory of the United States, and that the same only requires the signature of the President to become a law.

In view of this I desire to lay before you some considerations why the said bill should not become a law, and to ask you to submit them to His Excellency the President before he shall act upon the same.

I have heretofore in various notes brought to your attention the hardships which are inflicted by existing laws on the Chinese in the United States under the guarantees of the treaty, and I will not repeat them at this time. I desire now to confine my representations to one point only, to wit, the extension to the Hawaiian and Philippine Islands of the Chinese-exclusion laws in force in the mainland territory of the United States.

When the treaty of 1894 was negotiated the islands named did not belong to the United States, and it was not then expected that they would be annexed. Hence the subject of the exclusion of Chinese laborers from these islands was not considered. For many years Chinese subjects of all classes were admitted to the Hawaiian Islands, and for centuries they had been permitted to go to the Philippines. In the long course of generations there had been built up a large commerce between the neighboring cities of China and those islands. Social and domestic relations of the most intimate character had been established; there were intermarriages with the natives, and many thousands of Chinese had been born there. To cut them off suddenly from all intercourse with China would be a great wrong and hardship.

It is very certain that my Government would never have consented to the inclusion of the Hawaiian and Philippine Islands in any treaty which provided for the exclusion of Chinese. I respectfully submit that it is not in conformity with international law and the comity of nations to include in the operations of a treaty large numbers of people and a great extent of territory which were in no respect the subject of the treaty without first entering into new negotiations with the nation concerned and obtaining its consent therefor. In view of these considerations, I trust that His Excellency the President of the United States, who is distinguished for his high sense of justice, will not allow the bill under consideration to become a law until the objectionable features to which I have called attention shall be eliminated.

Accept, etc.,

WU TING-FANG.

Mr. Hay to Mr. Wu.

No. 221.]

DEPARTMENT OF STATE,
Washington, April 30, 1902.

SIR: I have the honor to acknowledge the receipt of your note, No. 243, of the 29th instant, presenting some considerations why the bill recently passed by Congress prohibiting and regulating the coming of Chinese persons to the territory of the United States should not become a law, and asking that the note be submitted to the President.

In reply I have the honor to say that a copy of the note has been sent to the President.

The note was received by the Department after the President had signed the bill.

Accept, etc.,

JOHN HAY.

Mr. Wu to Mr. Hay.

No. 247.]

CHINESE LEGATION,
Washington, May 19, 1902.

SIR: In view of the recent discussion in Congress and its action in continuing in force the laws for the exclusion of Chinese laborers from the United States, it becomes my duty to bring to your attention the present situation of the subject.

It seems to have been the purpose of the framers of the bills for the more rigid enforcement of the exclusion of the Chinese from the United States to adopt the regulations of the Immigration Bureau which limited the terms of the immigration treaties of 1880 and 1894 and, by inserting them in the provisions of the bills, to thus secure for these regulations the force of law. I refer especially, first, to the regulation that under the treaty no Chinese persons could be admitted except the five classes enumerated in Article III of the treaty of 1894; and, second, to the assumption of the Immigration Bureau that it was in the power of the Secretary of the Treasury to add to the conditions set forth in the treaty other requirements as to merchants, teachers, students, etc., to enable them to secure admittance into the United States, and also other requirements for the return of Chinese laborers lawfully in the United States. All the rulings of the Treasury and immigration officials on those points were inserted in the bill which passed the House of Representatives, and likewise appeared in the bill which was reported from the Committee on Immigration to the Senate.

It will be seen by the lengthy debate which took place in the Senate that all these regulations of the Immigration Bureau were attacked by Senators who were learned lawyers and who characterized them as violations of the treaty. The sentiment of that distinguished body was so strongly against these provisions in the bill that as to some of them the advocates of the measures voluntarily abandoned their support of them and asked that they be stricken out of it. Even with the amendments, the bill was so objectionable to the Senate that it was defeated by a decided majority. And when the bill which finally became a law was passed it merely continued the legislation in force which had been enacted before the treaty of 1894, without any of the objectionable regulations of the Immigration Bureau, and with an express condition that these laws were "continued, so far as the same are not inconsistent with treaty obligations." Hence I understand the action of Congress to have been in decided disapproval of the conduct and practice of that bureau under its late management, and against which it has been so often my unwelcome duty to remonstrate.

Within a period of two years it will be incumbent upon our respective Governments to determine whether the treaty of March 17, 1894, shall be continued for another period of ten years, and that decision will be greatly controlled by the manner in which the treaty and laws are enforced for the remainder of the term. As you know, my Government has repeatedly manifested its willingness to cooperate with that of the United States in securing the exclusion of Chinese laborers from the United States in accordance with the provisions of the treaty, and I desire now to give renewed assurance of its good disposition in that regard for the future. And that this cooperation may be most efficient I have to suggest that the action of Congress in disapproving

of the regulations and practices of the Immigration Bureau, the reorganization which the President has thought necessary to make in that Bureau, and the near approach of the term limit of the treaty, all point to the desirability of making such a revision of the regulations as will guarantee an observance and enforcement of the spirit and the letter of the treaty.

The points upon which my Government would expect to secure a modification of the recent practice of the bureau have already been indicated in general terms; but in order that its views and wishes may be more fully understood, I proceed to make a more detailed specification. First, it would expect the Immigration Bureau to admit into the United States, with the certificate required by Article III of the treaty of 1894, all Chinese who are not properly classed as laborers. When the American commissioners went to Peking, in 1880, to solicit a modification of the treaty of 1868, they only asked the consent of China to exclude Chinese laborers, and the report of the negotiations as made by the American commissioners makes it clear that they had no other object than the exclusion of the Chinese laborers alone. (See Foreign Relations of the United States, 1881, pp. 171-190.) But the language of the treaty of 1880 is very explicit on this point. In Article I it says:

The limitation or suspension shall be reasonable, and shall apply only to Chinese who may go to the United States as laborers, *other classes not being included in the limitation.*

During the negotiation of the treaty of 1894 not a word was said about the restriction of any other class than laborers, and the language of the preamble shows that the only modifications to existing treaty stipulations contemplated related to laborers. In previous notes I have fully set forth the views of my Government on this point, and do not deem it necessary to further amplify them.

I can not, however, refrain from alluding to the fact that your Government could not object to the practice of reciprocity, and that if certain classes of Chinese are prohibited from entering the United States the Chinese Government would be justified in prohibiting the entrance into China of the same classes of Americans. Hence if the regulations enforced lately by the Immigration Bureau be continued, the Chinese Government, in due reciprocity, would be expected to prohibit the coming into China of all missionaries, whether clergymen or laymen, of all bankers, of all civil and mining engineers, of all railroad contractors, builders, or operators, of all commercial brokers, and of all merchants who did not have an established place of business.

Second. The Chinese Government would expect, in a revision of the Immigration Bureau regulations, that the existing definitions as to teachers and students would be abolished. They were admitted by the friends in the Senate of strict exclusion to be in derogation of the treaty, and upon their motion they were stricken out of the bill. It would also expect that the requirements respecting merchants not warranted by the treaty be changed.

Third. It would likewise expect a more reasonable observance of the treaty stipulation as to the transit of Chinese laborers through the United States. The regulations governing the transit of laborers have in recent years become so stringent and restrictive as to almost completely debar Chinese from enjoying this privilege. Many Chinese going from China to countries in Central and even South America have been detained en route, principally at San Francisco, and for some

flimsy reason denied the privilege of transit and deported back to China. Thus this treaty stipulation is being practically ignored or nullified.

Fourth. When the treaty of 1894 was drafted, the conditions upon which a laborer lawfully in the United States could go to China and return were carefully set forth in detail, in Article II, and my Government hopes that these conditions will be followed, and that the Immigration Bureau will abolish the additional conditions which it has prescribed and which are inconsistent with the treaty.

As applicable to the last three points I desire to direct your attention to a well-known principle of international law, of which the United States has been a conspicuous and successful champion, to wit, that the terms and stipulations of a treaty can not be modified or enlarged by conditions added by one party alone to the convention. You are doubtless too familiar with the well-known Winslow extradition case to make it necessary for me to recall the facts in detail. In that case the British Government sought to add a condition of surrender which was not in the treaty, and justified its conduct by citing an act of Parliament passed after the treaty had been signed. In a careful review of the law and precedents, Secretary Fish, March 31, 1876, said:

This involves the question whether one of the parties to a treaty can change and alter its terms or construction or attach new conditions to its execution without the assent of the other—whether an act of the Parliament of Great Britain, passed in the year 1870, can change the spirit or terms of a treaty with the United States of nearly thirty years anterior date, or can attach a new condition, to be demanded of the United States. * * * The President can not recognize the right of any other power to change at its pleasure, and without the assent of the United States the terms and conditions of an executory agreement in a treaty solemnly ratified between the United States and that power. (United States Foreign Relations, 1876, pp. 215, 217).

When the correspondence was communicated by the President to Congress, he said:

It is assumed that under an act of Parliament Her Majesty may require a stipulation or agreement not provided for in the treaty as a condition to the observance by her Government of its treaty obligations toward this country. This I have felt it my duty emphatically to repel. (Richardson's Messages, Vol. VII, p. 372.)

The President proceeded to show that such a course must be regarded as an abrogation or annulment of the treaty. The British Government, moved by the justice of the argument, yielded the point in controversy. (Richardson's Messages, VII, 415.)

Certainly if the United States would protest so strongly against such a course by Great Britain, it would not practice the same course itself against China. When the two Governments, after very careful investigations, determine and specify the conditions under which Chinese laborers in the United States can leave the country and return, no new conditions can be added. And when they specify the character of the certificate which a merchant, student, or teacher must have to entitle them to admission into the United States, it is not proper for the Immigration Bureau, or even for Congress, to prescribe an altogether different kind of a certificate or add conditions not warranted by the treaty.

I have felt it my duty, in the interest of preserving and continuing the treaty of 1894 in full vigor, to submit the foregoing views to your consideration, and to urge the propriety and necessity of a revision at this time of the regulations of the Immigration Bureau. And my Government cherishes the hope that under its new management this

Bureau will manifest a better disposition for the observance of the stipulations of the treaties.

In conclusion, I would respectfully request that you will kindly lay the above views before His Excellency the President for his earnest consideration and appropriate action.

Accept, etc.,

WU TING-FANG.

Mr. Hay to Mr. Wu.

No. 228.]

DEPARTMENT OF STATE,
Washington, May 26, 1902.

SIR: I have the honor to acknowledge the receipt of your note No. 247, of the 19th instant, on the recent discussion in Congress regarding the Chinese-exclusion bill and its action in the matter, and stating what your Government expects regarding the execution of the new law.

Your request that your note be laid before the President has been complied with.

Accept, etc.,

JOHN HAY.

Mr. Hill to Mr. Wu.

No. 234.]

DEPARTMENT OF STATE,
Washington, July 22, 1902.

SIR: Referring to your note No. 247, of May 19 last, on the recent discussion in Congress regarding the Chinese-exclusion bill and the action of that body in the matter, and stating what your Government expects regarding the execution of the new law, and referring also to the Department's note No. 228, of May 26, informing you that your note had been laid before the President, I have the honor to inform you that the Department is in receipt of a letter from the Secretary of the Treasury on the subject, dated the 15th instant, in which he says:

I have the honor to acknowledge, by transmission from Hon. George B. Cortelyou, secretary to the President, your letter of May 23 last, inclosing copy of a communication from the Chinese minister at this capital in which he makes certain statements in regard to the administration of the treaty and laws in relation to the exclusion of Chinese, and suggests that his Government would accept a modification of certain designated features of such administration as a preliminary to consideration by it of a new treaty at the termination of the one last entered into with the United States Government.

It is noted that in Mr. Cortelyou's letter he states that it is the President's wish, if no reason to the contrary is known to the Department, that what the minister asks should be done.

After a careful perusal of the minister's letter, I can but think that he is in some respects laboring under misapprehension. Thus he has evidently been misinformed in regard to the regulations under which the Chinese-exclusion laws are administered. All such regulations are Department, not bureau regulations, are established by the Department and administered through the Bureau of Immigration. The said laws nowhere confer authority upon anyone other than "the Secretary of the Treasury" to issue regulations for the enforcement of their provisions, nor have regulations established by any other or subordinate authority governed the actions of the officers in the administration of the Chinese-exclusion laws.

As a general reply to the objections urged to those regulations by the Chinese minister, it should be said, so far as those objections are urged on the score of alleged undue strictness, that the records of the Department will show that they were issued from time to time to counteract the ingenious devices which were persistently

resorted to by Chinese persons to gain admission to the United States either in disregard of the conditions precedent thereto prescribed by law or in defiance of its plain inhibition. It seems hardly necessary to argue that, from the point of view of an administrative officer, leniency in the enforcement of the law has no merit if it involves in any degree the failure of its effective enforcement. The much more serious objection is made, however, that the regulations are in violation of the treaty obligations, and the minister states, in support of such view, that they were so characterized by Senators in the course of debate upon some of the measures reported to the Senate to succeed the legislation which expired by limitation on May 5, 1902. The minister quotes, however, upon this subject the only expression of the views of Senators that can be deemed authoritative by the Department, and that is the language of the measure which became a law and by which it is provided that "all laws now in force, etc., * * * are hereby reenacted, extended, and continued so far as the same are not inconsistent with treaty obligations."

It seems reasonably certain that the minister has in this respect also been misled by the expressions used in debate as to the opinion entertained of the regulations, for it can not be assumed that any pronounced conviction upon the part of the Senate that said regulations were violations of our treaty obligations would not with so favorable an opportunity for such action have found expression in definite legislative terms adequate to correct an administrative wrong of so unquestionable a nature instead of language which referred solely to consistency with those obligations of the laws enacted by Congress itself. I must dissent, therefore, from the opinion expressed by the minister that the action taken by Congress is susceptible legitimately of the construction, even by implication, that it was expressive "of the decided disapproval of the conduct and practice of" any branch of this Department.

The appropriate source, however, of interpretation and instruction to which administrative officers must resort is, pending the judicial findings by the courts, the Department of Justice, to which this Department has applied and from which it has received the constructions of the treaty upon which its regulations are based. Thus, in reply to the specific complaints in the minister's letter, the regulations defining "students" is based upon an opinion of the Solicitor of the Treasury Department rendered June 5, 1900. There is no regulation defining "teachers," though in practice it has been found necessary to construe the term strictly to avoid violations of the treaty by those who apparently believe that any Chinese person who taught is, ipso facto, "a teacher," and entitled to admission whether he teaches as an occasional undertaking or as a source of earning a livelihood; whether qualified to teach more than the merest rudiments or an accomplished scholar, and regardless of his inability to reasonably assure administrative officers that he would not be at once compelled to resort to manual labor for support.

It is unnecessary to say more in reply to the minister's observations in regard to the regulations governing the transit of Chinese laborers through the United States than that they have recently been under review by the Supreme Court in the cases of Fok Young Yo and Lee Con Yung, and on May 5, 1902, the regulations and the action of the officers thereunder were both sustained, after full consideration of every objection upon any score that was urged against them. I can not believe, whatever the view the minister may hold as to the action of the Department, that he means to convey the impression that the chief judicial tribunal of the United States would sustain any administrative act that is violative of the treaty obligations of this country.

The minister further objects to the regulations recently adopted with reference to the return to the United States, after temporary absence therefrom, of registered Chinese laborers, regulations adopted after consultation with the Solicitor of the Department and his written opinion that they conformed to the provisions of Article II of the treaty. The change from the regulations theretofore in operation was made for the express purpose of bringing the practice of the administrative officers into harmony with the treaty, such practice having been up to that time a compliance with the provisions of sections 5, 6, and 7 of the act of September 13, 1888, legislation antedating said treaty.

There remains for consideration but one other specific complaint of the minister, and that is the regulation which excludes other Chinese persons than laborers. This regulation is based upon an opinion of the honorable the Attorney-General of July 15, 1898, in which he holds that "the true theory is not that all Chinese persons may enter this country who are not forbidden, but that only those are entitled to enter who are expressly allowed." (See Article III of the treaty.)

It seems superfluous to say that it is the purpose of the Department to scrupulously observe, in administering the laws committed to it, the rights, whether defined by treaty or secured by law, of the countries and individuals affected thereby; but it can not, with a due regard to its own obligations, omit any lawful means within its power

to make such laws effective of the purposes which they were intended to accomplish. The near approach of the time, by the expiration of the convention of December 8, 1894, for consideration by the two contracting powers of the terms of a new treaty, and the suggestion by the minister that the representatives of the United States could not consistently object to a system of general exclusion on the part of his Government against citizens of this country, as a means of retaliation, are subjects which address themselves rather to the legislative branch of the Government than to the Department, and require, therefore, no reply at my hands.

With respect to the modifications of existing regulations, suggested by the minister, I trust that it has been made clear herein that, since they are strictly in conformity with the construction placed upon the laws and treaty in relation to the exclusion of Chinese, by the courts and the law officers of the Government, the condition upon which the President expressed the wish for a compliance with the minister's request does not exist, and that I am, for that reason, unable to make the desired modifications.

Accept, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Wu to Mr. Adee.

No. 255.]

CHINESE LEGATION,
Washington, August 20, 1902.

SIR: I have had the honor to receive the note of your Department of the 22d ultimo, in which you embody the views of your honorable colleague the Secretary of the Treasury regarding the suggestions made by me as to the spirit in which the laws of the United States for the immigration of Chinese should be enforced, in view of the recent action of Congress.

In my note of May 19 last I set forth the reasons which induced me to make the suggestion, and I have no desire to elaborate them more fully at this time. I shall, therefore, as briefly as possible notice the points of the letter of the Secretary of the Treasury, which seem to call for some reply on my part.

I beg to assure that high official that I was not laboring under any misapprehension as to the authority by which the regulations as to Chinese immigration were issued. I was quite aware that they appear by the authority of and in the name of the Secretary of the Treasury. I merely followed the common language in use in referring to them as regulations of the Immigration Bureau. But at the same time I suppose I am not in error in believing that these regulations are drafted by the Bureau, and that in passing upon them the Secretary is greatly controlled by the views and information which he receives from the Bureau officials. Hence I deemed it opportune to make the suggestion I did, in view of the change in the head of that Bureau, which the President had found it necessary to make.

Neither do I think the honorable Secretary is warranted in the inference that I was misled as to the significance of the debate in and the action of the Senate on the Chinese immigration bills before that body. It was clearly understood that the bill reported by the Committee on Immigration was drawn up in consultation with the officials of the Immigration Bureau, and it certainly did seek to enact into law the regulations of the Treasury Department against which I have had so much occasion to remonstrate and which are briefly specified in my note of May 19.

Each one of the sections of the bill containing these objectionable regulations was openly attacked by Senators as unjust or violative of the treaties, and the Senate by a distinct vote refused to incorporate

them into laws. Under such circumstances I still think I was justified in asking that they be not further enforced, and it is a great disappointment to me to learn that the Secretary of the Treasury insists that they shall not only continue to be enforced, but that he sanctions the adoption of additional regulations equally as objectionable as those cited.

I have additional reason for regret at the letter of the Secretary because of the unfavorable influence it must have upon the negotiations which are so soon to take place, in view of the early expiration of the immigration treaty.

Accept, etc.,

WU TING-FANG.

**PROTECTION DENIED TO H. KRIPPENDORF, WHO HAD MERELY
DECLARED INTENTION TO BECOME A CITIZEN OF THE UNITED
STATES.**

Mr. Conger to Mr. Hay.

No. 919.]

LEGATION OF THE UNITED STATES,
Pekin, February 15, 1902.

SIR: I have the honor to inclose to you herewith copies of correspondence with Consul Ragsdale, of Tientsin, upon the subject of the citizenship of H. Krippendorf, who has been arrested by the German consul at Tientsin on a charge of embezzlement while a resident of Germany, and to be, etc.,

E. H. CONGER.

[Inclosure 1.]

Mr. Ragsdale to Mr. Conger.

No. 223.]

UNITED STATES CONSULATE,
Tientsin, China, February 13, 1902.

SIR: I have the honor to report that one H. Krippendorf, who arrived in Tientsin about one year ago, has been arrested by the German consul here on a charge of embezzlement while a resident of Germany. He left that country for the United States and took out, a year or more ago, his first papers necessary to become a citizen, but before the expiration of the five years' residence necessary to final declaration he came to China. He was an agent for a bicycle company, and on retiring a shortage in his accounts was discovered. This shortage was made good by his wife, and the arrest is now believed by him to have been brought about through spite-work of a personal enemy. Under the circumstances, should I offer any intervention? Please answer by telegraph on receipt of this dispatch.

I am, etc.,

JAMES W. RAGSDALE, *Consul.*

[Inclosure 2.]

Mr. Conger to Mr. Ragsdale.

Con., No. 1332.]

LEGATION OF THE UNITED STATES,
Peking, February 15, 1902.

SIR: I have to acknowledge the receipt of your dispatch No. 223 of the 13th instant, reporting that one H. Krippendorf has been arrested by the German consul at Tientsin on the charge of embezzlement while a resident of Germany; that Mr. Krippendorf left Germany for the United States and, a year or more ago, took out his first papers necessary to become a citizen; that before the expiration of the five years' residence necessary to final declaration he came to China.

You inquire whether, under the circumstances, you should offer any intervention.

You should not. Mr. Krippendorf's declaration of intention to become a citizen of the United States neither effected his naturalization as a citizen of the United States nor his expatriation as a German subject. He could only become a citizen of the United States after a five years' residence in the United States and upon his taking the required oath of allegiance thereto and renouncing his German allegiance. (Rev. Stats., sec. 2165.)

"The declaration of intention is not a renunciation of, but merely the expression of a purpose to renounce, the declarant's original allegiance. The actual renunciation is not effected until the applicant is subsequently admitted to citizenship. * * * Where a person after making a declaration of intention, instead of remaining in the United States and becoming duly naturalized, abandons the country and remains abroad, it must be inferred that he has also abandoned his intention. * * * To say that such a person is entitled to the protection of the United States is merely to set aside the statutes and discard citizenship altogether as a test of the right to claim protection." (Mr. Blaine to Mr. Hicks, Gylling's case; United States Foreign Relations, 1890, p. 695.)

I confirm my telegram of this date, as follows: "Do not interfere in the Krippendorf case."

I am, etc.,

E. H. CONGER.

[Inclosure 3.]

Mr. Ragsdale to Mr. Conger.

No. 224.]

UNITED STATES CONSULATE,
Tientsin, China, February 15, 1902.

SIR: I have the honor to confirm your telegram of this date with reference to the arrest of Krippendorf by the German consul. It is unnecessary for me to say that I felt that intervention should not be made, but the German consul had serious doubts about the matter and desired me to place the matter before you before transporting the prisoner.

I am, etc.,

JAMES W. RAGSDALE, *Consul.*

Mr. Hay to Mr. Conger.

No. 502.]

DEPARTMENT OF STATE,
Washington, April 8, 1902.

SIR: I have to acknowledge the receipt of your No. 919 of the 15th of February last on the subject of the citizenship of H. Krippendorf, who has been arrested by the German consul at Tientsin, China, on a charge of embezzlement while a resident of Germany.

In reply I have to say that the Department approves your letter to Consul Ragsdale, informing him that Krippendorf is not an American citizen, and that he should not intervene in Krippendorf's behalf.

I am, etc.,

JOHN HAY.

**QUESTION OF ESTABLISHMENT OF UNITED STATES POST-OFFICES
IN CHINA AND COLLECTION OF ADDITIONAL DUTY ON ARTICLES
THAT HAVE ALREADY BEEN ENTERED INTO CHINA.**

Mr. Hay to Mr. Conger.

No. 468.]

DEPARTMENT OF STATE,
Washington, February 27, 1902.

SIR: I have the honor to inclose herewith for your information copy of a dispatch from Mr. John Fowler, consul of the United States at Chefoo, with regard to the question of the establishment of our own post-offices in the foreign treaty ports in China, as it is under-

stood by the Department is the practice with the British, German, Japanese, French, and Russian Governments.

While this is a matter which concerns the Postmaster-General, the Department of State would not make any recommendation to the Postmaster-General in this particular without a full report from you, setting forth the importance of the step.

The second question treated in Mr. Fowler's dispatch is the right of the Chinese Government to collect a 5 per cent duty on purchases made in China of foreign origin which have paid duty on entry into China, and, incidentally, or, rather, more particularly, the right to collect a duty on shipments of a private character destined for consular officers in China.

The Department is of the opinion that objects of foreign origin bought in China and shipped to another point in China should be free of duty. The final protocol (Article VI, paragraph *e*) provides for a "5 per cent effective on maritime imports;" that is, original imports—imports from a foreign country—and any other interpretation of it so as to make it include coastwise duties, or any other description of import tax, is believed to be without justification.

As to original imports into China through the mails, the Department sees no reason why we should ask for the privilege of having them exempted from import duty, even though it may be that such imports through the other foreign post-offices established in China escape the payment of this duty. It would seem but equitable that so long as the Chinese Government does not insist that foreign imports through foreign mails shall pay the regular customs duties that it should not collect such customs duties on imports from the United States or any other country which has not its own postal service in China. This concession might be asked of the Chinese Government, but not as a matter of right.

As to the right of a consular officer to import free of duty goods for his own personal use and consumption, he is not entitled to any such privilege. Even the importation of official consular supplies free of duty is not granted in all countries. In the United States we only grant it to the consular officers of such countries as give us similar privileges. In case of goods destined for a diplomatic representative, this is another matter entirely.

You will use your good offices with regard to the correction of apparent abuse of the collection of the 5 per cent duty on purchases made in China of goods of foreign origin which have paid a duty on entry into China; but in the matter of the exemption from import duty of original imports into China through the mails, the Department does not deem it advisable that any action be taken until it has received a report from you as to the advisability of the establishment of our own post-offices in the foreign treaty ports of China.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Fowler to the Secretary of State.^a

No. 429.]

CONSULATE OF THE UNITED STATES,
Chefoo, China, January 9, 1902.

SIR: I have the honor to draw the Department's attention to its dispatch to me, No. 134 of February 6, 1901, acknowledging receipt of my various dispatches regard-

^a Inclosures to this dispatch not printed.

ing the abuses of the Chinese postal service, and respectfully but urgently request that you will kindly take up those dispatches, as well as those previously written by me on same matter.

I now renew this subject by inclosing copy of Minister Conger's dispatch to me, No. 1276 of December 24, and my reply of this date, No. 465, with its several inclosures. Unfortunately, this correspondence involves two great questions: The Chinese (customs) postal service. (This title must be maintained, although it styles itself "The Imperial Chinese post." The Chinese officials have absolutely nothing to do with it, it being exclusively under the control of the foreign customs, while, on the other hand, the Chinese Government does maintain an imperial postal service under the control of the board of war at Pekin.)

The second question involved in the right to collect a 5 per cent duty on purchases *made in China* of foreign origin which have paid duty on entry into China. To explain this clearly to you, if I wish to send my watch to Shanghai to be cleaned now, I must pay 5 per cent duty on it, and it can not be cleaned here. All the drinking water used in my house comes from Shanghai. It is simply triple-distilled Shanghai River water (water in Chefoo is unfit to drink), and yet 5 per cent duty is collected here on that plain drinking water. Suppose you live in Alexandria, Va., and this system prevailed, you would have to pay 5 per cent duty on everything you purchased in Washington, with this difference, You *can* get food, water, clothing, etc., in Alexandria; and if your friends send you presents you must also pay. If you have presents from abroad (our fourth-class mail, under 4 pounds), you must pay extra postage from Washington to Alexandria and the duty.

As to the assessment of this duty, it can be obviated by declaring it nonoperative on household stores, supplies, etc., *purchased in China*, and on articles in the mails.

As to the postal service, all you have to do is to ask the Post-Office Department to revoke its instruction, No. 133311 to the consul-general at Shanghai and instruct him to forward all mail matter in *sealed* sacks to the consuls by the very first ship leaving for their port.

Having done this, follow the example of the foreign powers, Great Britain, Germany, France, Russia, and Japan, and establish our own post-offices at each consulate, as Revised Statutes, section 4023, fully authorizes you to do. The French, German, Russian, and Japanese mails arrive here on first ship irrespective of flag. Our American mails, being handed to customs at Shanghai by our consul-general (all but first-class mail) in the bags made up and addressed in San Francisco to the various ports, without being opened in our Shanghai consulate, are sent only in those steamers under their control. We are thus often kept a week, when, had the mails been put on board a steamer as the others do, we would receive it when they do.

To illustrate: The Chinese foreign customs post will not place our mails on steamers flying the American, German, Japanese, or Russian flag, but only on those belonging to the Chinese company, Butterfield & Swire, and Jardines, the last two being granted especial shipping privileges (in violation of treaties), *not* for carrying the mails, but for *refusing* to carry any mails not placed on board by the Chinese customs; whereas the foreign powers send their mails by the very first steamer, no matter what flag it flies.

Another illustration: The Russian post here will receive and deliver, without extra cost, all international mails for Port Arthur and Newchwang, delivery within three days at latter place, but, like all the foreign posts, refuses customs mail (Chinese). The customs, instead of handing the American mail over to the Russian for delivery at Newchwang, etc., when it would be received free of cost, keep control of it and send it to Chinwantao, thence overland to Newchwang, etc., and charge domestic (customs) postage on all letters, and double domestic rates on fourth-class matter, in spite of the fact that they have paid full union rates; but all this has been fully treated in my dispatches to you, and will show how they have violated their promises to deliver this mail *free* to us.

Under separate cover I send you the portions of the wrappers of my parcels (fourth-class United States mail) on which I was assessed extra postage. You will see that the Chinese stamps were affixed and canceled *here*, and, besides, I was mulcted \$2.42 duty (\$2.34 gold carried them to China in United States mails, while it cost me \$4.22 Mexican extra to receive them at the first port after arrival in China).

I again respectfully urge you to establish our own offices where we have consuls and let us have the same treatment as other nationalities, and trust that you will have the interpretation of Sir Robert Hart—that we shall pay 5 per cent on our necessities purchased in China—abolished, for not only does this affect every foreigner in China, but unless stopped will surely decrease a lucrative trade from the United States.

Since the above was written I have received a small package from the British colony of Hongkong. It came via Shanghai in customs mail, but no extra postage was charged, yet I had to pay 25 cents duty. It was a Christmas present, so thus far this year I have paid \$4.47. The contents of this package were a silver pencil holder, a silver case bag, both of Chinese origin and manufacture, and, even under the protocol, not dutiable; but the customs must exist, and just so long as our Government allows them to tax us, just so long will Americans suffer. The wrapper is inclosed with those from the United States.

In conclusion, as to postal service, I need only remind you of my cable of June 20, 1900, informing you how this service had taken charge of our telegrams for Minister Conger, Admiral Kempff, and others, and refused to deliver them to me, necessitating my demanding copies from the telegraph office. Truly the Emperor was right when he issued his edict authorizing Sir Robert Hart to organize this "We shall then be able to keep the enemies' letters out." The tariff does not affect the merchant. In some instances he is better off now. It does not affect the Chinese in any way. The Empress Dowager in twenty days in October received 20,000,000 taels from sale of offices. She is not affected. It is only the foreigner (nonmerchant) and, above all, Americans that now suffer.

I have, etc.,

JOHN FOWLER, *Consul.*

Mr. Conger to Mr. Hay.

No. 972.]

LEGATION OF THE UNITED STATES,
Peking, April 30, 1902.

SIR: I have the honor to acknowledge Department's instructions No. 468, inclosing a copy of a dispatch from Mr. Fowler with regard to the question of establishing our own post-offices in the foreign treaty ports in China and setting forth certain complaints concerning the collection of import duties at Chefoo.

I have given to the question such investigation as I have been able, and report that in my judgment foreign post-offices in China, except at Shanghai, are not a necessity, because the Chinese postal service under the imperial maritime customs is everywhere giving fairly satisfactory service and is rapidly and effectively increasing and extending into the interior.

The foreign post-offices are being established principally for political reasons, either in view of their future designs upon the Empire, to strengthen their own footing, or because jealous of that of others. They are not established with the consent of China, but in spite of her. They will not be profitable. Their establishment materially interferes with and embarrasses the development of the Chinese postal service, is an interference with Chinese sovereignty, is inconsistent with our well-known policy toward the Empire, and I can not find any good reason for their establishment by the United States.

At Shanghai, where the foreign mail routes center, they are important, especially in taking charge of and starting the mails homeward, particularly since China is not a member of the International Postal Union. China appreciates this situation, and is willing, in fact, desires, that they should remain there.

Concerning the collection of duties on foreign goods purchased in China, which have already paid duty on their entry into the Empire, the treaties provide that the importers, under certain prescribed regulations, can always reship their duty-paid goods to another Chinese port without further payment. As to small purchases, I am informed by the inspector-general of customs that he has instructed the customs officers at Shanghai, where the most of such purchases are made, that

whenever it is possible some arrangement should be devised whereby goods so bought and shipped to another port can be accompanied by a certificate showing that they had paid duty on entry, in which case duty will not be charged at a second port; but if not so identified, they must pay foreign import duty as an original entry.

By treaty regulation "Native produce carried coastwise pays full export duty at the port of shipment, and at the port of entry coast-trade duty, the amount of which is declared to be half import duty."

The increase to a "5 per cent effective on maritime imports" is not applied to coastwise trade, except in cases where it is not clearly shown that foreign goods so shipped have already paid import duty.

As to "original imports through the mails," no privilege of exemption of duty has been granted by China to any foreign post-office, but most of them exercise it in spite of her helpless protests. The practice of the Imperial Chinese post-office has been, and still is, to require a declaration of the contents of a parcel, and if it contains only a single piece or pair of anything, or so small a quantity as to evidence a non-intention of importation for sale, it is usually exempted from import duty as a courtesy, but not as a right. A very large discretion upon these matters is always left with the commissioners of customs at the several ports. * * *

Following the spirit of your instructions, as I understand them, I shall take no further action upon either of the questions until I hear from you again.

I have, etc.,

E. H. CONGER.

REFUSAL OF CHINESE GOVERNMENT TO ISSUE PASSPORTS FOR TRAVEL IN THIBET.

Mr. Conger to Mr. Hay.

No. 950.]

LEGATION OF THE UNITED STATES,
Pekin, March 19, 1902.

SIR: I have the honor to inclose herewith copies of correspondence with Consul Wilcox, of Hankow, in regard to the applications of Messrs. Ruhl and Snyder, American missionaries, for permission to reside and travel in Thibet.

The correspondence is self-explanatory. I may possibly be exercising an excess of caution in declining to urge their request upon the Chinese Government; but the present time does not seem to me to be opportune, and I am unwilling that our people shall take any undue risks by traveling in Thibet.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Mr. Wilcox to Mr. Conger.

UNITED STATES CONSULATE,
Hankow, March 5, 1902.

SIR: I had the honor to forward applications for passports for Messrs. Ruhl and Snyder to return to their mission in eastern Thibet. I received their passports Nos. 367 and 365, but while they give them permission to travel in Hupeh, Szechuen, and Kansuh, they do not permit them to travel in Thibet.

They desire to leave here by April 5. I would therefore inquire if a special permit can not be granted to them (separately) to return to their mission in Thibet?

Awaiting your early reply, I have, etc.,

L. S. WILCOX, *Consul.*

[Inclosure 2.]

Mr. Conger to Mr. Wilcox.

UNITED STATES LEGATION,
Peking, March 17, 1902.

SIR: Referring to your dispatch dated the 5th instant, in regard to passports of Messrs. Ruhl and Snyder, requesting permission to return to their mission in Thibet, I have to say that in returning these passports to the legation the Foreign office said:

"As to the mention of Thibet in your note, the Western tribes are wild and fierce in character and constantly insult and annoy strangers and people from a distance, so that it will be difficult to satisfactorily arrange for safe protection. If we cause the people of various countries to run into danger and any remissness should occur it would be impossible to avoid injuries to good feeling. For several years our board has warned against this, of which there is record."

The treaty right to travel in Thibet is doubtful. But in any event I do not believe it wise at the present time to urge the point or add to the difficulties of the Chinese Government in the protection of foreigners and the maintenance of order. As it is evidently reluctant to grant permission lest some accident occur, I deem it best to respect its wishes. I am therefore constrained to advise Messrs. Ruhl and Snyder to postpone their contemplated journey to Thibet until a more favorable occasion.

I am, etc.,

E. H. CONGER.

Mr. Hay to Mr. Conger.

No. 512.]

DEPARTMENT OF STATE,
Washington, April 30, 1902.

SIR: I have to acknowledge the receipt of your No. 950, of the 19th ultimo, reporting that the Chinese Government declines to issue passports for Thibet upon the applications of Messrs. Ruhl and Snyder, American missionaries.

Your action in declining to urge their request upon the Chinese Government is approved.

I am, etc.,

JOHN HAY.

STUDENT INTERPRETERS IN CHINA.

Mr. Conger to Mr. Hay.

No. 959.]

LEGATION OF THE UNITED STATES,
Peking, March 29, 1902.

SIR: I note to-day, in the Washington Post of February 14, that Congress refuses to provide for any student interpreters for China. This is greatly to be regretted. The Chinese secretary or interpreter at this legation is an absolute necessity, and without whom the business of the legation must stop. The same is true of the more important consulates.

When Mr. Cheshire, who had acted as interpreter for about eighteen years, resigned there was only one man in China suitable for the place who could be obtained, Mr. E. T. Williams. If anything should happen to take him permanently from us there is not another suitable

man anywhere who could be induced to take his place; and the United States Government, with the great and growing importance of its interests here, can not afford to take such a risk. No private concern of one-fiftieth the importance would take any such chances for even a moment.

Everyone of the other great powers here has two or more interpreters of long experience, and from three to twenty students being prepared at government expense for future work. We are thus placed at a very great disadvantage before the Chinese and among the other legations. It is largely through the interpreters that the legations are kept in touch with the Chinese or able to secure valuable current information. No one can become an efficient interpreter of both the written and spoken language in less than five to ten years, and no one who does not make a specialty of the mandarin language and of official Chinese life can ever fit himself for the work. The average missionary, although he may have been here twenty years, has pursued his studies along one single line, the foreigner engaged in business along another special route, so that neither is equipped for official or diplomatic work.

The objection made by Congress, that there was no assurance that the students would remain in the Government service after learning the Chinese language, could be easily overcome by requiring them to give a bond, as the English do, that they will remain in the service for a certain number of years.

It is possible that it was the intention, when a second secretary was provided for this legation, with a requirement that he should study Chinese, that he might finally become an interpreter, but the work of the legation has increased so rapidly since then that he can find little time to devote to study. At any rate, did he become ever so efficient, it could not be expected that he would, under any circumstances, resign his office, and, at the same post, accept an inferior one. I can not emphasize too strongly the absolute necessity of making provisions for supplying a vacancy which may, at any time, occur most disastrously in the most important place in the legation staff.

Would it not be possible for Congress to create the office of assistant interpreter, with a graduated salary, beginning with \$1,000 per annum, with an annual increase of \$250 until it reaches \$2,500 per year? This, I think, would induce some bright young man to enter the service as a career. This is a most important matter, and I hope that Congress may be induced to make some such provision.

I have, etc.,

E. H. CONGER.

Mr. Hay to Mr. Conger.

No. 494.]

DEPARTMENT OF STATE,
Washington, March 29, 1902.

SIR: I have to inform you that the diplomatic and consular appropriation act for the fiscal year ending June 30, 1903, approved March 22, 1902, contains the following provision:

For ten student interpreters at the legation to China, who shall be citizens of the United States and whose duty it shall be to study the Chinese language with a view to supplying interpreters to the legation and consulates in China, at \$1,000 each, \$10,000: *Provided*, That said student interpreters shall be chosen in such manner as will make the selections nonpartisan so far as may be consistent with aptness and

fitness for the intended work: *And provided further*, That upon receiving such appointment each student interpreter shall sign an agreement to continue in the service as interpreter to the legation and consulates in China so long as his said services may be required within a period of ten years.

I am, etc.,

JOHN HAY.

Mr. Conger to Mr. Hay.

No. 982.]

LEGATION OF THE UNITED STATES,
Peking, May 10, 1902.

SIR: I am greatly pleased to learn from your No. 494 of March 29, that Congress has made provision for ten student interpreters at this legation. This is a very important enactment, and one which should prove in the near future of great value to diplomatic and consular work here.

A much stronger inducement for capable men would have been furnished if this could have been an assured route to entry into the consular service in China.

The law is not very specific as to requirements, duties, etc., but regulations by the Department or later legal enactments can supply what is lacking.

I inclose herewith copy of the regulations under which Great Britain appoints her student interpreters. It will be observed that the Government pays their passage to their posts; and I add that the necessary houses are furnished for them, and a Chinese teacher for each is paid by the Government at a cost of about \$6 to \$9 gold per month. The United States ought to do no less. It will be necessary for us to build a house for them.

The students during the first two years give their entire time to study, then their salaries are increased; and, continuing their studies, they are put to work as assistant interpreters or clerks at the legation or consulates, and later made vice-consuls or consuls, or Chinese secretaries.

The young men ought to be of sound health and constitution, of sturdy moral character and good habits, and at least with such educational equipment as is furnished by our ordinary high schools. They ought, during the first two years, to be put under the care and authority of the head of the mission, much as boys in our schools and colleges at home are under the control of superintendents and presidents. Should not more than five of them come out during the next year, some small Chinese houses on the tract marked "D" on the legation-quarter map could, with a moderate amount of repairs, be utilized for them.

I have, etc.,

E. H. CONGER.

[Inclosure.]

Student interpreters for China, Japan, and Siam.

The following are the [British] regulations under which candidates will be appointed:

1. The office of student interpreter has been instituted to supply the consular service in China, Japan, and Siam with persons versed in the languages of those countries and otherwise competent to discharge consular duties.

2. Student interpreters are selected by open competition after examination by the

civil service commissioners, who will give notice in the newspapers beforehand of such examination.

3. The student interpreters are to devote themselves in the first place to the study of the language of the country to which they are appointed, and in the next place they are to qualify themselves generally for the public service, but they must clearly understand that their retention and advancement will depend entirely on the ability which they may show after their arrival at their destination and on their general steadiness and good conduct.

4. The salary of the student interpreters is fixed at the rate of £200 a year, commencing ten days previously to the date of their departure from England. A passage to their post is provided for them at the public expense, but they are required to enter into a bond of £300 with a sufficient surety for the repayment of £150 in the event of resignation or discharge from the service within five years. The successful candidates are expected to proceed to their destination as soon after their appointment as they can make arrangements for doing so.

5. Candidates must be natural-born subjects of His Majesty. Persons not actually born within the United Kingdom, or born within the United Kingdom of parents not born therein, will only be allowed to compete by special permission of the secretary of state. Candidates must be unmarried and must not be under 18 or over 24 years of age at the date of examination, with an extension of five years in favor of persons who have served under the foreign office continuously from a time when they were within the above limits of age. Persons who may be serving, or who may have served, in the militia, the imperial yeomanry, the honorable artillery company, or the volunteers, may deduct from their actual age any time spent on actual military service, such time being reckoned by the number of days for which they received army pay. Candidates must be of sound constitution, possessed of good sight, and physically qualified for service in tropical climates. They will be called upon to undergo a medical examination to test these points, which will take place after the result of the literary examination has been ascertained. All candidates who have not been vaccinated within the last seven years must undergo an operation before leaving England.

6. The examination will be in the following subjects, viz:

Obligatory.—Handwriting and orthography, arithmetic (including vulgar and decimal fractions); English composition.

Candidates failing in any of these subjects will be informed of their failure as soon as possible, and will not proceed further with the examination.

Optional.—Precis, geography, Euclid (Books I to IV), Latin, French, German; the elements of the criminal law; the principles of British mercantile and commercial law relating to (1) shipping, (2) negotiable instruments, bills of exchange, and promissory notes; (3) contracts for the carriage of goods; (4) contracts for marine insurance, bottomry, and *respondencia*; (5) contracts with seamen; (6) the doctrines of stoppage in transit and lien.

(A fee of £4 is required from each candidate attending the examination.)

Foreign office, November, 1901.

Mr. Hay to Mr. Conger.

No. 545.]

DEPARTMENT OF STATE,
Washington, July 18, 1902.

SIR: I have to acknowledge the receipt of your No. 982, of May 10 last, and to inclose herewith for your information printed copies of the rules which have been adopted governing the appointment, organization, etc., of the corps of student interpreters in China provided for by the diplomatic and consular act approved March 22, 1902.

I am, etc.,

JOHN HAY.

[Inclosure.]

Student interpreters in China.

The diplomatic and consular act approved March 22, 1902, having provided for ten student interpreters in China, the following rules governing the appointment, organization, etc., of the corps have been adopted:

1. The student interpreters must be citizens of the United States.
2. The student interpreters are to devote themselves, under the direction and supervision of the United States minister at Peking, to the study of the language of China with a view to supplying interpreters to the legation and consulates in China, and their retention will depend on the ability and progress which they show in mastering the language and on their general steadiness and good conduct. They shall apply themselves exclusively to the study of the Chinese language for a period of two years, under the direction of the minister of the United States. In order that their progress in acquiring a knowledge of the language may be determined they shall be examined quarterly by the Chinese secretary of the legation of the United States and annually by a board composed of the Chinese secretary and two resident Americans properly qualified. During the period of two years the student interpreters may not be detached from their studies for duty in the legation or consulates.
3. At the expiration of two years the student interpreters may be detailed for duty as interpreters or assistants in the legation and consulates in China, where they shall be subordinate to and under the direction of the person in responsible charge of the office, and may be required to perform any official duties in addition to those of interpreter.
4. After the expiration of two years student interpreters may be granted leave of absence for a period not to exceed sixty days (exclusive of transit when expressly granted) in any one year. The application for such leave of absence shall be made to the Secretary of State, and must receive the approval of the officer under whom the student interpreter may be serving at the time.
5. The salary of student interpreters is fixed by law at the rate of \$1,000 per annum. The cost of tuition is to be borne by the student interpreters.
6. Student interpreters shall be appointed by the President, after examination hereinafter provided for, and the appointments shall be nonpartisan, so far as may be consistent with aptness and fitness for the intended work.
7. Upon receiving such appointment each student interpreter shall sign an agreement to continue in the service as interpreter to the legation and consulates in China so long as his said services may be required within a period of ten years.
8. No person drawing the salary of student interpreter shall be allowed any part of the salary appropriated for any secretary of legation or other officer.
9. Student interpreters shall be appointed only after they shall have successfully passed an examination before a board of three persons designated by the Secretary of State, who shall also prescribe the subjects to which such examination shall relate and the general mode of conducting the same by the board. Immediately upon the conclusion of such examination, the examining board will make to the Secretary of State a report in writing, stating whether in their judgment the candidate is or is not qualified for the position, and, if the decision is adverse to the candidate, summarizing the grounds of such decision.
10. The subjects to which an examination shall relate shall be those only which pertain to general education and shall not include questions of a technical nature.
11. Candidates must be of sound health and not be under 18 or over 30 years of age at the date of examination.

JOHN HAY.

DEPARTMENT OF STATE,
Washington, July 15, 1902.

Mr. Adee to Mr. Conger.

No. 556.]

DEPARTMENT OF STATE,
Washington, August 27, 1902.

SIR: I have to inform you that the President has appointed Messrs. Thomas W. Haskins, of Los Angeles, Cal.; Julean H. Arnold, of Sacramento, Cal.; Frederick D. Cloud, of Des Moines, Iowa; and Harry M. Robins, of Grand Rapids, Mich., as four of the student interpreters provided for by the diplomatic and consular appropriation

act of March 22, 1902. Messrs. Haskins and Arnold are expected to sail on the army transport leaving San Francisco on September 1. Messrs. Cloud and Robins have not yet announced their intentions as to departure.

I inclose for your information a copy of the instructions sent to these gentlemen. You will see that no reference is made therein to the payment of tuition, for which no expressed provision is made by the act. The Department is disposed to defray this expense in the same manner as the tuition in the case of the second secretary at Peking is paid; but before deciding definitely it desires to receive from you a report as to the exact outlay which would be required on this account for the ten students.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

(Inclosure.)

Instructions to student interpreters in China.

DEPARTMENT OF STATE,
Washington, August 26, 1902.

SIR: The President having appointed you to be one of the ten student interpreters in China, provided for by the diplomatic and consular act approved March 22, 1902, and you having signed the agreement required by the act to continue in the service as interpreter to the legation and consulates in China so long as your said services may be required within a period of ten years, I inclose herewith your commission.

You are to devote yourself under the direction and supervision of the United States minister at Peking, to the study of the Chinese language, and your retention will depend on the ability and progress which you show in mastering the language, and on your general steadiness and good conduct. You are to apply yourself exclusively to the study of the Chinese language for a period of two years, under the direction of the minister of the United States, and in order that your progress in acquiring a knowledge of the language may be determined, you will be examined quarterly by the Chinese secretary of the legation, and annually by a board composed of the Chinese secretary and two resident Americans properly qualified. During the period of two years you may not be detached from your studies for duty in the legation or consulates.

At the expiration of two years you may be detailed for duty as interpreter or assistant in the legation or in any of the consulates in China, where you shall be subordinate to and under the direction of the person in responsible charge of the office, and may be required to perform any official duties in addition to those of interpreter.

After the expiration of two years, you may be granted leave of absence for a period not to exceed sixty days (exclusive of transit when expressly granted) in any one year. The application for such leave of absence shall be made to the Secretary of State and must receive the approval of the officer under whom you may be serving at the time.

Your salary is fixed by law at the rate of \$1,000 per annum, beginning on the date of your arrival at the legation at Peking, and you may draw upon the Secretary of State as it may become due monthly, supporting your draft by an account. In availing yourself of this authorization, you will be careful not to exceed in the amount drawn for the sum to which you may be entitled in account with the United States at the date of your drafts. In addition you will be entitled to compensation at the rate of your salary for the time occupied in receiving instructions in the United States, beginning on the date of your oath of office and not exceeding thirty days, and for the time actually and necessarily occupied in transit, by the most convenient route, between the place of your residence and the legation at Peking, not exceeding sixty days.

Your account for the period occupied in receiving instructions, not to exceed thirty days, should, if practicable, be made out and settled at the Department before you leave for Peking.

On reaching Peking you will make out a separate account for the period of transit and draw on the Secretary of State for the amount due.

I am, etc.,

ALVEY A. ADEE, *Acting Secretary.*

Mr. Conger to Mr. Hay.

No. 1077.]

LEGATION OF THE UNITED STATES,
Peking, August 29, 1902.

SIR: I have the honor to acknowledge receipt of Department's instructions, No. 545, inclosing copies of the rules which have been adopted governing the appointment, organization, etc., of the corps of student interpreters in China.

It is greatly to be regretted that Congress did not make more liberal provisions for this service. Unless some arrangement can be made for housing these young men and paying their teachers, in addition to their small salaries, it will be impossible for them to live here. They can not live outside of the legation quarter.

If, under these conditions, any shall be appointed, they will be constantly embarrassed and humiliated by the contrast of their situation with that of the European students, whose passage out and all expenses of instruction are paid by their Governments, as well as comfortable residences provided for them.

As I have heretofore written, there are some old Chinese houses within our legation tract which can be temporarily made fairly comfortable for them, but some extensive repairs will have to be made. I trust, therefore, that when it is ascertained definitely that any will come, the Department can find some way to have repaired and set apart these houses for their use, and that I may be instructed so to do in anticipation of their arrival.

I can not accurately estimate the cost until I know how many are coming, and how many houses will consequently be needed. The probability is that the Koreans will occupy the best of these houses, and those left for the students will require considerable repairs; probably \$2,000 if only five students come, and \$4,000 should there be ten.

Each student must have his separate teacher, who will cost him \$12 Mexican per month.

I have, etc.,

E. H. CONGER.

Mr. Conger to Mr. Hay.

No. 1107.]

LEGATION OF THE UNITED STATES,
Peking, October 7, 1902.

SIR: I have the honor to acknowledge the receipt of instruction No. 556, of August 27 last, with information that the President had appointed four student interpreters provided for by the diplomatic and consular appropriation act of March 22, 1902, and that two of these, Messrs. Haskins and Arnold, were sailing hither on the army transport leaving San Francisco September 1, and inclosing copy of their instructions.

You state that the Department is disposed to defray the expense of their Chinese teachers in the same manner as in the case of the second secretary of this legation, but, before deciding which definitely, you instruct me to report as to the exact outlay which will be required on this account for the ten students.

The Chinese teacher employed for the second secretary has been paid \$12 Mexican per month for two hours each day. For six or seven hours per day, which is the time required of teachers in the other

legations, it will cost now \$20 Mexican per month, and each student must have a separate teacher. Hence the entire expense for the ten students will be regularly \$200 Mexican per month. Some legations pay less than this, but this is now paid by the British legation, and we will have to do the same.

If, during the heated term, the students go into the country for a brief period, as other students here do, and as seems absolutely necessary on account of their health, the expense of taking their teachers out and an extra amount for rice will have to be paid, probably about \$6 per month. This would be \$60 per month for, say, two months, making the total for the whole year for the ten students, \$2,520 Mexican.

I respectfully recall attention to my No. 1077, of August 29 last, and again urge the importance of Congress making more liberal appropriations for these young men and the imperative necessity of including a suitable house for them among the new legation buildings.

I have, etc.,

E. H. CONGER.

Mr. Hay to Mr. Conger.

No. 580.]

DEPARTMENT OF STATE,
Washington, October 28, 1902.

SIR: I have to acknowledge the receipt of your No. 1077, of August 29 last, and to inform you that an item for \$8,000, for the erection of a suitable building for the accommodation of the ten student interpreters, and another for \$1,000 for the payment of the yearly cost of their tuition, have been inserted in the estimates for the next fiscal year.

I am, etc.,

JOHN HAY.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Conger to Mr. Hay.

No. 1007.]

LEGATION OF THE UNITED STATES,
Peking, June 2, 1902.

SIR: I have the honor to confirm your telegram^a of the 24th ultimo and to say that the Chinese Government has granted permission to the

^a Printed, page 6.

United States consular officers in China to use their good offices in representation of Cuba and its interests until Cuban consuls shall have been appointed.

I inclose copies of correspondence with the foreign office and notice to our consular officers.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Mr. Conger to Prince Ch'ing.

F. O., No. 387.]

LEGATION OF THE UNITED STATES,
Peking, May 26, 1902.

YOUR HIGHNESS: I have the honor to inform Your Highness that, at the request of the President of the Cuban Republic, my Government has instructed me to respectfully ask the Chinese Government if it will not permit the United States consular officers in China to use their good offices in the representation of the interests of Cuba and her citizens until such time as Cuban consuls shall have been appointed to reside in the Empire.

Trusting that I may have the early pleasure of informing my Government that the requested permission is granted, I improve the occasion to reassure Your Highness, etc.,

E. H. CONGER.

[Inclosure 2.]

Prince Ch'ing to Mr. Conger.

F. O., No. 371.]

I beg to acknowledge receipt of your excellency's dispatch with reference to the request of the President of the Cuban Republic, and that your Government has instructed your excellency to respectfully ask the Chinese Government if it will not permit the United States consular officers in China to use their good offices in the representation of the interests of Cuba and its citizens until such time as Cuban consuls shall have been appointed to reside in the Empire.

Your excellency hoped to have the early pleasure of informing your Government that the requested permission is granted.

China has hitherto had a consul-general in Cuba, and the fact that the treaty powers have recognized Cuba's independence, makes it proper that the consul-general appointed by the Chinese Government to Cuba continue to reside there as of old.

As to the request by your excellency that the United States consular officers in China should represent the interests of Cuba, this, for the time being, is granted as a matter of course and to manifest our friendly feelings.

As in duty bound, I send this reply, that your excellency may convey the same to your Government.

A necessary dispatch.

Dated, 23d of the fourth moon (May 30, 1902).

[Inclosure 3.]

Mr. Conger to United States consular officers in China.

LEGATION OF THE UNITED STATES,
Peking, May 31, 1902.

GENTLEMEN: By direction of the honorable Secretary of State and permission of the Chinese Government, you are instructed to use your good offices, whenever necessary, in representation of the interests of Cuba and its citizens within your respective jurisdiction until such time as Cuban consuls shall have been appointed.

Very respectfully, yours,

E. H. CONGER.

EXCLUSION OF CHINESE—REFUSAL OF TREASURY DEPARTMENT TO MODIFY CERTAIN REGULATIONS.

Mr. Wu to Mr. Hay.

No. 248.]

CHINESE LEGATION,
Washington, June 14, 1902.

SIR: My attention has been called to a circular, No. 52, issued by the Department of the Treasury May 10 last, in which it is stated that under Article II of the treaty between China and the United States of 1894 Chinese laborers, seeking admission into the United States after a temporary absence, must at that time prove their right to return. It then proceeds to modify the character of the return certificate which has heretofore been given to the resident laborer on his temporary visit abroad, and requires him to forward from China or the place of his sojourn, ninety days in advance, a notice to the collector of customs of his intention to return and the grounds upon which he claims the right of admission to the United States.

The effect and evident purpose of this circular is to change the practice heretofore existing as to the time and method of determining the right of a Chinese laborer lawfully in the United States to go abroad and return, a privilege which is expressly guaranteed to him by the article of the treaty cited. I respectfully submit that the circular is in violation of the spirit of the treaty and in direct contravention of the law of Congress referred to in paragraph 2 of the circular.

It will be seen that Article II of the treaty requires that the laborer intending to go abroad shall—

*before leaving the United States, deposit as a condition of his return * * * a full description in writing * * * (of the grounds upon which he claims the right to return), and shall be furnished by said collector with such certificate of his right to return under this treaty as the laws of the United States may prescribe; * * * and should the written description aforesaid be proved to be false the right to return * * * shall be forfeited.*

It is thus clear that the treaty requires that the evidence of the right of the laborer to return shall be submitted to the collector, and the sufficiency of the same be passed upon *before he goes abroad* and before the return certificate is issued.

But if any doubt could exist as to the intent of the treaty the duty of the customs officials is made clear by the law of Congress of September 13, 1888. Section 7 of that act requires that a Chinese laborer desiring to go abroad and return—

shall apply to the collector of customs of the district from which he wishes to depart at least a month *prior to the time of his departure*, and shall make oath, etc., * * * and shall furnish to said collector such proof of the facts entitling him to return as shall be required by the rules, etc. * * * And if the collector, after hearing the proofs and investigating all the circumstances of the case, shall decide to issue a certificate, he shall * * * sign and give to the person applying a certificate * * * which shall be the sole evidence given to such person of his right to return.

This is a precise and positive provision that "the written description" contemplated in the treaty, setting forth the grounds upon which the laborer claims the right of readmission (see paragraph 3 of circular) is to be given to the collector and its sufficiency is to be passed upon before the certificate is issued, and before the laborer leaves the United States. This certificate is to be held as final. Other sections of the

law provide for the identification of the person with the certificate, and punishment for its forgery; but no provision is contemplated for a reexamination of "the grounds upon which he (the laborer) claims the right of admission" after his departure or before his return.

The fact that the law requires the laborer to submit his evidence to the collector thirty days before his intended departure makes it plain that it was the intent of the law that the investigation should be such an investigation as would determine the right of the laborer to return. I do not mean to say that fraud discovered after the certificate was issued might not invalidate it, but the law does contemplate that this certificate shall be, not "prima facie evidence" (see paragraph 1 of the circular), but "the sole evidence" of the right of the laborer to return.

This view of the treaty and the law is not only technically correct, but it is in accordance with the reasonableness and justice of the situation. It is proper that the Chinese laborer lawfully in the United States, wishing to take advantage of the treaty privilege of a temporary visit to his native land or elsewhere, should know before he leaves the United States whether he has the right to return, and he is entitled to have this fact officially determined before he takes his departure on his long and expensive journey. It seems like cruel irony to be told (see paragraph 3 of the circular) that, for his own convenience and benefit, the laborer is to be allowed to go across the great ocean, and, after he has reached his destination, he is to send to the collector in the United States the evidence or ground upon which he claims the right to return, and have the investigation take place while he is 10,000 miles away, with no opportunity to refute false charges or the machinations of his enemies.

I especially call attention to the fact that the debate in Congress and its recent action on the exclusion laws was in open disapproval of the action of the Immigration Bureau in seeking to add conditions to the treaty and the laws of Congress which were not warranted by them.

In view, therefore, of the facts and views herein set forth, I have to request that circular No. 52, Bureau of Immigration, May 10, 1902, be submitted to the Attorney-General for an opinion as to whether it is warranted by the treaty and the laws of Congress.

Accept, etc.,

WU TING-FANG.

[Inclosure.]

Enforcement Chinese-exclusion law.

[1902. Department Circular No. 52. Bureau of Immigration.]

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., May 10, 1902.

To Collectors of Customs:

It has been determined in an opinion by the Solicitor of the Treasury (T. D. 23660) that, under the provisions of Article II of the convention between the Government of the United States and the Empire of China, proclaimed December 8, 1894, registered Chinese laborers seeking admission to the United States after temporary absence therefrom must prove that some one of the conditions mentioned in said Article II exists at the time of application for such readmission. This constitutes a condition precedent to reentry of such persons additional to the return certificate prescribed in section 7 of the act approved September 13, 1888.

1. You are therefore directed to issue to duly registered Chinese laborers applying

therefor, return certificates upon prima facie evidence establishing that they have, respectively, some one of the grounds recited in said section of the act referred to above to sustain their claim of right to such return certificates.

2. You are informed, however, that the return certificate is issued in accordance with the requirements of section 7 of the act approved September 13, 1888, but it does not relieve the person to whom issued of the necessity of proving to the satisfaction of the appropriate officers, upon his return to the port of departure, that some one of the conditions recited in Article II of the convention between the United States and China, promulgated December 8, 1894, exists at the time of such return.

3. Every registered Chinese laborer to whom a return certificate has been issued should be informed at the time of such issuance that in order to avoid, as far as possible, the risk of being refused admission and being returned to China after the long voyage therefrom, he should, at least ninety days in advance thereof, notify the collector of customs of the port from which he departed from the United States of his intention to return, giving in such notice his name and address, the number of his return certificate, and the ground upon which he claims the right of admission.

4. Upon the receipt of any such notice, the collector of customs should immediately make a thorough investigation of the claim made therein, and if such investigation fails to establish the validity of such claim, the person making it should be notified at his address that he will not be permitted to reenter the United States.

5. Upon the arrival of any registered Chinese laborer at any port of the United States and his exhibition of his return certificate to the appropriate officer, the collector of customs of such port should require such Chinese to establish satisfactorily, as a condition precedent to his admission to the United States, that he has, at the time of such arrival, a lawful wife, child, or parent in the United States, or property therein of the value of \$1,000 or debts of like amount due him and pending settlement. If the evidence establishing the eligibility of the applicant to enter has previously been secured and is not controverted, then he shall be admitted without delay, but otherwise he shall be refused a landing until he establishes his right thereto.

O. L. SPAULDING, *Acting Secretary.*

Mr. Hill to Mr. Wu.

No. 235.]

DEPARTMENT OF STATE,
Washington, July 31, 1902.

SIR: Referring to your note, No. 248, of the 14th ultimo, requesting that Circular No. 52, Bureau of Immigration, issued by the Treasury Department May 10, 1902, and relating to the enforcement of the Chinese-exclusion law, be submitted to the Attorney-General for an opinion as to whether the circular is warranted by the treaty between the United States and China and the laws of the United States, I have the honor to inclose herewith for your information a copy of a letter from the Acting Attorney-General, in which he expresses the opinion that, as matter of law, the circular in question is warranted by the treaty with China and the existing laws of the United States.

Accept, etc.,

DAVID J. HILL,
Acting Secretary.

[Inclosure.]

Mr. Hoyt to Mr. Hay.

DEPARTMENT OF JUSTICE,
Washington, July 26, 1902.

SIR: Your letter of June 24, inclosing a note from the Chinese minister dated June 14, presents for my opinion the question whether Circular No. 52, Bureau of Immigration, issued by the Treasury Department May 10, 1902, and relating to the

enforcement of the Chinese-exclusion law, is warranted by the treaty with China and the laws of the United States.

The circular provides that registered Chinese laborers seeking admission to the United States after temporary absence, under Article II of the treaty of 1894 between the United States and China, must prove that some one of the conditions mentioned in Article II exists at the time of application for readmission. The circular states that such proof "constitutes a condition precedent to reentry of such persons additional to the return certificate prescribed in section 7 of the act approved September 13, 1888." The following rules and conditions are prescribed: That return certificates may be issued to duly registered Chinese laborers upon *prima facie* evidence that they possess some one of the grounds recited in the act of 1888 to sustain their claim of right to return; that a return certificate does not relieve the holder of the necessity of proving to the satisfaction of the appropriate officers upon return to the port of departure that some one of the conditions of Article II exists at the time of return; that every Chinese laborer to whom a return certificate has been issued should be informed that, in order to avoid the risk of being refused readmission, he should, ninety days in advance of his return, notify the collector of customs at the proper port of the intention to return, giving the facts regarding his personal identity and the grounds upon which he claims the right to reenter.

The remaining paragraphs of the circular provide that the collector shall, upon receipt of such notice, investigate the claim, and if its validity is not established, shall notify the person making it that he will not be permitted to reenter this country; and that upon the arrival of a returning laborer and the exhibition of his return certificate the collector shall require the applicant to establish satisfactorily that he has at the time of arrival a lawful wife, child, or parent in the United States, or property therein of the value of \$1,000, or debts of like amount due him and pending settlement. Provision is made for entry without delay if evidence of the applicant's eligibility has previously been secured and is not controverted, but otherwise a landing shall be refused until the applicant's right is established.

The gist of the representations on behalf of Chinese persons is that the existing law and practice contemplate the possession of a return certificate as conclusive evidence of the right; that there is no warrant for the position of the circular that the conditions of allowance of reentry must exist at the time of return as well as at the time of departure when the certificate is obtained. The statement of this proposition is almost sufficient in itself to condemn it. Accompanying it is some concession that fraud discovered after the certificate was issued might invalidate it. But the claim is made that the certificate is not *prima facie* evidence, but the sole evidence of the right of the laborer to return. The argument necessarily means that, provided a registered laborer possessed the proper qualifications to entitle him to return at the time of leaving this country, although as soon as he had left, by fortuitous occurrence, or design, short of fraud, all of those qualifications were withdrawn by the departure of his family from this country and the collection and remittance of his property or debts to China, yet the certificate of the necessary facts which previously existed would be a sufficient charter for his right to reenter.

The act of 1888 in its sixth section states the same basis for the right of return as the treaty of 1894, and there is nothing in the seventh section of that act providing for return certificates which makes the issue of the certificates the final determination of the right, or which is inconsistent with the view that the facts constituting the foundation of the right must exist when the applicant actually returns to this country as well as when he applies for the certificate.

Article I of the treaty of 1894 prohibits the coming of Chinese laborers to the United States. The first sentence of Article II is as follows:

"The preceding article shall not apply to the return to the United States of any registered Chinese laborer who has a lawful wife, child, or parent in the United States, or property therein of the value of \$1,000, or debts of like amount due him and pending settlement."

The remainder of Article II specifies the conditions upon which the Chinaman must obtain a certificate and exercise the right of return. The language quoted makes it very evident that the existence of the crucial facts relates to the time of return. They must exist also at the time of departure in order to enable the Chinaman to obtain a certificate; but manifestly there is no meaning or purpose in the allowance granted except as giving an actual and existing reason for a Chinaman's reentry into the country. The law does not provide that the prohibition shall not apply to the return of a laborer who *had*, but who *has*, a lawful wife, child, etc.

Consideration of the essential character of the exception granted and of the reasons for it enables us to say that the requirement of application for a return certificate a month prior to departure (sec. 7, act of 1888, *supra*), to enable the collector to

investigate, constitutes no reason for holding that no other examination was ever intended to be made. The right is carefully guarded against abuse. Before the apparent title to it is conferred due investigation is made, and manifestly the right should be shown by satisfactory proof to be still possessed by the applicant when he actually arrives here on his return voyage.

Paragraph III of the circular, suggesting rather than requiring that a returning laborer should notify the collector from China in advance of his intention to return, is plainly for the convenience of the Chinaman and to save him from loss and disappointment. This provision was dictated by consideration for the Chinese, and the suggestion is not just that the benefit and convenience to them is doubtful; that the rule really subjects Chinamen to an adverse investigation in their absence, with no opportunity to refute false charges or the machinations of enemies. In any bona fide case adverse influences, if, indeed, such should exist, would be powerless to prevent the establishment before the appropriate Government officers of such patent fact as the necessary family relations or property ownership.

In view of all the foregoing considerations, I have the honor to advise you that in my opinion, as matter of law, the circular in question is warranted by the treaty with China and existing laws of the United States.

Very respectfully,

HENRY M. HOYT,
Acting Attorney-General.

Mr. Wu to Mr. Adee.

No. 258.]

CHINESE LEGATION,
Washington, September 11, 1902.

SIR: I have to thank you for your note of the 31st July last, with which you kindly inclosed an opinion from the Acting Attorney-General on Circular No. 52 of the Bureau of Immigration, Treasury Department.

I gave at some length, in my note to your Department of June 14 last, my view of the unreasonableness of the circular in question, and do not see that it will be productive of any good end to elaborate further my objection to the same. The opinion of the Acting Attorney-General is another confirmation of a declaration in an opinion given by his Department on the 11th February last that in the enforcement of the Chinese-exclusion laws the ordinary principles of law and equity can not be followed, but that they must be subjected to a construction peculiar, severe, and strict.

Accept, etc.,

WU TING-FANG.

RECEPTION OF REAR-ADMIRAL FREDERICK RODGERS, U. S. NAVY, BY THE EMPEROR AND EMPRESS DOWAGER.

Mr. Conger to Mr. Hay.

No. 1025.]

LEGATION OF THE UNITED STATES,
Peking, June 25, 1902.

SIR: I have the honor to report that Admiral Frederick Rodgers, commanding the Asiatic Squadron, has been, with his staff, paying a visit to Peking, and that among other courtesies shown him was an audience at the Imperial palace on yesterday, at which he was received with great pomp and ceremony by both the Emperor and Empress Dowager. All the members of the foreign office were present, together with several hundred other officials and attendants.

The Admiral was accompanied by three members of his staff, and I had with me Captain Reeves, military attaché, Dr. Barchet, acting Chinese secretary, and Lieutenant Welborn and Dr. Lyster, of the legation guard. Everything passed off pleasantly, and no detail was

neglected by the Chinese officials to make the affair courteous and satisfactory.

I made no speech, except to introduce the Admiral.

YOUR MAJESTIES: I thank you for this opportunity to bring before you a distinguished American officer, and I take great pleasure in presenting to Your Majesties Admiral Frederick Rodgers, the commander in chief of the Asiatic Squadron of the U. S. Navy.

The Admiral then made a brief speech, which was interpreted into Chinese by Dr. Barchet. Prince Ching then received from the hands of the Emperor and read a reply on behalf of Their Majesties, which was interpreted into English by a Chinese interpreter. The Admiral and I were then invited to ascend the throne, where, through Mr. Lien-fang, the Empress Dowager addressed us the remarks which were afterwards handed to us in Chinese.

To the several questions proposed we made courteous replies.

I inclose copies of the speeches, and the correspondence leading up to the audience.

This is a wide departure from the old custom here, but one audience of the kind having ever been held before, namely, that of the commander-in-chief of the Russian squadron, about one month ago. It was at that time tacitly understood by the ministers that audiences would not be asked for naval officers, except commanders in chief.

I took occasion to say to Prince Ching, Wang Wenshao, and other officials, while taking refreshments in the waiting room, that such opportunities, both here and in foreign countries, of bringing the occidental and oriental officials in contact would prove of mutual benefit, to which they heartily assented.

The Admiral left for Taku this morning, having apparently greatly enjoyed his stay in this old capital.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Mr. Conger to Prince Ching.

F. O., No. 398.]

LEGATION OF THE UNITED STATES,
Peking, June 19, 1902.

YOUR HIGHNESS: Admiral Frederick Rodgers, commander in chief of the Asiatic Squadron of the U. S. Navy, arrived with his staff in Peking yesterday, and is desirous as a friendly act on the part of his Government to pay his respects to His Imperial Majesty. I therefore respectfully request that Your Highness will properly memorialize the Throne for the favor of an Imperial audience for this purpose. This will be an additional evidence of the friendship existing between our two Governments, and, I trust, prove of mutual benefit.

The recent audience given to his excellency the Russian admiral assures me of the willingness of His Majesty to grant this request.

The Admiral must soon return to his duties at sea, hence I venture to hope that as early a date as possible may be fixed upon.

Thanking Your Highness in advance, and being confident that the audience asked for will be pleasing to my Government, I avail, etc.,

E. H. CONGER.

[Inclosure 2.]

Prince Ching to Mr. Conger.

F. O., No. 378.]

I am in receipt of your excellency's dispatch, stating that Admiral Rodgers, commander in chief of the Asiatic Squadron of the U. S. Navy, arrived with his staff

in Peking yesterday, and that he is desirous of paying his respects to His Imperial Majesty as a friendly act on the part of his Government.

Your excellency requests that I memorialize the Throne for the favor of an Imperial audience for this purpose; this will be an additional evidence of the friendship existing between our two Governments.

Your excellency further states that the Admiral must soon return to his duties at sea.

I also received your excellency's letter stating that the audience should take place either Saturday or Sunday. As His Majesty the Emperor has to go to the temple on Saturday, and has to make offerings at the altar of earth on Sunday, it will be impossible to have the audience on either of the days mentioned.

But if the Admiral can wait till Monday or Tuesday (June 23 or 24), I can ask for a decree to fix a date for the audience; but I do hope, however, that your excellency will send me a reply this very day to let me know.

With compliments.

Card of Prince Ch'ing.

Dated 15th of the fifth moon (June 20, 1902).

[Inclosure 3.]

Prince Ching to Mr. Conger.

F. O., No. 380.]

I am in receipt of a dispatch from your excellency requesting an audience for Admiral Rodgers.

I have memorialized the Throne on the subject and had the honor of receiving an Imperial decree in person (verbally).

"Let the audience take place at the Ch'ien-ch'ing Palace on the 24th of June, at 11 o'clock, a. m.

"Respect this."

As in duty bound, I had this decree reverently written out for your excellency's information and for that of Admiral Rodgers.

I also beg to inclose a programme for the occasion.

A necessary dispatch.

Dated 16th of the fifth moon.

[Subinclosure.]

Itineraire programme of etiquette for the audience.

The Foreign office will, on the appointed day, depute officials to escort your excellency, together with Rear-Admiral Rodgers, in chairs, to the Tung-hua men.

The attachés and interpreter will leave their chairs outside the Shang sze yuan and walk to the Ching yun men, where your excellency and the rear-admiral will change to palace chairs, provided by the Imperial household, and proceed to the Ch'ien-ch'ing, outside of which you will leave your chairs and walk through the middle gate of the Ch'ien-men, to the Chang-shu-fan library, where you will sit, till, at 11 a. m., Their Majesties the Empress Dowager and the Emperor shall have ascended the throne.

The high minister of the Foreign office will then conduct your excellency and the rear-admiral, the attachés and the interpreter to the middle throne hall, which they will enter, making a bow; after proceeding a few steps they will make another bow, and a third bow in front of the throne, when your excellency and the rear-admiral will address the Throne. After the interpreter has interpreted it into Chinese the Empress Dowager and the Emperor will respond, and the high minister of state will transmit it to the interpreter to be reverently interpreted.

When this is accomplished, your excellency and Rear-Admiral Rodgers will retire with a bow, after a few steps make a second bow, and a third bow on reaching the door of the throne hall. This ends the ceremony.

The attachés and interpreter will follow out by the left door of the throne hall, bowing as they go out.

Your excellency will, as before, wait a while at the Shang-shu-fang library and proceed in palace chairs, passing through the Ching yun men, when you will leave the small chairs and proceed in sedans.

The attachés and interpreter will walk as far as the Shang sze yuan, outside of which they will take their sedans or ponies and return to their legation.

[Inclosure 4.]

Prince Ching to Mr. Conger.

F. O., No. 381.]

With reference to the audience to be given on the 19th of the fifth moon, at 11 a. m., at the Ch'ien Ch'ing palace, to which your excellency is to bring Admiral Rodgers, we would ask your excellency to send us a list of the names and titles of the persons who will come with Admiral Rodgers to the audience.

We shall thank your excellency, further, to let us know the words with which the Throne will be addressed. This should be sent in to us this very day for the information of the Throne.

With compliments of the season.

Card of Prince Ching.

Dated 16th day of the fifth moon (June 21, 1902.)

[Inclosure 5.]

Address of Admiral Rodgers at audience given by Emperor.

YOUR MAJESTIES: I desire to express my sincere appreciation and thanks for this opportunity of paying my respects to Your Majesties as commander-in-chief of the naval forces of the United States in Asiatic waters. I am representing the Navy Department of the United States, and it will be a great gratification to be able to report that I have been given an audience by Your Majesties. I also desire to say that it is my belief that there are no people in the world who are more familiar with or who take more interest in the history of China than those of the United States of America.

Without doubt the commercial interests between the two countries will continually increase in importance, and this mutual interest should be a great factor in maintaining the pleasant relations just referred to.

The friendly and cordial relations which now exist between China and the United States are certainly a source of great gratification to my Government, and that these conditions should be maintained and strengthened is our earnest desire, as we also wish peace and prosperity to this great Empire.

[Inclosure 6.]

Reply of the throne to Mr. Conger and to the address of Admiral Rodgers.

The honorable admiral whom your excellency introduced has expressed, in his appreciative address to the Throne, sincere and friendly feelings, which we recognize with very great pleasure.

The two nations have hitherto been on truly friendly terms. This friendship will, from this day, be more and more intimate, to the well-being and prosperity of the people.

That we may enjoy the blessings of peace is our sincere hope.

[Inclosure 7.]

Supplementary remarks of the Empress Dowager at the audience given to Admiral Rodgers, June 24, 1902.

Addressing the Hon. E. H. Conger:

“Is the President of your honorable country well?”

“Is the honorable admiral well?”

“How many days was the honorable admiral on the way to Peking?”

“Did he come from the Pacific Ocean, or did he come direct from America?”

“We have long heard about the victories of the powerful Navy of your honorable country, and we are greatly pleased with what we know of the strict discipline and drill which obtains in the fleet in the Pacific under the command of the honorable admiral.”

The Empress Dowager next asked after the health of the honorable minister, and

remarked that "Ever since the honorable minister came to Peking and had occasion to transact business with the Prince and ministers, he did so in a friendly spirit, to the satisfaction of all. The increasing friendship between America and China is largely owing to his endeavors. May the honorable minister enjoy peace all the time he remains in China."

"When the honorable admiral returns, we ask him to convey our greetings to the President of the United States, for whom we wish happiness, long life, peace, and prosperity.

"May the country have dignity, honor, and great happiness.

"May good luck also follow the honorable admiral all the way home, and may he have at all times his heart's desire."

**VICARIOUS PUNISHMENT OF RELATIVES IN CHINA OF CHINESE
NATURALIZED CITIZENS OF THE UNITED STATES.**

Mr. Hay to Mr. Conger.

No. 541.]

DEPARTMENT OF STATE,
Washington, July 2, 1902.

SIR: In March last the Department received a petition signed by Wong Leong and Ng Fawn and seventeen others, Chinese residents of Honolulu, Hawaii, making the following complaints against Mr. Yang Wei-pin, Chinese consul at Honolulu:

That Lam Sai having fallen under the displeasure of the consul, the latter reported Lam Sai to the taotai of Quang Tung Province, China, as being revolutionary and holding opinions adverse to the Government of China, in consequence of which report Lam Sai's mother and grandmother, residing at Tong Ka, Heong San, Quang Tung, were arrested and imprisoned; and that while so incarcerated the mother committed suicide and the grandmother died, whether owing to tortures or not is unknown to the petitioners.

That the said consul has in several similar cases reported the supposed antidespotic belief entertained by Chinese residents of Hawaii, with the result of similar hardships to their innocent relatives residing in China.

That the said consul has instituted a form of certificate which Chinese residents were called on to procure from him, for which he made a charge of \$5.25 each, such certificate declaring that the holder was a good man and not a member of any secret society antagonistic to the Chinese Government.

That said consul unreasonably increased the "charge for a certificate which warranted the late Government in issuing a permit for a wife or female relative or child or a resident Chinese to come to Hawaii," from the old charge of \$2 to \$11 and \$12.50.

That said consul makes a charge of \$20 for a certificate extending the United States laborer's certificate one year for alleged sickness of the holder.

That said consul has caused dissension and created suspicion among the Chinese in Hawaii.

Wherefore the petitioners ask that these charges be inquired into, and if found to be true, that said consul's exequatur be recalled.

In a separate communication Wong Leong declares that the said consul reported to the governor of the province of Kwang Tung that he (Wong) was disloyal to the Government of China, and a member of a society in Honolulu antagonistic to said Government; that thereupon

the Government caused the district magistrate to send a force to Wong's native village, Tung Hon, Heong San, China, which took possession of the ancestral temple of his family, together with the family records, and demanded from the family the sum of \$500; that under this coercion, his family, on July 10, 1900, paid that sum to have the temple and records exempted from molestation; that subsequently the said magistrate took possession of his home in Tung Hon, and compelled his relatives there to pay a further sum of \$500 to prevent its destruction; that, again, the magistrate threatened to arrest two of Wong's cousins, his nearest of kin there, and that to save themselves from imprisonment they were compelled to pay a further sum of \$250; that this was all done in pursuance of the report forwarded to the governor by Yang Wei-pin, consul; that his cousin writes him that the Wong family demand that he remit the sum of \$1,250 to recoup the family for the amount paid by them on his account, and that in the event of his refusal or inability to remit, his inheritance will be canceled and his name struck from the roll of membership in the Wong clan.

Wherefore the said Wong demands from the Government of China, for the loss sustained and the suffering and anguish caused by the barbarous actions of Yang Wei-pin, consul, the sum of \$5,000, and asks the Department of State to make request of the Government of China for payment thereof. He further asks the Department to recall the exequatur under which the said Yang Wei-pin is acting as consul.

Copies of these petitions were sent to the governor of Hawaii, with the request that he inquire carefully into the truth of the charges made against the consul and inform the Department of the result of his investigation.

It appears from the report of Acting Governor Cooper, which has just been received, that the first serious difference between the Chinese of Hawaii and their consul was brought about by the objection filed by the latter in March, 1900, to the granting of a charter to the "Bow Wong Progressive Association," a petition for which had been presented to the minister of the interior. The basis of the consul's objection to the Bow Wong Association, as stated by him, was that its design was, under the guise of a benevolent association, to inculcate political doctrines hostile to the Chinese Government and to collect contributions to aid a revolutionary movement. The result of the consideration of the matter by the executive council of Hawaii was a denial of the charter. It is stated that the Bow Wong Association was organized notwithstanding the granting of the charter was refused. The acting governor states that the leaders of the Bow Wong Association were among the most conservative and highly respected Chinese citizens in Hawaii.

The acting governor personally examined Wong Leong, He Fon, Ng Fawn, C. K. Ai, and Sheadick, five of the petitioners, Le Cheung, the governor's official Chinese interpreter, and Wing Vun, who was in China at the time of the arrest of Wong Leong's relatives, and a copy of their testimony is transmitted with his report.

Ho Fon, who the acting governor believes to be absolutely trustworthy, states in his examination that the Bow Wong people are sympathizers with the Emperor of China and opposed to the Dowager Empress.

In reference to the case of Lam Sai, it appears that about the time of the formation of the Bow Wong Association a prominent Chinese

reformer named Leong Chi Tsao arrived in Honolulu, and during his stay was the guest of Lam Sai. It was well understood in Honolulu that the Chinese Government had placed a price on the head of Leong Chi Tsao and that Chinese had been warned not to associate with him. Ho Fon states that because Lam Sai harbored Leong Chi Tsao the consul sent a letter to China and made trouble for Lam Sai's family, causing his grandmother and mother to be arrested; and that while under arrest his grandmother died and his mother committed suicide. He states that his grounds of information were a letter from Lam Sai's father to Lam Sai, which the latter showed him, and also that many of his countrymen told him that it was the general reputation among his people that the thing happened.

C. K. Ai, in his statement, says that the object of the Bow Wong society is to reform China, to adopt Western ideas; that this is the idea of the Emperor; that he wants everything changed; that, before, he abolished some of the old forms, but his side was weak and they overthrew him. This witness corroborated Ho Fon's view that the complaint of the consul against Lam Sai was because he had entertained Leong Chi Tsao. He said that the usual method employed in China to punish people supposed to be opposed to the Government was to imprison and behead them, their parents, uncles, and grandparents. He further stated that Lam Sai is now in China, at Shanghai.

Wong Leong, in his examination, stated that the object of the Bow Wong Association, of which he was president, was to support the Emperor in his efforts to reform. In corroboration of his complaint he delivered to Acting Governor Cooper two letters, from his sister in China, informing him of the threatened arrest of the members of his family in China and the payment of the sum mentioned in his petition to prevent such arrest and destruction of ancestral property. His sister states that the reason given for the action of the Chinese authorities was that he had joined the Bow Wong society. She requested him to refund the sum paid by his family.

Sheadick stated that he knew of the cases of Lam Sai and Wong Leong; that he had received his information from the parties themselves, also from a letter from his cousin in China. He also stated that it was published in a Chinese paper, which he saw, that the consul had written to the magistrate of Heong San district to make the arrests.

Ng Fawn, said to be one of the most intelligent and conservative members of the Chinese community in Hawaii, corroborated the statements of the other witnesses as to the complaints of the consul against Wong Leong and Lam Sai. He said that the reason of their trouble was that the former is a member of the Bow Wong society, and that Lam Sai had to do with Leong Chi Tsao. He stated that he had talked with the consul about the matter and had remonstrated with him against his action, but that he had been told to mind his business. The witness stated that since the complaint had been made against these parties by the Chinese consul he had seen a notice in a Chinese paper stating that the viceroy of Canton had informed the consul not to interfere with members of the society, and that since that time he had heard nothing about any further arrests.

Wong Vun states that he was in China when the Chinese soldiers came to the village where he lived and made a demand for the arrest of Wong Leong; that the elders explained that Wong Leong had been away from the country many years; that the soldiers wanted to take

the ancestral temple as well as Wong Leong's landed property, and that over \$1,000 in Chinese money was paid them to secure immunity; that they subsequently went to another village and threatened to close the ancestral temple there if Wong Leong were not handed over to them; that the soldiers said that Wong Leong was a member of the Bow Wong society, and that the complaint was made by the Chinese consul in the Hawaiian Islands to the viceroy. He stated that the elders of the Wong clan paid the money to the Chinese officials from the Wong ancestral fund.

The statements in the petition of increased charges made by the consul for certificates for wives or female relatives of resident Chinese to come to Hawaii, extension of laborers' certificates, and as to certificates for Chinese going to China are corroborated generally by the witnesses.

Li Cheung, the governor's official interpreter, states that the Chinese consul at Honolulu was instructed by Mr. Wu, the Chinese minister at Washington, to advise the Chinese not to join or have anything to do with the Bow Wong society; that at the instance of the Chinese minister notices were published by the consul, stating that "anyone joining the society, there would be some trouble in China"—trouble with these people's families in China.

This witness also stated that the customary way of punishing in China for any offense, when they can not get at the man who is guilty, is to take action against his people in China, his children, parents, grandparents, brothers, and cousins; that there are ancestral temples in China of different clans; that if a man had done anything wrong against the Government his name is liable to be stricken from the roll of the clan.

He stated that the feeling of discontent against the consul at Honolulu was confined to the Bow Wongs and to a certain extent to some people outside of the Bow Wongs. He said that the real interpretation of "Bow Wong" was "to protect the emperor."

Two of the witnesses, when asked whether if Yang Wei-pin were removed his successor would not be as bad, replied that they thought not.

The acting governor, in his report, says:

My conclusion, based upon the statements submitted and upon a general inquiry into the matter, is that the complaints made by Wong Leong and Lam Sai are true.

The Bow Wong society was looked upon as a seditious organization and every effort was made by the Chinese authorities, acting through the consul, to suppress it, and the usual method was adopted to intimidate the Chinese residents in Honolulu from participating in any way in the revolutionary movement. The most formidable way of reaching the Chinese who are residents in a foreign country is to punish the members of their families in China, which is recognized as a very powerful weapon in the hands of the Government officials.

It will be observed from the foregoing that three citizens of the United States, namely, Wong Leong, Ng Fawn, and Lam Sai, have been vicariously punished for alleged political offenses committed within the United States. These political offenses appear to consist in their alleged membership of a society engaged in the dissemination of a propaganda unfavorable to the Chinese Government and promotive of a revolutionary movement.

Under the law of nations a state has the undoubted right to punish all political offenders against it who may be apprehended within its jurisdiction, but no state has the right to punish such offenders as may have found asylum in another state otherwise than by the seizure

and confiscation of the property of the offenders, if such punishment is authorized by the local laws.

The vicarious punishment of such offenses by the imposition of fines and imprisonment upon the innocent kinsmen of the offender is a species of moral torture not only inconsistent with the enlightened principles and humane sentiments which govern the conduct of civilized states, but is a form of coercion incompatible with the enjoyment of the recognized rights of asylum, and in which, as applied to citizens of the United States, this Government could not acquiesce. It is not a question of the right of the Chinese Government to punish all offenders against its laws who may be found within its borders, but it is a question of the punishment of citizens of the United States in a cruel manner through heavy penalties inflicted upon persons who are in the eye of international law and upon principles of abstract justice innocent of any offense whatever.

You will therefore bring this grave matter to the serious attention of the Chinese Government, and you will express the expectation of this Government that the action of the former will respond to the sentiments of justice and humanity which have inspired the Government of the United States in bringing the matter to the attention of the Chinese Government.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Wu.

No. 231.]

DEPARTMENT OF STATE,
Washington, July 2, 1902.

SIR: [This note is identical with instruction No. 541, July 2, 1902, Mr. Hay to Mr. Conger, printed ante, except that for the four concluding paragraphs of said instruction the following is substituted:]

It will be observed from the foregoing that a serious complaint is made of the oppressive use of consular functions for merely political purposes. By the traditional and humane policy of the United States an asylum is granted to all merely political offenders against a foreign state who have come hither from the country of their nativity. By the enlightened practice of all free states such persons, in common with nationals, are allowed to exercise freedom of speech and of the press, and to exert all proper moral influence in support of real or imaginary reforms anywhere in the world, whether in the country of their nativity or of their adoption, or elsewhere. If in the country of their nativity they have committed criminal or political offenses, they may, if there apprehended, be subjected to the penalties prescribed by the local laws. But to acquiesce in the restraint of their lawful freedom in the United States by moral torture practiced upon them through the vicarious punishment of their innocent kinsmen, or to acquiesce in their punishment through odious discriminations and oppressive exactions, is wholly inconsistent with the genius of the institutions and the policy of the Government of the United States.

Notwithstanding the strong evidence submitted in support of the complaint, the Department cherishes the hope that the discriminatory practice complained of is founded in a grave misapprehension by the Chinese consul at Honolulu of the intentions and instructions of his Government.

Accept, etc.,

JOHN HAY.

Mr. Wu to Mr. Hay.

No. 251.]

CHINESE LEGATION,
Washington, July 8, 1902.

SIR: I have the honor to acknowledge the receipt of your note, No. 231, of the 2d instant, relative to certain complaints brought against Mr. Yang Wei-pin, Chinese consul at Honolulu, Hawaii, by Wong Leong, Ng Fawn, and seventeen others, Chinese residents of Honolulu, and informing me of the result of an investigation made by the acting governor of Hawaii relative to the complaints referred to.

In reply I beg to state that I have also received a petition from those same Chinese residents of Honolulu, complaining of the conduct of Consul Yang Wei-pin; that some time prior to the receipt of the petition Consul Yang preferred charges against some of those people for misappropriation of the funds of the Chinese Benevolent Association at Honolulu, and that by my direction an investigation is being made into the truth of all the charges and complaints brought to my notice by Consul Yang and the Chinese residents referred to.

I may state in this connection that recently Consul Yang, for domestic reasons, has tendered his resignation, which has been accepted, and that the vice-consul, Mr. Goo Kim Fui, has been appointed in charge of the consulate there.

Accept, etc.,

WU TING-FANG.

Mr. Adee to Mr. Conger.

No. 551.]

DEPARTMENT OF STATE,
Washington, August 8, 1902.

SIR: Referring to the Department's No. 541, of the 2d ultimo, in regard to the charges made by Chinese residents of Honolulu against Mr. Yang Wei-pin, the Chinese consul there, I inclose herewith copy of a letter from the Secretary of the Treasury covering a report from the collector of customs at Honolulu, in which the conclusion is reached that the consul abused the privileges of his position and that his exequatur should be withdrawn.

The Chinese minister at Washington has advised the Department of Mr. Yang's transfer to another post.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure:]

Mr. Shaw to Mr. Hay.

TREASURY DEPARTMENT, Washington, July 30, 1902.

SIR: Referring to your letter of the 12th of April last, with which was inclosed copy of a communication from a number of Chinese residents of Honolulu, requesting the withdrawal by this Government of the exequatur granted to Mr. Yang Wei-pin as Chinese consul at Honolulu, for the reason that he makes use of his official position to smuggle opium into Hawaii, and to the letter addressed to you on the 18th of the same month, wherein you were advised that the collector of customs at Honolulu had been instructed to make an immediate and thorough investigation of the subject, you are informed that on the 13th ultimo Hon. George R. Carter, of Honolulu, was requested to conduct the inquiries and the collector of customs at Honolulu instructed to place in possession of Mr. Carter all the papers in the case and to render any assistance which might be desired.

I have the honor to transmit herewith for your information copy of a report dated the 15th instant, of Mr. Carter, in which it is stated that there is evidence that the Chinese consul at Honolulu has abused the privileges of his position, and that his exequatur should therefore be withdrawn. Mr. Carter adds that while he should have preferred to make further inquiries on the subject, he deems it advisable to submit the inclosed report, in view of the fact that the Chinese consul was about to leave Honolulu for Washington. If further investigation of the subject is desired, I will, on being so advised, communicate promptly with Mr. Carter.

Respectfully,

L. M. SHAW, *Secretary.*

[Subinclosure.]

Mr. Carter to Mr. Shaw.

DEAR SIR: Since my note of June 30 I have given the matter mentioned in yours of June 13 considerable attention, and as I understand the Chinese consul leaves to-day for Washington, I conclude you will desire my report at this time, although I should have preferred to make still further inquiries.

In my investigation I took the opportunity to interview first those who are supposed to be friends of the consul, then examined the evidence gathered by Mr. Stackable, the collector of customs. District Attorney Breckons very kindly consented to go over this evidence, which is voluminous, and has prepared a synopsis, after receiving which I investigated the standing and reputation of certain witnesses in order to ascertain the value of their evidence. My conclusion is that opium has been imported by the Chinese consul and that he has abused his privileges as a representative of a foreign power.

The appointment of Mr. Yang Wei-pin has been unfortunate from the start, and he evidently considers the Chinese of this community on a par with those of his own country or even of San Francisco. His father is stated to have paid a large sum in order to secure his appointment; but Hawaii has long been the outpost of occidental civilization, and during the last twenty-five years many of the Chinese residents have risen to positions of wealth and importance. Their sons have been educated here, in America, and in England, so that we have an intelligent, well-educated Chinese community, who refuse to be browbeaten or squeezed. They consider that public offices should not be farmed out or given to the highest bidder, and that public positions are a public trust.

Mr. Yang Wei-pin began his career by exorbitant charges for his official acts. Although claiming to be rich, he maintained that the merchants of the community should contribute to the expenses of the consul. Failing in both of these attempts to secure money, he endeavored to get possession of a large fund contributed by the white merchants during the cholera for the benefit of the Chinese. He further antagonized the community by sending in the names of those who had contributed to a fund raised for a reform movement in China. He has had the relatives living in China of those who opposed him here persecuted.

In regard to the claims of the Chinese subjects for losses during the great fire at the time of the plague, he has assisted officially in presenting the claims and, it is stated now, demands a percentage as his compensation.

For a time during the war in China he issued a certificate, for \$5, certifying that the bearer was a supporter of the Empress, and it is said large numbers of the Chinese fearing trouble paid him this fee and secured this certificate which, of course, was only a means of raising revenue.

The evidence of his importing opium is so complete and from so many sources, with so many instances to corroborate the witnesses' statements, that it certainly could not be manufactured by his opponents. I therefore commend the withdrawal of his exequatur.

It would be a good plan, if possible, to have a consul selected from among the educated residents of Honolulu who understand the temper and intelligence of the Chinese here and who will serve for the honor rather than the emoluments of the position.

Very sincerely, yours,

G. R. CARTER.

Mr. Conger to Mr. Hay.

No. 1070.]

LEGATION OF THE UNITED STATES,
Pekin, August 16, 1902.

SIR: I have the honor to acknowledge receipt of Department instructions No. 541, of the 2d ultimo, concerning complaints made by certain Chinese residents in Honolulu, Hawaii, against the actions of the Chinese consul there stationed, and the consequent vicarious punishment of their relations in China.

I have, as directed, brought the matter to the attention of the Chinese Government by the note a copy of which I inclose, and shall report its answer as soon as received.

This vicarious punishment of the relatives of accused Chinese, escaped or in hiding, is an ancient practice and still very generally followed here, but so barbarous and inhuman that it ought to be stopped. I am glad to be asked to take it up on behalf of citizens of the United States.

I have, etc.,

E. H. CONGER.

[Inclosure.]

Mr. Conger to Prince Ch'ing.

F. O., No. 413.]

LEGATION OF THE UNITED STATES,
Peking, August 14, 1902.

YOUR HIGHNESS: I have received instructions from my Government, through the honorable Secretary of State, to bring to the notice of your highness certain complaints from Chinese residents at Honolulu, citizens of the United States of America, who sent a petition last March to the Department of State, making the following accusation against Mr. Yang Wei-pin, Chinese consul at Honolulu:

That a certain Lam Sai, having fallen under the displeasure of the consul, the latter reported Lam Sai to a tao-tai in Kwangtung Province, China, as being revolutionary and holding opinions adverse to the Government of China, in consequence of which report Lam Sai's mother and grandmother, residing in Kwangtung, were arrested and imprisoned, and that while so incarcerated the mother committed suicide and the grandmother died.

That the said consul has in several similar cases reported the supposed antidespotic belief entertained by Chinese residents of Hawaii, with the result of similar hardships to their innocent relatives in China.

That the said consul has instituted a form of certificate which Chinese residents were called on to procure from him, for which he made a charge of \$5.25 each, such certificate declaring that the holder was a good man and not a member of any secret society antagonistic to the Chinese Government.

That said consul unreasonably increased the "charge for a certificate which warranted the late Government in issuing a permit for a wife or female relative or child or resident Chinese to come to Hawaii" from the old charge of \$2 to \$11 and \$12.50.

That said consul makes a charge of \$20 for a certificate extending the United States laborer's certificate one year for alleged sickness of the holder.

That said consul has caused dissensions and created suspicion among the Chinese in Hawaii.

Wherefore the petitioners ask that these charges be inquired into and if found to be true that said consul's exequatur be recalled.

In a separate communication Wong Leong declares that the said consul reported to the governor of the province of Kwangtung that he (Wong) was disloyal to the Government of China and a member of a society in Honolulu antagonistic to said Government; that thereupon the Government caused the district magistrate to send a force to Wong's native village, which took possession of the ancestral temple of his family and demanded from the family various sums, which were paid under coercion to save their property from destruction and themselves from imprisonment.

Wherefore the said Wong demands from the Government of China for the loss sustained and the suffering and anguish caused by the barbarous actions of Consul

Yang Wei-pin the sum of \$5,000. And he asks the Department of State to make request of the Government of China for payment thereof.

Copies of these petitions were sent to the governor of Hawaii, with the request that he inquire carefully into the truth of the charges made against the consul and inform the Department of the result of his investigation.

Acting Governor Cooper personally examined petitioners and found that the feeling of discontent against the consul at Honolulu was confined to the Bow Wong Progressive Association, and to a certain extent to some people outside of the Bow Wongs.

The acting governor in his report says:

"My conclusion, based upon the statements submitted and upon a general inquiry into the matter, is that the complaints made by Wong Leong and Lam Sai are true. The Bow Wong society was looked upon as a seditious organization and every effort was made by the Chinese authorities, acting through the consul, to suppress it, and the usual method was adopted to intimidate the Chinese residents in Honolulu from participating in any way in the revolutionary movement. The most formidable way of reaching the Chinese who are residents in a foreign country, is to punish the members of their families in China, which is recognized as a very powerful weapon in the hands of the Government officials."

Your highness will observe that citizens of the United States, Wong Leong, Ng Fawn, and Lam Sai, have been vicariously punished for alleged political offenses committed within the United States. These political offenses appear to consist in their alleged membership of a society engaged in the dissemination of a propaganda unfavorable to the Chinese Government and promotive of a revolutionary movement.

Under the law of nations a state has the undoubted right to punish all political offenders against it who may be apprehended within its jurisdiction, but no state has the right to punish such offenders as may have found asylum in another state otherwise than by the seizure and confiscation of the property of the offenders if such punishment is authorized by the local laws.

The vicarious punishment of such offenses by the imposition of fines and imprisonment upon the innocent kinsmen of the offender is a species of moral torture not only inconsistent with the enlightened principles and humane sentiments which govern the conduct of civilized states, but is a form of coercion incompatible with the enjoyment of the recognized rights of asylum, and in which, as applied to the citizens of the United States, this Government could not acquiesce. It is not the question of the right of the Chinese Government to punish all offenders against its laws who may be found within its border, but it is the question of the punishment of citizens of the United States in a cruel manner through heavy penalties inflicted upon persons who are, in the eye of the international law and upon principles of abstract justice, innocent of any offense whatever.

Therefore, complying with my instructions, I hasten to present this grave matter for the serious consideration of the Imperial Government, and to express to your highness the expectation of my Government that the Chinese Government will take such prompt action as will adequately respond to the sentiments of justice and humanity which have inspired the Government of the United States in bringing it to the attention of the Chinese Government.

This is very important to China, particularly at a time when she is enlarging and making more intimate her friendly relations with the other governments of the world.

I avail, etc.,

E. H. CONGER.

Mr. Conger to Mr. Hay.

No. 1084.]

LEGATION OF THE UNITED STATES,
Peking, September 9, 1902.

SIR: Referring to my No. 1070, of August 16, concerning the complaint made by certain Chinese, citizens of the United States, in Honolulu, against the Chinese consul there, and the vicarious punishment of their relatives in China, resulting from his actions, I inclose further correspondence with the foreign office, and have the honor, etc.,

E. H. CONGER.

[Inclosure 1.]

Prince Ch'ing to Mr. Conger.

YOUR EXCELLENCY: I am in receipt of your excellency's dispatch with reference to certain complaints from Lam Sai and Wong Liong, Chinese residents at Honolulu, citizens of the United States of America, who sent a petition to the Department of State making accusation against Mr. Yang Wei-pin, Chinese consul at Honolulu.

That the American Government instructed the governor of Hawaii to inquire carefully into the truth of the charges and inform the Department of the result of his investigation.

That the acting governor carefully examined petitioners and found their testimony true.

Further, that complainants and others were members of the Bow Wong Society, which was looked upon as a seditious organization, but that the Consul Yang Wei-pin adopted a method of suppression which punished the friends and relatives in China for those (suspects) abroad; in other words, by coercion.

In complying with instructions, your excellency requests the Chinese Government to take such prompt action as will adequately respond to the sentiments of justice and humanity.

The foreign office has already sent the contents of the above dispatch, accusing Consul Yang Wei-pin, to His Excellency Wu (Ting-fang), Chinese minister in your honorable country, to examine and deal with it in a just and reliable manner.

As in duty bound, I send this reply for your excellency's information.

A necessary dispatch.

Dated Kuanghsu, twenty-eighth year, seventh moon, 25th day (August 28, 1902).

[Inclosure 2.]

Mr. Conger to Prince Ch'ing.

LEGATION OF THE UNITED STATES,
Peking, August 30, 1902.

YOUR HIGHNESS: I have the honor to acknowledge the receipt of a dispatch from your highness, dated the 25th of the seventh moon, in which your highness states that the complaints against Consul Yang Wei-pin have been referred to His Excellency Wu Ting-fang for investigation, and that he would deal with the case.

With reference to this subject, I beg to remark that dealing with the complaints against Consul Yang Wei-pin is a small matter as compared with the far more serious question of vicarious punishment.

Your highness will note in my letter of August 14, 1902, that I specially emphasized this point of vicarious punishment of offenses by the imposition of fines and imprisonment upon innocent kinsmen of the offenders, and that it is a species of moral torture, not only inconsistent with the conduct of civilized states, but that it is a form of coercion incompatible with the enjoyment of the recognized rights of asylum.

No civilized state would permit resort to vicarious punishment.

It is therefore not a question of what His Excellency Wu Ting-fang can do, but what the Central Government will do to prevent the officials throughout the Empire from committing such outrages.

As China is endeavoring to be counted in the comity of nations, her Government should alter and adapt her laws so as to be in harmony with the laws of the great nations of the world, which do not countenance vicarious punishment.

I can only reiterate the hope that the Chinese Government will speedily take up this important question and consider it in the same light which prompted the United States Government to draw attention to the question.

I would avail myself, etc.,

E. H. CONGER.

[Inclosure 3.]

Prince Ch'ing to Mr. Conger.

I have the honor to acknowledge the receipt on the 29th of the seventh moon (September 1) of your excellency's dispatch relating to the case of the charges preferred against the consul to Hawaii by Chinese who are naturalized citizens of the

United States; that an examination of the affair of the charges shows that, however small, it has caused innocent relatives of the guilty parties to suffer very severe punishment vicariously, and your excellency asks whether or not our Government can instruct the officials of the various provinces to abstain from further employment of these severe measures, and hopes that attention may be given to the matter, and that in accordance with the kindly sentiments of your Government the law permitting vicarious punishment may be revised, etc.

Our board has examined and finds that the Chinese code has no statute as to vicarious punishments and that the principles of justice and humanity are the same as in other lands. In compliance with your excellency's dispatch we have already instructed the viceroy of the Two Kuang and the governor of Kuangtung to command the local officials that hereafter they will not be permitted to subject the families of Chinese who have gone abroad to harsh treatment, which is strictly in accordance with the sentiments expressed by your honorable Government.

As in duty bound, we send this reply for your excellency's perusal.
Kuanghsu, twenty-eighth year, eighth moon, 4th day (September 5, 1902).

Mr. Adee to Mr. Conger.

No. 569.]

DEPARTMENT OF STATE,
Washington, September 27, 1902.

SIR: I have to acknowledge the receipt of your No. 1070, of the 16th ultimo, in regard to the complaints made by certain Chinese residents in Honolulu against the actions of the Chinese consul there and the consequent vicarious punishment of their relatives in China.

Your note on this subject, addressed to the Chinese Government in compliance with instructions No. 541, of July 2, is approved by the Department.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

DECREE DISARMING NATIVES OF CHIHLI.

Mr. Conger to Mr. Hay.

No. 1033.]

LEGATION OF THE UNITED STATES,
Peking, July 2, 1902.

SIR: Inclosed please find translation of a proclamation issued by Governor Yuan Shih-k'ai, on the 1st instant, concerning the carrying of arms by private citizens, and enjoining all Chinese, both Christians and non-Christians, to avoid trouble and live in peace together.

I have, etc.,

E. H. CONGER,

[Inclosure.—Translated from Chihli Gazette dated July 1, 1902.]

Proclamation by Yuan Shih-k'ai, Pao ting fu.

Yuan, junior guardian of the heir apparent, president of the board of war, president of the censorate, and viceroy of Chihli, issues this proclamation for the information of the people.

The private possession of weapons has hitherto been forbidden by law. In 1900, during the time of trouble, a good many weapons were left among the people, to the injury of various localities.

Some time ago I laid down clear rules for giving up such arms. In case any train bands are still in possession of weapons, and have not complied with the law, they must at once do so, and give them up to prevent trouble.

As to native Christians in possession of munitions of war, they must also deliver them up. No private individual will be permitted to carry weapons about his person in order to disarm suspicion and avoid trouble.

Year before last the Boxers caused disturbances, killing, plundering; but these are now old scores which should not be raked up.

Aside from instructing all under my jurisdiction to comply with the above orders, I put out this proclamation, hoping that the gentry and people will take note of this and comply.

Hereafter the people and the Christians must not seek to retaliate against each other, or accuse each other, and bring on further trouble, but be forever at peace with each other.

Tremble and obey!

MONOPOLY OF CAMPHOR TRADE IN FUKIEN GRANTED TO A JAPANESE COMPANY.

Mr. Conger to Mr. Hay.

No. 1067.]

LEGATION OF THE UNITED STATES,
Peking, August 11, 1902.

SIR: In reference to the monopoly of the camphor trade in the province of Fukien, concerning which Consul Fesler has already given you the detailed facts, I have the honor to inclose herewith copies of all the correspondence had with the legation in relation thereto.

The regulations appear nominally to provide for a Chinese board only, yet the details as set forth therein practically grant a monopoly to the Japanese expert and the Japanese company which furnishes the money.

On the 22d ultimo, I telegraphed Mr. Fesler to file a protest, referring to Article XIV of the French treaty of 1858, which provides:

Henceforth no specially privileged commercial association shall be allowed to establish itself in China, and this applies also to all combinations organized for the purpose of exercising a commercial monopoly. In case of contravention of this article, the Chinese authorities will, at the instance of the consul or consular agent, devise means to dissolve combinations of this nature, whose formation moreover they shall try to prevent by previous prohibitions, in order to avoid everything which might be prejudicial to free competition.

To-day I am in receipt of his dispatch saying he has done so. I shall forward, as soon as received, a copy of his protest and reply, and await your instructions.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Mr. Fesler to Mr. Conger.

No. 35.]

CONSULATE OF THE UNITED STATES,
Amoy, China, June 14, 1902.

SIR: Referring to your No. 1453, of the 13th ultimo, regarding the granting to a Japanese of a monopoly of the camphor trade in the Fukien Province, I have the honor to inclose herewith copies of the regulations of the Fukien camphor board and the expert agreement recently signed by the taotai and Japanese consul at Amoy.

Since the agreement was signed the expert has returned to Japan presumably to secure the amount of money he has to pay to the viceroy under the agreement. The regulations, therefore, will not be enacted until his return.

Taotai Yen, of Amoy, has been appointed controller of this newly established board.

Trusting that I shall have the benefit of your instructions in the premises, I have, etc.,

JOHN H. FESLER, *Consul.*

[Subinclosure 1.]

Regulations of the Fukien camphor board.

1. The Fukien camphor board, now being established, shall have control of the camphor trade within the three prefectures of Chang Chew, Yung Chung, and Lung Ngan, and any and all other camphor producing districts in the province, and a controller shall be appointed by his excellency, the viceroy, to reside thereat. Mr. Ikuchechichai, a Japanese expert in the camphor business, shall be employed by the board, who shall superintend the manufacture and sale of camphor, a separate agreement to be made for the said purpose.

2. Rules pertaining to the duties of the board, to the manufacture and sale of camphor as well as any other rules or by-laws pertaining to the camphor business, shall be made by the controller, such rules or by-laws to be approved by the viceroy before they are enacted.

3. Details as to purchasing camphor trees, making payments therefor, and employing workmen to collect camphor by the process of steaming, shall be fully discussed and agreed upon between the controller and the expert, and shall be subject to the approval by his excellency, the viceroy.

4. The expert shall report in detail from time to time in regard to the manufacture and prices to be realized for the "government camphor" to the controller, who is fully clothed with the supervisory power over him.

5. As soon as these regulations shall have been published no person or persons shall be permitted to own furnaces and boil camphor. Should any person or persons furnishing their own capital wish to engage in the collection of camphor they shall report to the board and obtain a written permit, and shall duly comply with such rules as the board shall have made as to the process, etc. Those who borrow money from the board for the purpose shall also comply with the requirements of the foregoing clauses. All camphor manufactured, as well as the residuum, shall be brought to the board, who will buy them at a reasonable price, and then submit them to the expert for examination. No person shall be permitted to sell camphor but to the board, this being necessary in order that no inferior goods will be sold, which is likely to injure the trade.

6. Whenever it becomes necessary for the board to buy camphor trees in the interior the controller shall send qualified agents to visit the place, examine the trees, settle their prices, and close the deal. Such agents shall report to the local authorities for assistance, in order to prevent unscrupulous persons selling trees which do not belong to them, and to prevent lawsuits in connection therewith. The expert, unless authorized by the controller, shall send no men to the interior to purchase any trees. In case the people owning the trees should be unwilling to sell them and oppose every effort of the board to get possession of same, the local authorities shall use their good offices to persuade the owners to sell; but, should the removal of such trees interfere with the fungshui or peace of the locality, the board shall not force the owners to sell.

7. As the places where the trees are produced and camphor is collected are all in the interior, the persons applying for a permit in pursuance of Article V for the purpose of engaging in the collection of camphor must necessarily be the subjects of China. No representative or subject of any foreign government or natives of Formosa who no longer own allegiance to China shall be permitted to avail themselves of the privilege.

8. As the places where the trees are grown and camphor collected are all in the interior, foreign merchants, when they should need the "government camphor," shall only buy it from the board at its prevailing price, but shall not go to the interior, own furnaces, and manufacture same, which is against the existing treaties.

9. Should any foreign merchant establish factories in the treaty ports and there collect camphor out of the trees they shall have bought, he is permitted by the treaties to do so, and shall not be interfered with.

10. The board shall issue passes to cover all its camphor to be brought from the interior to a treaty port. The cargo shall be subject to examination at the barriers en route, but shall pay no likin; but, if exported, shall pay the customs export duties and charges in accordance with the existing regulations.

11. Chinese, as well as foreign merchants, purchasing the "government camphor" in the interior, shall bring it for export duty at a treaty port, but should they export it at points other than a treaty port, the cargo shall be confiscated.

12. The object of manufacturing camphor being to secure revenue for the Government and at the same time to give employment to the people, all persons employed in connection therewith shall not take advantage of their positions to infringe the existing laws of China, or in any way interfere with the fungshui of the locality, or

disobey any order or decree issued by the local officials and shall be subject at all times to the supervision and discipline by the board.

13. Chinese subjects who shall have obtained permits from the board for the manufacture of camphor, and would sell their camphor to the board, shall not be required to pay to the board any sum or sums of money in the form of tax, likin, or any other charge.

[Subinclosure 2.]

Agreement with Japanese camphor expert.

1. In order to develop a new source of revenue, the Fukien Province has established a camphor board. The viceroy shall appoint a controller to reside thereat, who is fully empowered to deal with all questions pertaining to camphor business within the entire province.

2. For the purpose of improving the camphor trade, the camphor board doth employ Mr. Ikuchechichai, a Japanese expert, to superintend the collecting, heating, steaming, classifying, etc., of the camphor. He shall in all cases report to the controller. As regards details pertaining to the sale of camphor, he shall confer with the controller, who will then report to the viceroy for approval.

3. It having been deemed necessary for the board to possess a sum of \$200,000 as running capital, the said expert shall undertake to guarantee the said amount from some Japanese company without interest on the loan. At the expiration of the within agreement, all factories, other buildings, machines, furnaces, etc., belonging to the board, shall be turned over to the company at the price they have cost the board, provided that this provision be in no wise construed to include such properties as shall be found in the interior; and further provided that the company shall only dispose of them by sale, but shall not own them, and whatever balance there is of the running capital shall be returned. Should there be none, all the sum or sums of money the board has expended shall be borne by the company as losses, the board being in no wise responsible. A separate agreement shall be made for the loan and shall be duly observed by the said expert.

4. On all camphor manufactured by the board, when sold, the expert shall pay a sum of \$7 to the Chinese Government as a tax, per picul (100 catties Chinese weight, or $133\frac{1}{3}$). (It is to be understood that should the price be \$80 per picul, the tax shall be \$8; \$90 per picul, the tax shall be \$9, and so on, or the tax shall be \$1 more for every \$10 additional price.) This tax shall be paid to the controller from time to time, and shall be applied toward the Government expenses in the Fukien Province.

5. All salaries, wages, allowances, etc., of the controller, expert, duly appointed officers, clerks, and other employees of the board shall be paid out of the running capital; the amount of each shall be determined by the controller.

6. The accounts of this camphor board shall be rendered annually. After defraying all customs taxes, salaries, allowances, and other expenses and saving a certain per cent to repay the capital the net profit of the board shall be divided between the board and the expert, as the controller, after consulting the expert and considering the comparative expansion of the trade for the current year, shall decide, such decision to be approved by his excellency the viceroy.

7. All receipts and expenses in connection with the camphor business shall be reported by the expert to the controller either monthly or annually, with carefully made out-statements to be forwarded to his excellency the viceroy for audit.

8. All provisions agreed to and contained in the within instrument, as well as those which shall hereafter be made, shall be duly observed and duly complied with on the part of the expert.

9. This contract shall be good and binding for a period of six years from the day it is signed. When it expires, should the business be prospering, and should its renewal be desired by both parties, due notice thereof shall be given each other and it may be continued for such further period as shall be agreed upon. During the continuance of the contract no other expert shall be employed. Should the expert desire to resign before its expiration, he shall be permitted to do so, but shall not be given his passage home. Should it be discovered at any time by the controller that the expert has not complied with any or all of the conditions made and provided in the within contract, that he has in some way interfered with the right of the local administration, or that his management of the camphor business is not proper, he shall report him to the viceroy, and should the charges be found true he shall be given his passage home and dismissed from the service before the expiration of the

contract. In the event of his dismissal in such a case, so far as the loan he guaranteed in pursuance of Article III of the within instrument is concerned, the factories, other buildings, machines, furnaces, etc., of the board shall be turned over to the company making the loan at the same price as they have cost the board, providing that provision be not construed to include such properties as shall be found in the interior, and further provided that the company shall only dispose of them by sale, but shall not own them; and whatever balance there is of the running capital shall be also returned, while all the sum or sums of money already expended shall be borne by the company as losses, the board being in no wise responsible. Nor shall the expert make any claim whatever.

10. There shall be two copies made of this contract, to be signed by the controller and the consul for Japan, one copy to be deposited with the board and the other with the expert.

11. Should any clause in the within instrument be deemed incomplete or unsatisfactory, the same shall be amended or corrected with the consent of both parties.

SUPPLEMENT.

1. The Japanese expert, in view of his employment by the board, shall voluntarily contribute the sum of \$100,000 to the Chinese Government, said amount to be applied toward the expense of the Government within the Fukien province.

2. Joo Pan, a Chinese company represented by Ling Choo Kang, having obtained the monopoly of camphor trade for the three prefectures of Chang Chew, Yung Chung, and Lung Ngan, and the entire province of Fukien, now that the Government desires to control the same itself, the board shall buy from the said company all its machines and factories as well as furnaces, etc., at their estimated value, and shall reimburse the company for all moneys expended and losses sustained by it on account of the enterprise.

[Inclosure 2.]

Mr. Conger to Mr. Fesler.

No. 1519.]

LEGATION OF THE UNITED STATES,
Peking, June 27, 1902.

SIR: I have received your No. 35, of the 14th instant, inclosing copies of the regulations of the Fukien camphor board, which seems a substantial monopoly of the camphor trade in that province to a Japanese.

Please furnish the legation with particulars as to the camphor trade, its extent, etc., and how American interests are likely to be affected by the regulations mentioned, and at the same time refer all the facts to the Department of State for its opinion and instruction.

I am, etc.,

E. H. CONGER.

[Inclosure 3.]

Mr. Fesler to Mr. Conger.

No. 37.]

CONSULATE OF THE UNITED STATES,
Amoy, July 10, 1902.

SIR: I have the honor to acknowledge receipt of your No. 1519, of the 27th ultimo, relating to the granting of a monopoly of the camphor trade in Fukien to a Japanese.

In compliance with your instructions I have to-day reported all the facts in the case to the Department of State.

The camphor trade in Amoy was started last year by an American firm. The firm made contracts with the natives in the interior to buy their camphor, and the goods were brought down to Amoy under transit passes. The example of the American firm was soon followed by merchants of other nationalities. On several occasions the goods were seized by the local officials and the transit pass was ignored, but were released when the consuls took the matter up with the higher officials.

The trade is yet small, but increasing. During the year 1901 the export from this port was 191 piculs, valued at about \$12,000 Mexican.

I am informed that the English and German consuls here have protested, calling attention to the French treaty of 1860, Articles XIV and XXVII.

I inclose herein copy of a dispatch just received to-day from the taotai, announcing the opening of the board.

I have, etc.,

JOHN H. FESLER, *Consul.*

[Subinclosure.—Translation.]

Taotai Yen to Mr. Fesler.

SIR: I have the honor to inform the consuls of the fact that the viceroy has appointed me to be controller of the Fukien camphor board, and that an agreement has been signed with a Japanese expert who is to raise the necessary capital. I have since appointed one deputy controller and a treasurer, and have on this 2d day of the sixth moon opened the board to the transaction of business, and have for the first time used its official seal.

Dated July 6, 1902.

[Inclosure 4.]

Mr. Conger to Mr. Fesler.

[Telegram.]

LEGATION OF THE UNITED STATES,
Peking, July 22, 1902.

Protest camphor monopoly under articles fourteenth French, and thirtieth United States treaties, 1858.

CONGER.

[Inclosure 5.]

Mr. Conger to Mr. Fesler.

LEGATION OF THE UNITED STATES,
Peking, July 22, 1902.

SIR: I have to acknowledge the receipt of your No. 37, of July 10, giving information as to the camphor trade in Amoy, the connection of Americans therewith, and showing how it is interfered with by the monopoly recently given to a Japanese subject.

In consequence of this information I have to-day sent you the telegram^a which I confirm herewith.

You will undoubtedly have made your protest before this reaches you, but I trust you have complied particularly with the directions given in Article XIV of the French treaty.

I am, etc.,

E. H. CONGER.

[Inclosure 6.]

Mr. Fesler to Mr. Conger.

CONSULATE OF THE UNITED STATES,
Amoy, July 23, 1902.

SIR: I have the honor to confirm your telegram.^a

In pursuance of your instructions I have to-day entered a strong protest with the taotai of Amoy, and shall report fully upon receipt of his reply.

I am, etc.,

JOHN H. FESLER, *Consul.*

Mr. Fesler to Mr. Hill.

No. 13.]

CONSULATE OF THE UNITED STATES,
Amoy, China, August 18, 1902.

SIR: * * * I beg to inform the Department that on July 23, under instructions from the minister, I entered a strong protest under Article XIV of the French treaty with China and the favored-nation clause in our treaty, copy of which is herewith inclosed, as well as a copy of the taotai's reply. I am reporting to the legation for further instructions.

I have, etc.,

JOHN H. FESLER, *Consul.*

[Inclosure 1.]

Mr. Fesler to Taotai Yen Nien.

CONSULAR SERVICE, UNITED STATES,
Amoy, July 23, 1902.

SIR: Under instructions from the honorable United States minister at Peking, I have the honor to invite your attention to the fact that the creation of a monopoly of the camphor trade in Fuhkien, as reported in your dispatch dated the 4th day, fifth moon, is against the provisions of Article XIV of the French treaty of 1858.

This article not only prohibits the establishment of monopolies by the Chinese officials, but further requires them to remove all possible restrictions of trade "upon the representation of the consul."

By the regulations of the camphor board of which you are comptroller, sale of camphor by private persons is prohibited; the board alone buys and sells camphor. Do you not call this monopoly?

Your honor no doubt is aware of the fact that under Article XXX of the treaty with the United States Americans can not be subjected to these limitations. Camphor is specified as an article of import and export in all the treaties. For two years Americans have engaged in the camphor trade here. They are free to purchase camphor, as well as other articles of import or export, from any and all Chinese subjects without distinction, and it shall become the duty of this consulate to safeguard this treaty right.

Awaiting your early reply, I am, etc.,

JOHN H. FESLER,
United States Consul.

[Inclosure 2.—Translation.]

Taotai Yen Nien to Consul Fesler.

AUGUST 13, 1902.

SIR: I have the honor to acknowledge receipt on the 19th, sixth moon, the present year (July 23, 1902), of your honor's dispatch wherein you state that you are instructed by the honorable United States minister in Peking to call my attention that the establishment of the camphor board is contrary to the provisions of Article XIV of the French treaty of 1858.

Prior to the receipt of your dispatch I had received a protest from the English consul and to this protest I have carefully answered, paragraph by paragraph.

In your dispatch you raise the question of monopoly and object to the alleged limitations. These points are identical with those raised by the English consul.

I therefore consider it proper to inclose you a copy of my reply to the said English consul and beg to invite your attention to my observations contained therein.

[Subinclosure.]

Copy of Taotai Yen's dispatch to the English consul.

Yesterday I received a dispatch from your honor stating that the regulations of the camphor board as per copies I sent you are contrary to the provisions of the French treaty. It seems you have made unnecessary comment upon the matter. I now proceed to answer the points you raise in their order and beg to invite your attention to my replies hereunto attached.

In your dispatch you say:

"I have carefully studied the regulations and the agreement. In many places they are contrary to the provisions of the fourteenth article of the French treaty of 1858. A reading of these regulations will show that a monopoly has been established of the trade. For instance, article 5 of the regulations forbids all persons from engaging in the manufacture of camphor unless they first apply to the board and receive a permit. All camphor manufactured, as well as the residuum, are to be sold to the board at the rate it fixes, the manufacturers being forbidden to sell their camphor to other persons."

These regulations have been approved by his excellency the viceroy and are intended to prevent the unscrupulous Chinese from clandestinely manufacturing or selling camphor. This is within our duty to do and can not be termed a monopoly.

"By article 8 all foreign merchants are required to buy the camphor from the board at its fixed price."

It is never intended by these regulations approved by the viceroy to prohibit the foreign merchants from purchasing camphor. As prohibited by the treaties, they can not engage in the manufacture of any kind in the interior. If they buy camphor and manufacture it in a treaty port, they are free to do so. Do you call this monopoly?

"Article 4 provides that the expert shall fix the price.

"Under these circumstances foreign merchants can only buy camphor from the officials and have to submit to the exactions of the board and pay the exorbitant price. Thus great inconvenience will be experienced. That this is a Government monopoly, and not an individual, makes no difference."

As regards the fixing of the price by the expert, it is because the Chinese method of manufacturing camphor has not reached its perfection. To introduce a better method, the expert has to attend to the manufacture, classify the goods, and fix the price of each in order to prevent unscrupulous Chinese from seeking clandestine markets and smuggling, who are unable to tell the quality of their goods. When the price is fixed the foreign merchant can buy or sell camphor accordingly. I can see no inconvenience in this matter and can not see how this will constitute a monopoly.

"British merchants shall be free to purchase camphor."

This is always permitted, and I do not propose to stop it.

"And they can buy it of the Chinese, like other native produce, without hindrance whatever."

According to articles 6, 7, and 8 of the French treaty, they are required to pay duty at the custom-house and likin at the station, and "it is expressly forbidden to them to trade elsewhere on the coast in search of clandestine markets under pain of confiscation of both ships and goods used in such operation."

In short, I establish this board in compliance with the instructions received from the viceroy. The regulations are all made to prevent the unscrupulous Chinese from seeking clandestine markets or engaging in smuggling. On what ground do you suppose this to be a monopoly, and what evidence have you to support your allegation?

"According to the provision of the treaty you should take steps to dissolve and prevent the existence of such monopoly. How can the Chinese officials establish a monopoly themselves?"

The French Government in negotiating this clause had no doubt in its mind other people who were thought to be likely to come and control the trade; hence it was provided that in such cases the Chinese officials should take steps to prevent the existence of such companies.

The facts in connection with the establishment of the camphor board do not warrant the application of this theory.

By establishing the camphor board the Chinese Government seeks to educate the Chinese people in its manufacture and such an action can not be termed a monopoly.

There are monopolists in China, and this may account for your apprehension that we are monopolists. Nevertheless, it requires proof to show that we are such as you allege. The article you quote has nothing to do with the camphor board and can not be applied to this case.

Mr. Hay to Mr. Conger.

No. 574.]

DEPARTMENT OF STATE,

Washington, October 13, 1902.

SIR: I have to acknowledge the receipt of your dispatch No. 1067, of August 11 last, inclosing a copy of all the correspondence between

you and the consul at Amoy in relation to the monopoly of the camphor trade in the province of Fuhkien granted by the Chinese Government to a Japanese subject.

Your representations to the consul on the subject appear to have been discreet.

I am, etc.,

JOHN HAY.

PROTECTION OF CHINESE AT PANAMA BY UNITED STATES OFFICIALS.

Mr. Adee to Mr. Wu.

DEPARTMENT OF STATE,
Washington, August 16, 1902.

MY DEAR MR. WU: Referring to our conversation a few days ago concerning the protection of subjects of China by the consul-general of the United States at Panama, I take pleasure in inclosing copy of the most recent instruction^a to the consul-general on the subject, in which reference is made to previous instructions addressed to his office. As was stated in the course of our conversation, these instructions authorize the consul-general to use his good offices in behalf of Chinese subjects in the absence of a diplomatic or consular representative of China in Colombia.

In case you should desire the instructions repeated to the consul-general, it will give me much pleasure to comply with your request.

I am, etc.,

ALVEY A. ADEE.

Mr. Wu to Mr. Adee.

CHINESE LEGATION,
Washington, August 20, 1902.

MY DEAR MR. SECRETARY: I beg to acknowledge the receipt of your note of the 16th instant, inclosing a copy of the most recent instruction of your Department to the United States consul-general at Panama in regard to the protection of Chinese subjects on the Isthmus. You are good enough to offer to repeat to the consul-general the previous instructions of your Department on the subject. Inasmuch as the failure of Chinese subjects on the Isthmus to receive lately the desired protection has been due to the supposed want of instructions from your Department, I shall be glad if you will kindly repeat the instructions to the United States consul-general at Panama, so that there will be no misunderstanding in this regard in the future.

If there is not too much trouble, I should like to have the United States minister to Colombia duly informed of this arrangement, so that, in case his attention is called to it, he may act accordingly.

Thanking you for your kindness, etc.,

WU TING-FANG.

^aNot printed. See correspondence on same subject with Colombia, p. 318.

ADMISSION OF CHINESE INTO CUBA.

Mr. Wu to Mr. Adee.

No. 254.]

CHINESE LEGATION,
Washington, August 20, 1902.

SIR: Having received reliable reports from the Chinese consul-general in Habana, Cuba, I beg respectfully to bring to your attention, and through your Department to the attention of the President of the United States, the peculiar condition in which the Chinese have been left in the island of Cuba by the action taken by the military governor just before the authority of the United States was withdrawn.

Some months after the United States assumed the control of affairs in the island of Cuba, that is, on April 14, 1899, the Secretary of War, under the authority of the President, by order No. 13, Division of Customs and Insular Affairs, issued a decree declaring that the laws and regulations of the United States governing immigration were to be in effect in the territory under government by the military forces of the United States. In accordance with that order the immigration laws and regulations of the United States became effective and were put in force in the island of Cuba. But these laws and regulations did not include those of the United States relating to the immigration and exclusion of Chinese, and notwithstanding said order No. 13, the Chinese of all classes were freely admitted into Cuba during the entire period of the military control of the United States without restriction, as had been the case under the régime of the Spanish Government.

In such state the immigration of Chinese into Cuba continued until five days before the United States relinquished its control of the affairs of that island, when, on May 15, 1902, Gen. Leonard Wood, military governor of Cuba, issued an order declaring the reenactment and continued enforcement, pending such action as the Congress of Cuba might take thereon, of the laws relating to immigration, "which," he says in his order, "have been in force in Cuba since April 14, 1899, by authority of the President's order adopting and making effective in Cuba the provisions of the immigration laws of the United States." This declaration or order is followed by what are termed "laws regulating immigration," which are in substance the provisions of the laws and regulations of the United States relating to immigration. But at the end of this compilation there are added two sections (Secs. VII and VIII), which are not found in the immigration laws of the United States, and the provisions of which had not been enforced under order No. 13, of April 14, 1899, referred to by General Wood as that which he purposed to reenact. The language of these two sections bear evidence of haste or want of care and legal deliberation in their preparation, so that it is somewhat difficult to understand in all respects just how they are to be enforced. But their effect is to absolutely prohibit the immigration of Chinese of any class, except diplomatic officers.

The result of this action of General Wood, taken just on the eve of the surrender of American control, is to put in operation against the Chinese a law which had not before been in force in Cuba and which is much more severe and restrictive than the provisions of the Chinese-exclusion laws of the United States.

I can not believe that such was the deliberate intention of General Wood. I can not think that he could with premeditation sully the close

of his career in Cuba by an act so unreasonable, so unjust, and so inhumane. From the manner in which the two sections are found in the publication in the Official Gazette of Habana I am inclined to believe that they have been inserted without his knowledge or without his realizing the effect they would have. Why should he, as one of the last of his official acts, decree such a harsh law, when during the four years of American rule in Cuba it had not been found necessary? And if at the last hour he had discovered that such provision was required, would he not as a prudent governor have deferred the subject for the action of the Cuban Congress which was immediately to convene? And even if he had at the last moment become convinced that some provision as to Chinese exclusion ought to be adopted by himself, notwithstanding for a half century this race had been free to come to Cuba, could he have surely reached the conclusion that a law should be enacted more severe and drastic than that in force in the United States? For these and other reasons which might be stated I have become satisfied that the military governor has taken this action unwittingly, or that he has been deceived in some way into an act which neither he nor his Government upon deliberation can approve.

The difficulty now is that the newly organized Government feels that, in view of the manner in which the order was adopted as one of the last acts of the American authorities, it would not be warranted in taking any steps to modify or repeal the enactment. As a consequence, the order is making hardships which could not have been anticipated. Chinese persons who left China without any notice of the order, relying upon the previous liberty of ingress, have been refused admittance into Cuba, notwithstanding the earnest appeals of the Chinese consul-general. No provision was made in the order for notice in advance of putting the prohibitory sections into effect. Hence hundreds of Chinese who have made the long journey are refused admittance, and must return to China, and among them are persons who under the existing laws would be admitted into the United States.

The action of General Wood in this matter is quite contrary to the practice of his own Government. When the United States found it desirable to restrict Chinese immigration, its Government consulted in a friendly spirit with the Government of China, and arranged by treaty the manner in which such restrictions should be enforced, thus respecting the dignity of the nation and saving the immigrants from undue hardships. But in the present case, the American military governor, without any consultation with the Chinese authorities, issued a cruel and arbitrary decree, inaugurating in Cuba a prohibitory law, where before no restriction had existed, and fastening upon the new Republic a system, which out of regard for the nation whose representative created it, it does not feel at liberty to repeal. This action, taken in disregard of diplomatic practice and international comity, has placed the young Republic at the outset of its existence in hostility to the Chinese Empire, and in such a manner that the unwise act can not be undone without the advice and consent of the Government of the United States.

It is not possible that General Wood could have consulted the President of the United States before issuing his decree, because his action is contrary to the policy and practice of the United States under similar circumstances, as I have indicated, and because the President would

not approve of a decree which was more severe in its provisions than the laws of the United States.

The decree, as already mentioned, prohibits all Chinese immigration into Cuba, and yet the laws of the United States allow merchants, students, teachers, travelers for pleasure, etc., to come to this country. Neither could General Wood have received the approval of the President of his order, because the President has been distinguished during his public career for profound wisdom and a high sense of justice.

I regret that it has become my duty to enter in the Department of State the protest of my Government against this action of General Wood. But in doing so, I desire to ask you to be so kind as to bring the subject to the attention of the President. I have such confidence in his upright character and his hatred of injustice as to believe that if the matter is laid before him he will be able to devise some means to have it rectified. And although American control has been withdrawn in Cuba, his relations with the government of that island are so friendly and intimate that he will find a way to secure from that Government a modification or repeal of the decree which works so grievous a wrong to Chinese subjects, and is so much in disregard of the dignity of the Chinese Government.

For more convenient reference, I inclose herewith a copy of order No. 13, and of General Wood's reenactment of it.

Accept, etc.,

WU TING-FANG.

[Inclosure 1.]

CIRCULAR NO. 13,
DIVISION OF CUSTOMS AND
INSULAR AFFAIRS. }

WAR DEPARTMENT,
Washington, April 14, 1899.

The following is published for the information and guidance of all concerned:

The laws and regulations governing immigration to the United States are hereby declared to be in effect in the territory under government by the military forces of the United States, and collectors of customs are directed to enforce said laws and regulations until the establishment of immigration stations in said territory. All money collected under this order must be deposited and accounted for as prescribed for customs collections.

G. D. MEIKLEJOHN,
Acting Secretary of War.

[Inclosure 2.]

* * * * *

SECTION VII. None of the foregoing paragraphs shall apply to Chinese persons, the immigration of whom is prohibited, and during such prohibition it shall not be lawful for any Chinese laborer to come from any foreign port or place to Cuba.

The master of any vessel who shall knowingly bring to Cuba on such vessel, and land or attempt to land or permit to be landed, any Chinese laborer, meaning both skilled and unskilled, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than \$500 for each and every such Chinese laborer so brought into Cuba, and may also be imprisoned for a term not exceeding one year.

Any Chinese person found unlawfully within Cuba shall be caused to be removed therefrom to the country whence he came and at the cost of Cuba, after being brought before some judicial officer or tribunal in Cuba and found to be one not lawfully entitled to be or to remain in Cuba, and in all such cases the person who brought or aided in bringing such person to Cuba shall be liable to the Government of Cuba for all necessary expenses incurred in such investigation and removal, and

Cuba shall pay all costs and charges for the maintenance and return of any Chinese persons having the certificate prescribed by law as entitling such Chinese person to come into Cuba who may not have been permitted to land from any vessel by reason of any of the foregoing provisions.

SECTION VIII. The prohibition of importation of Chinese shall apply to all subjects of China and Chinese, but shall not apply to diplomatic officers of the Chinese Government or other Governments traveling upon the business of their Government, whose credentials shall be taken as an equivalent to a certificate which will be required of merchants or other persons traveling for pleasure or business, and setting forth such facts, as well as the character and estimated value of the business and a description of said merchant or person. The secretaries, the body and household servants of diplomatic officers of the Chinese Government or other Governments traveling upon the business of their Government, and Chinese laborers and merchants who were in Cuba on April 14, 1899, and have since then continued to be residents thereof, who may now reside therein or abroad and are able to establish their identity, are also exempted from the provisions applying to other Chinese persons.

Mr. Adee to Mr. Wu.

No. 239.]

DEPARTMENT OF STATE,
Washington, September 12, 1902.

SIR: Referring to your note No. 254, of the 20th ultimo, protesting against the order issued on May 15 last by the military governor of Cuba respecting the immigration of Chinese into China, I have the honor to say that the express terms of the order itself declared that the measure was for enforcement pending such action as the Cuban Congress might take thereon, and that relinquishment of occupancy by the United States and the assumption of full sovereign powers by the Government of Cuba remove the subject from the sphere of administrative action on the part of the Government of the United States and leave the Cuban Congress free to act in the matter.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

PROCLAMATION DENOUNCING BOXER PRACTICES AS HERESY.

Mr. Conger to Mr. Hay.

No. 1072.]

LEGATION OF THE UNITED STATES,
Peking, August 21, 1902.

SIR: I have the honor to inclose herewith translation of a proclamation of his excellency Viceroy Yuan Shih-k'ai, published in the Chihli Gazette of the 19th instant, concerning the "Boxer heresy."

I have no doubt the viceroy is in earnest. If he shall be properly supported by the Throne there will be little further trouble with Boxers in this province.

We can not, however, forget that in 1900 Yuan Shih-k'ai started out in the same way, as governor of Shantung, but instead of being sustained by the Court he was instructed not to use such severe measures. I think we may hope for better things now.

I have, etc.,

E. H. CONGER.

[Inclosure.—Translation from Chihli Gazette, dated 16th of seventh moon, August 19, 1902.]

Proclamation by His Excellency Yuan Shih-k'ai, viceroy of Chihli.

The heresy of Boxerdom has done great harm to the land. Some time ago I, the viceroy, issued a proclamation on the subject, with instructions for the suppression throughout the province. But now it is rumored that Boxers from other parts have come and hide themselves about the country, practicing boxing in secret together with incantations. They inflame the ignorant masses, raise doubts in their minds, and induce not a few of them to learn boxing in out of the way places. It is most abominable.

From ancient times to the present this heresy always meant ruin. The boxing and incantations they practice amount after all to not much more than a kind of jugglery—the swallowing of knives and fire without any skill.

Consider what became of those outlaws who the year before last joined the Boxers in the neighborhood of Peking and Tientsin, who under pretense of opposing the churches plundered whatever they had a mind to, but perished as soon as they were fought with, leaving their bones in heaps.

Again, thinking of Li Kang Chung and others who quite recently had the audacity to collect and drill a crowd at Tsi-yang and to oppose the Government troops, and how they were caught and executed, their heads being exposed on poles, if the charms which they carry on their persons are of any avail, how is it when they come in collision with good troops they are so easily taken and the charms have no efficacy at all?

These things have occurred before your very eyes; those who have a particle of sense will understand and turn over a new leaf. Those rebels harbor naught but evil in their hearts and plan to make trouble, which is a crime not to be condoned.

The pity is that you, who used to be loyal folk, should be deceived by such heretical talk and be taken in by the rebels with the idea that your families will be protected. Your heads are turned, thinking that by so doing you will save your life, when it is sure death and entire loss of property.

As to the propagation of this heresy, the Throne will positively not tolerate any such thing, so injurious to the country.

All civil and military officials under my jurisdiction are hereby instructed at all times to strictly prohibit all such doings and to arrest the offenders.

This proclamation is put out on the hope that all the gentry, merchants, and scholars under my jurisdiction may take note and understand that the propaganda and practice of the divine boxing (art), said to bring happiness, will bring only misfortune. By all means attend to your peaceful avocations. Do not listen to heretical words, nor lay yourself open to charges and serious crime.

I, the viceroy, will not rake up your past, but will grant you a fresh start.

Whoever can apprehend a Boxer chief and give him up to the authorities, he will be liberally rewarded.

But those who persisted in disobeying and practice boxing in secret, going of their own will and accord with the Boxers, they will be brought to account and punished according to the utmost rigor of the law. No leniency will be shown.

A special proclamation.

DEATH OF VICEROY LIU K'UN-YI.

Mr. Conger to Mr. Hay

No. 1109.]

LEGATION OF THE UNITED STATES,
Peking, October 7, 1902.

SIR: I regret to report that His Excellency Liu K'un-yi, the distinguished viceroy at Nankin, died suddenly yesterday morning.

Viceroy Chang Chih-tung has been temporarily transferred from Wu-ch'ang, and Tuan-fang, the governor of Hupeh, appointed as acting viceroy at Wu-ch'ang.

It is, however, regarded as certain that Chang Chih-tung's appointment will be made permanent.

Several men are being prominently mentioned as likely to receive the Wu-ch'ang appointment; among them Grand Secretary Wang Wen-shao, and Chou-fu, the present governor of Shantung.

I inclose copies of two imperial edicts on the subject, with most interesting notes made by Mr. Williams, Chinese secretary of this legation.

I have, etc.,

E. H. CONGER.

[Inclosure 1—Translated from the Peking Gazette of October 7.]

Imperial edict.

Let Chang Chih-tung be appointed acting viceroy of the Liang Kiang and proceed at once to his post, and let Tuan-fang temporarily take the position of acting viceroy of the Hu-kuang in addition to his present duties. (He is governor of Hupeh.)

NOTE.—Tuan-fang is a Manchu, comparatively young, 44 years of age. He has risen very rapidly within the past four years. In 1898 he was a censor, and was regarded as favoring the reform party headed by K'ang Yu-wei, but when disaster overtook its supporters he turned suspicion from himself by a well-turned ode to Her Imperial Majesty the Empress Dowager, who at once rewarded him with the post of treasurer of Shensi. In 1900 he was acting governor of the same province and exhibited rare courage and tact. He received the fateful telegraphic edict commanding the extermination of foreigners, but had sufficient strength of character to disregard it; locked it up without showing it to any one, gave out that he was instructed to protect the foreign missionaries in his province, and threatened dire punishment for any antforeign attack. He bade those who were inclined to side with the "Boxers" to prove their courage by going to the seaboard to attack the foreign armies and leave defenseless women and children alone. At the same time he sent for the missionaries and told them what his real instructions were, and arranged to send them under safe escort to the south. In this way they were all preserved from harm. Yet, when the court took to flight he made every preparation to receive them in his capital, Singanfu, and despite the famine which was decimating the population, succeeded in providing the necessary supplies. As a reward for the tact and executive ability shown he was made governor of Hupeh, and is now temporarily in charge of the viceroyalty. Whether he can retain the post permanently or not remains to be seen, but it is believed in the highest official circles here that he will be allowed a chance to demonstrate his fitness or unfitness for the post. His rapid promotion is generally regarded as phenomenal.

[Inclosure 2—Translated from the Peking Gazette of October 7, 1902.]

Imperial edict.

We have received with reverence the commands of Her Imperial Majesty, Tsu-Hsi, etc., Empress Dowager, as follows:

The viceroy of the Liang Kiang, Liu K'un-yi, kept a disposition honest and loyal; his talents were great and his plans far-reaching. From among the multitude of licentiates he raised himself by his military services, frequently achieving merit, and gradually attained to the position of a viceroy, where he was able to discharge the duties of his office with diligence. Later he received the appointment of viceroy of the Liang Kiang and superintendent of trade for the south, which he has held for more than ten years past, preserving peace in the regions under his jurisdiction. The populace, military and civil, have loved and respected him. In the conduct of international affairs he has carefully assisted in determining our policy. Year before last, when the capital was in confusion, the said viceroy protected the southeast and reconstructed the general situation, whereby he still further increased his merit. Being experienced and reliable, as a minister he was in truth a pillar of the State. Recently, owing to his illness, we several times granted him leave of absence from his post and sent him presents of ginseng. Relying upon this prescription we hoped

he would soon recover his health that we might long employ him and lean upon him; but we have suddenly heard of his death, and are deeply shocked with grief.

Let Liu K'un-yi receive additional favors; let him be raised posthumously to the ranks of baron of the first grade and grand tutor. In compliance with the custom observed on the death of viceroy, we contribute as a mark of sympathy the sum of 3,000 taels to the funeral expenses, to be paid out of the treasury at Nankin. We bestow also an altar of offerings, and depute the Tartar general at Nankin, Ê-lê-ch'un, to go and make the offering. We also bestow the posthumous title of Chung Ch'êng (loyal and sincere).

Let him be entered for worship at the temple of worthies in the capital, and let temples be erected for his worship at Nankin, at his native place in Hunan, and in the provinces where he won distinction, and let the State historiographer prepare a record of his life, that his deeds may be made known. Let all penalties for errors in administration be canceled, and let the yamen concerned examine and report what further mark of sympathetic consideration he should receive. When his coffin shall be carried back to his native place, let the local officials along the route make satisfaction arrangements to care for it. Let Chang Chih-tung at once inquire and report how many sons and grandsons he left, and an edict will be issued later bestowing favors, so as to manifest our purpose to show sincere remembrance of a perfect minister.

NOTE.—Liu K'un-yi was one of a number of Hunanese who greatly distinguished themselves during the T'ai-p'ing rebellion by their loyal services in behalf of the Imperial Government. Others from the same province were the two brothers Tséng Kuo-fan (father of Marquis Tséng) and Tséng Kuo-ch'üan, both of whom also held at different times the post of viceroy at Nanking. Liu never took any literary degree above that of licentiate (provincial A. B.), but by his military successes he won the favor of the court and was gradually raised to the high rank of a governor-general. In 1861 he was appointed provincial judge of Kuangtung, the next year treasurer of Kiangsi, in 1865 governor of Kiangsi, and ten years later viceroy at Canton. In 1879 he was transferred to the most important post of viceroy at Nanking, but two years later was ordered to Peking, denounced, and, through the intrigues of his enemies, dismissed the service. In 1890 the Yangtze Valley was in a state of unrest, and Tséng Kuo-ch'üan having died in office at Nanking, the Government looked about for a strong man to succeed him. In their extremity they turned to Liu, who, though already well advanced in years, proved fully equal to the responsibilities of the post. It has been very largely due to his influence over the Hunanese that central China has been kept in comparative peace through the past ten years. During the Japanese war, when the defeat of the Chinese forces had thrown Peking into consternation, it was again to Liu that the Government turned for advice, and he was made generalissimo of the army. Fortunately for his reputation he was not compelled to fight, as peace negotiations were almost immediately entered into, and the war came to an end.

He returned to his post at Nanking, and has continued there until his death. In the year 1900, when the "Boxer" madness was spreading terror into the north, he took steps to preserve the southeastern provinces from infection, and entered into the compact by which that portion of the Empire was saved from invasion by the foreign forces. His health has been failing for some years past, but he retained his mental vigor to the last. He died at the age of 74 years.

Chang Chih-tung, who succeeds Liu at Nanking, is the well-known viceroy at Wuchang, opposite Hankow. He is between 60 and 70 years of age. Unlike his predecessor he is a man of great scholarship and has secured his advancement very largely through his literary attainments. He is a native of Chihli, the metropolitan province, and graduated with the doctor's degree in 1863, standing third in his class.

He held various provincial offices and in 1884 became viceroy at Canton, from which post he was transferred to Wuchang in 1889 on account of his strong indorsement of the scheme for a railway from Peking, via Hankow, to Canton. While His Excellency Liu was in the north as generalissimo of the forces in 1894 and 1895, Chang was placed in temporary charge at Nanking, but with this exception he has remained at Wuchang, where he has distinguished himself by the introduction of various industrial and educational enterprises modeled on western patterns. Among these are the opening of mines, the purchase of a rolling mill, the equipment of a cotton mill, and the establishment of a military academy and an agricultural college. During the brief period in which the ill-fated reform party was in control of the Government he wrote a series of brilliant essays urging the adoption of the "new learning" as essential to the preservation of the State. These have since been translated into English and widely commented upon. * * *

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 10, 1902.

(Mr. Hay directs Mr. Conger to convey to Chinese Government, on the occasion of the death of Viceroy Liu K'un-yi, the assurance of the sincere sympathy of the Government of the United States.)

Mr. Conger to Mr. Hay.

No. 1121.]

LEGATION OF THE UNITED STATES,
Peking, October 16, 1902.

SIR: I have the honor to confirm Department's telegram of October 10 concerning the death of Viceroy Liu K'un-yi, and to report that its contents have been conveyed to the Chinese Government as directed, and a reply received, copies of which communications are inclosed.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Mr. Conger to Prince Ch'ing.

LEGATION OF THE UNITED STATES,
Peking, October 11, 1902.

YOUR HIGHNESS: I have the honor to inform your highness that I have just received telegraphic instructions from the Secretary of State at Washington, directing me to convey to the Imperial Government the assurance of my Government's sincere sympathy in the loss sustained by China through the death of so worthy and capable a public official as the late viceroy of the Liang Kiang, His Excellency Liu K'un-yi.

In complying with these instructions, I avail, etc.,

E. H. CONGER.

[Inclosure 2.]

Prince Ch'ing to Mr. Conger.

We have the honor to acknowledge the receipt of your excellency's note, saying that you had had a telegram from the State Department at Washington, expressing the deep sympathy of your Government on learning of the death of his excellency the superintendent of trade for the south, the Viceroy Liu K'un-yi, which telegram your excellency, as instructed, had had translated and which you transmitted for our information, etc.

On receiving and reading your excellency's note and learning that your honorable Government had sent a special telegram to convey its regret on hearing the death of his excellency the superintendent of trade for the south, the Viceroy Liu K'un-yi, we, prince and ministers, have been filled with gratitude for such a distinguished mark of friendship. We therefore send this note to your excellency in reply, hoping that you will inform the State Department of your honorable country of its contents.

In sending this reply we avail, etc.

Cards inclosed.

Ninth moon, 14th day (October 15, 1902).

**CONVENTION AND ARRANGEMENT BETWEEN RUSSIA AND
CHINA RESPECTING MANCHURIA.^a**

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Peking, December 3, 1901.

(Mr. Conger reports the return of Prince Ch'ing with authority to sign Manchurian convention providing substantially as follows:

Article 1.—Manchuria will be returned by Russia to Chinese jurisdiction and administration.

Article 2.—Agreement of 1896 with Russo-Chinese Bank to be permanently maintained, and protection of railway and Russian subjects is undertaken.

If there are no repetitions of disorder, and the conduct of other nations does not hamper, Russia will evacuate as follows: During 1901, the southern part of Sheng-king up to Liao River; during 1902, the remainder of Sheng-king, and during 1903, Kirin and Heilung chiang.

Article 3.—In concert with Russian authorities the military governor will fix the number of Chinese troops and points to be occupied, beyond which China will not increase nor advance troops. Except in localities assigned to railway company, China shall use only cavalry and infantry, but not artillery.

Article 4.—Troops to protect railways can not be sent by other nations. Anglo-Russian railway sphere convention and agreement as to companies borrowing funds to be maintained. No further railway or bridge construction in southern portions will be allowed, nor railway terminus changed, except by Russian consent. All Russian expenses in restoring and maintaining Shankaiwan, Yingkou, and Hsinting railways to be repaid and railway restored to the owners in 1901.

Mr. Conger states that English and Japanese ministers are warning China not to sign, and inquires what action, if any, he shall take.)

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 6, 1901.

(Mr. Hay directs Mr. Conger to take an early opportunity to advise Prince Ch'ing that the President trusts and expects that no arrangement which will permanently impair the territorial integrity of China, or injure the legitimate interests of the United States, or impair the ability of China to meet her international obligations, will be made with any single power.)

^a See under Russia, page 926, and Austria-Hungary, page 26.

Mr. Conger to Mr. Hay.

No. 846.]

LEGATION OF THE UNITED STATES,
Peking, December 12, 1901.

SIR: I confirm your telegram^a of the 6th instant, and report that on yesterday I had a conference with Prince Ch'ing on the subject-matter thereof.

I handed to Prince Ch'ing a memorandum embodying your instructions and the expectations of the President, a copy of which I inclose. I said to him, in substance, that it was generally understood what the proposed terms of the Manchurian agreement were, but that we had no authoritative knowledge; that if the terms as understood should be agreed upon China's territorial integrity would be endangered, her sovereignty impaired, the treaty rights of other nations violated, and her ability to meet her international obligations diminished. He then briefly outlined to me the demands which Russia was making. They were substantially as reported in my telegram of the 3d instant. He said he agreed with my views as to the results to be reasonably expected from a compliance with the Russian demands, and that he should endeavor, in whatever agreement was finally reached, to preserve the sovereignty of China and respect all treaty and international obligations. He assured me that instead of taking nearly three years to evacuate Manchuria he should insist upon its being accomplished in one, and that while limiting the number and kind of Chinese troops to be kept in the territory during Russian occupancy, this matter should be left to China's judgment and control after the evacuation, and that after turning back to China the Shan-hai-kwan, Ying Kou and Hsinting railroads the Chinese Government should itself decide how it should be guarded, and whether or not a bridge across the Liao River should be constructed. Also, if upon investigation it should turn out that Russia's expenses of repair and maintenance of the above-mentioned railroads were included in the general indemnity allowed by the final protocol, then they should not be paid again; otherwise, reasonable compensation should be agreed to.

I asked him if the proposed agreement did not provide for exclusive privileges of railway and mining development. He replied it did not, but that later negotiations might be entered into to reiterate the agreement heretofore entered into with the Russo-Chinese Bank; that these would give Russia, when new railroads were to be constructed or mines opened, the first right to build or open, but that these would only be given after conference with, and approval of, the Chinese authorities. He also said that if he could not secure Russian consent to these modifications he would confer with me again before signing.

Under all the circumstances I can see no serious objections to the terms which he suggests for the general agreement; but if the understanding as to a separate agreement concerning exclusive railway and mining concessions, as it would seem, really makes a part of the main agreement, it is quite as objectionable as if it was formally included therein. I am bound to add that I have very serious doubts about his ability to secure the consent of Russia to the terms he proposes.

I have, etc.,

E. H. CONGER.

^a Printed, ante.

[Inclosure.]

Memorandum left by Mr. Conger with Prince Ch'ing on December 11, 1901.

The President of the United States, having heard reports to the effect that China was about to sign a convention with Russia which would materially affect the sovereignty of the former in the Manchurian provinces, and which would apparently impair very seriously the treaty obligations of China with other powers, as well as injure the commercial interests of the United States in the region mentioned, has sent Mr. Conger, the United States minister at Peking, the following cable dispatch.^a

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,

Peking, January 29, 1902.

(Mr. Conger reports that he has been informed by Prince Ch'ing that the latter has done the best he could and has held out as long as possible, but that Russian possession of Manchuria has become intolerable, and that China must at once sign the convention or lose everything; that he has therefore agreed to sign the convention, modified as substantially stated in Mr. Conger's dispatch No. 846, of December 12, 1901, and will also sign the separate agreement with the Russo-Chinese Bank, which practically gives exclusive privileges of industrial development in Manchuria.)

Mr. Conger has reported to Prince Ch'ing Mr. Hay's telegraphic instructions of December 6, 1901, and the British and Japanese ministers advised him to about the same effect; but it is expected that the signing of the convention and agreement will very soon take place.)

Mr. Conger to Mr. Hay.

No. 898.]

LEGATION OF THE UNITED STATES,

*Peking, January 29, 1902.*SIR: I have the honor to confirm my telegram^b of this date.

On the 27th I had a conference with Prince Ch'ing, who informed me, substantially, that he was in a most difficult position. He had used, he said, every effort in his power to come to some agreement with Russia whereby the evacuation of Manchuria might be secured without the great sacrifice, on the part of China, which Li Hung-chang had agreed to. He had, he said, secured some very material concessions on the part of Russia, but they would yield no further, and he was convinced if China held out longer, that they would never again secure terms as lenient; that the Russians were in full possession of the territory, and their treatment of the Chinese was so aggravating that longer occupation was intolerable; that they must be got out, and that the only way left for China to accomplish this was to make the best possible terms.

The only terms that Russia would consent to was the signing of both the convention and the Russo-Chinese Bank agreement. He said that

^aPrinted, ante, page 271.^bPrinted, ante.

the convention itself had been so modified as to require the evacuation within two instead of three years; that the number of Chinese troops and the kind of arms to be employed are to be controlled by China, and that no exclusive privileges will be granted by this convention. He said, however, that the Russo-Chinese Bank contract, besides the railroad concessions already granted, was to contain an agreement that China, so far as she desired and was able to, could herself undertake and carry out all industrial development in Manchuria, but if she required outside financial help, application should always first be made to the Russo-Chinese Bank; and if it did not wish to undertake the work, then citizens of other countries might undertake it. He said, also, that a clause was to be put in agreeing that citizens of every country should have the same rights to trade at the open ports and in the interior as they have now.

Notwithstanding this latter clause, the agreement is most sweeping and exclusive. Yet China must sign or Russia will not leave, and unless she goes now her occupancy will not long be a question for negotiation, so far as China is concerned.

I told the Prince that I recognized the difficulty in which he finds himself and his Government, and that he could go any length he pleased in making concessions to Russia, provided the treaty rights of other powers were conserved, and that my Government had instructed me to say that it could not consent to the bartering away for any purpose whatever of rights and interests which it had acquired in that territory through its formal treaties with China; and I added that if a settlement could not be made without violating rights which China had by treaty granted to other powers, then she should first notify these powers of the exact situation. The Japanese and British ministers have made like representations, and the Japanese minister making a much stronger protest.

Although Prince Ch'ing did not plainly say so, yet I think succeeding events will justify my conclusion that an agreement is already reached and will soon be signed.

I have, etc.,

E. H. CONGER.

Mr. Hay to Mr. Conger.

No. 447.]

DEPARTMENT OF STATE,
Washington, January 30, 1902.

SIR: I have to acknowledge the receipt of your No. 846 of the 12th ultimo, inclosing a copy of a memorandum handed by you to Prince Ch'ing on the 11th ultimo, embodying your instructions from the Department and the President's expectations concerning the Russo-China negotiations as to Manchuria.

The Department commends your presentation of the subject to Prince Ch'ing.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 1, 1902.

(Mr. Hay states that the Government of the United States can view only with concern an agreement by which China concedes to a corporation the exclusive right to open mines, construct railways, or other industrial privilege; that such monopoly would distinctly contravene treaties of China with foreign powers, affect rights of citizens of the United States by restricting rightful trade, and tend to impair sovereign rights of China and diminish her ability to meet international obligations; that other powers will probably seek similar exclusive advantages in other parts of the Chinese Empire, which would wreck the policy of absolutely equal treatment of all nations in regard to navigation and commerce in the Chinese Empire; and that, moreover, for one power to acquire exclusive privileges for its nationals conflicts with assurances repeatedly given to the Government of the United States by the Russian ministry for foreign affairs of firm intention to follow the policy of the open door in China, as advocated by the United States and accepted by all the powers having commercial interests in China.

That the Government of the United States, animated now, as heretofore, by the sincere desire to insure to the whole world full and fair intercourse with China on equal footing, submits the foregoing considerations to the Governments of Russia and China, with confidence that due weight will be given to them and such measures be adopted as will relieve the just and natural anxiety of the United States.)

Mr. Hay to Mr. Wu.

DEPARTMENT OF STATE,
Washington, February 3, 1902.

MY DEAR MR. MINISTER: I have the honor to communicate to you herewith a memorandum^a expressing the views of the United States in regard to the proposed convention and arrangement between China and Russia respecting Manchuria, the substance of which has been cabled to the American representatives at Peking and St. Petersburg.

I am, etc.,

JOHN HAY.

[Inclosure.]

Memorandum respecting Manchuria—February 1, 1902.

DEPARTMENT OF STATE,
Washington, February 1, 1902.

An agreement by which China cedes to any corporation or company the exclusive right and privilege of opening mines, establishing railroads, or in any other way industrially developing Manchuria, can but be viewed with the gravest concern by the Government of the United States. It constitutes a monopoly, which is a distinct breach

^aSent also to United States representatives in Austria, Belgium, China, France, Germany, Great Britain, Italy, Japan, Netherlands, Russia, and Spain.

of the stipulations of treaties concluded between China and foreign powers, and thereby seriously affects the rights of American citizens; it restricts their rightful trade and exposes it to being discriminated against, interfered with, or otherwise jeopardized, and strongly tends toward permanently impairing the sovereign rights of China in this part of the Empire, and seriously interferes with her ability to meet her international obligations. Furthermore, such concession on the part of China will undoubtedly be followed by demands from other powers for similar and equal exclusive advantages in other parts of the Chinese Empire, and the inevitable result must be the complete wreck of the policy of absolute equality of treatment of all nations in regard to trade, navigation, and commerce within the confines of the Empire.

On the other hand, the attainment by one power of such exclusive privileges for a commercial organization of its nationality conflicts with the assurances repeatedly conveyed to this Government by the Imperial Russian ministry of foreign affairs of the Imperial Government's intention to follow the policy of the open door in China, as advocated by the Government of the United States and accepted by all the treaty powers having commercial interests in that Empire.

It is for these reasons that the Government of the United States, animated now, as in the past, with the sincerest desire of insuring to the whole world the benefits of full and fair intercourse between China and the nations on a footing of equal rights and advantages to all, submits the above to the earnest consideration of the Imperial Governments of China and Russia, confident that they will give due weight to its importance and adopt such measures as will relieve the just and natural anxiety of the United States.

Mr. Conger to Mr. Hay.

No. 905.]

LEGATION OF THE UNITED STATES,
Peking, February 4, 1902.

SIR: I have the honor to confirm herewith your telegram of the 1st instant, and to say that I at once transmitted a copy to the foreign office with the note, copy of which I inclose. I felt that I had already said so much to Prince Ch'ing on the subject that it was unnecessary to go to him in person again.

I presumed from the substance of the telegram that you had already communicated it to the Russian Government. However, I immediately called upon my Russian colleague and gave him a copy. We discussed the matter only in a general way, but he took occasion to say that they were asking no greater privileges in Manchuria than the Germans already possessed in Shantung. I replied that we did not recognize that Germany had such rights there, and even if by secret or other convention with Germany the treaty rights with other powers had been contravened that would not justify further violation of them, but should rather unite all the other powers in legitimate efforts for the restoration and preservation of all treaty rights thus infringed or annulled.

I have, etc.,

E. H. CONGER.

[Inclosure.]

Mr. Conger to the Foreign office.

F. O., No. 341.]

UNITED STATES LEGATION,
Peking, February 4, 1902.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to remind Your Highness and your excellencies that at my last interview with you I called your attention to the deep interest of my Government in the pending negotiations between China and Russia with regard to the evacuation by the latter of the Manchurian provinces and in the efforts being made by the Russian Government, as reported to me and

confirmed by Your Highness and your excellencies, to secure in the said Manchurian provinces by means of a separate arrangement between China and the Russo-Chinese Bank certain exclusive mining and railway concessions for Russian subjects. I informed Your Highness and your excellencies on the above-mentioned occasion, as I had already done also at several previous interviews, that the United States could not but view such concessions with concern as violating the favored-nation clauses of existing treaties between China and the several powers, as tending to impair the sovereignty of China in the region mentioned, as threatening the territorial integrity of the Chinese Empire by inviting demands from other powers for like concessions in other provinces, and as tending to impair China's ability to meet her international obligations.

Since my last interview with Your Highness and your excellencies I have received the following telegram ^a from the Department of State, which sets forth very fully the views of my Government.

It becomes my duty to forward the above telegram at once to your highness and your excellencies, and I trust that its contents may receive your very careful attention and that such measures may be adopted as will relieve the just and natural anxiety of the United States Government.

I avail myself, etc.,

E. H. CONGER.

Mr. Conger to Mr. Hay.

No. 932.]

LEGATION OF THE UNITED STATES,
Peking, March 4, 1902.

SIR: In order that I might be definitely informed of the progress of negotiations on the Manchurian question, I called upon Prince Ch'ing for that purpose on the 2d instant. He outlined to me the proposition which he had made to the Russian minister, and finally gave me a copy thereof, which I herein inclose. The Russian minister has not yet replied. If he does accept them, the Prince says that he will be obliged to sign.

One of the greatest objections is to the clause by which China agrees not to extend the Shanhaikwan Railway, which now terminates on the opposite side of the river from Niuchwang, nor ever to build a bridge across the Liao River without the consent of Russia. The Russians have recently built a railroad on the west side of the Liao River to a point opposite and about 15 miles from Moukden. They own all the roads on the east side of the river, so that it is possible for them to practically cut off Niuchwang, divert all the trade to Dalny, and thus destroy the only open Chinese port in Manchuria, and the source of a very large revenue. I explained this to Prince Ch'ing, and he promised that if his present terms were not accepted and there was opportunity to amend, he would try to remedy this. He informed me that both British and Japanese ministers had signified their approval of these terms. The latter tells me he has, by instruction of his Government, approved them. The former, however, says that there are several modifications that he is still urging Prince Ch'ing to secure if possible.

The Prince again informed me that he would not sign the Russo-Chinese Bank agreement, and that if the Russian minister refused, as he feared he would, to sign the convention as modified, he would inform me.

From the wording of the document, "up to the Liao," Niuchwang would not be included in the first period of evacuation, although Prince Ch'ing insisted that it was so understood.

I urged the importance of the earliest possible restoration of Niu-chwang, both on account of our trade and the revenue which was pledged to the indemnity, now being collected by the Russians, but I did not think it best to discuss in detail other special provisions of the convention.

I have, etc.,

E. H. CONGER.

[Inclosure.]

Proposed convention between China and Russia.

The Emperor of Russia and the Emperor of China, desiring to restore in a stable and lasting manner the neighborly relations which were injured by the revolution of 1900 in China, have appointed plenipotentiaries to confer with regard to matter in the "Three Eastern Provinces" (Manchuria).

1. The Emperor of Russia, desiring to manifest clearly new proof of his friendship for the Emperor of China and of his justice toward him, overlooks the circumstances of the attack made upon the peaceable subjects of Russia in Manchuria and on the Russian frontier, and agrees to restore to Chinese sovereignty all places in the "Three Eastern Provinces," and will take the said territory and surrender it to the map of China and to the control of Chinese officials as it was before the occupation by the Russian army.

2. The Chinese Government now from the time of the restoration to its authority of the "Three Eastern Provinces" clearly agrees to observe forever the limit of time and the various articles of the contract with the Russo-Chinese Bank, entered into on the 27th of August, Russian calendar, 1896, and, moreover, in accordance with the fifth article of that contract, acknowledges it to be its duty to use its utmost endeavors to protect the railway and all officers of the said railway, as well as to protect all Russian subjects in the "Three Eastern Provinces" and their several interests.

The Russian Government, seeing that the Chinese Government acknowledges the above conditions, on its part agrees that, should there be no further disturbances and no action on the part of other powers to prevent, it will successively withdraw all the various Russian forces occupying the "Three Eastern Provinces," the manner of withdrawal to be as follows:

Within four months after the signing of this convention to withdraw all Government troops of Russia from the southwestern section of the province of Shengking up to the Liao River; and restore the various railways to China; within another four months to withdraw the remainder of the Government troops from the province of Shengking and all Government troops from the province of Kirin; and within another four months to withdraw all the remainder of Russian Government troops occupying the province of Heilungkiang.

3. The Government of China and the Government of Russia, in order to avoid a recurrence of the disturbances of last year, and since these disturbances were caused by Chinese Government troops of these various provinces stationed on the Russian border, now direct the military governors to consult with the Russian military authorities and determine the number of Chinese regiments to be stationed in the "Three Eastern Provinces," previous to the withdrawal of the Russian forces, and the places where they shall be stationed; and China agrees that she will not add any drilled troops over and above the number agreed upon by the military governors and the Russian military authorities as necessary to the suppression of bandits and the preservation of order in the country; but after the withdrawal of all the Russian forces it shall rest with China to determine the number of troops to be stationed in the "Three Eastern Provinces," whether she should increase or decrease their number, but she will notify the Russian Government, for if China should increase her military establishment in these provinces, Russia, too, at the various places along the border, will not be able to avoid increasing her troops, and the two nations without profit will add to their military expenses. As to the establishment of police in the "Three Eastern Provinces," and for the pacification of the country outside of the territories granted to the Chinese Eastern Railway, the military governors of the various provinces will drill for special use Chinese cavalry and infantry regiments, for police purposes.

4. The Russian Government agrees to restore to its owners the Shanhaikwan, Yingk'ou and Hsinmint'ing Railway, which has been in the possession and under

the protection of Russian troops since the end of September, 1900. The Chinese Government agrees that—

(a) Should circumstances require protection to be given to the said railway, it shall be the special duty of China to afford it, and she shall not request any other power to furnish protection, repair, or maintain it, and it will not be permitted any other power to occupy the places surrendered by the Russian troops.

(b) In the completion and maintenance of the various sections of the railway, there must be exact observance of the agreement of April 16, 1899, between Russia and Great Britain, and of that of September 28, 1898, with the company for the loan for constructing the railway, and the company, moreover, must observe all its guaranties to avoid the occupation or the employment of any pretext to control the Shanhaikwan, Yingk'ou, and Hsinmint'ing Railway.

(c) Hereafter all matters pertaining to the extension of the railway in the southern part of the "Three Eastern Provinces," or the building of branch roads, or the construction of a bridge at Yingk'ou, or the removal of the railway terminus, must be settled by mutual conference.

(d) It is proper that the Russian Government should be compensated for the expenditure in rebuilding and keeping up the Shanhaikwan, Yingk'ou, and Hsinmint'ing Railway, which it is handing back, and examination shows that this sum is not included in the general indemnity. It will be necessary for the Chinese Government and the Russian Government to consult together and determine the amount of the compensation.

Mr. Conger to Mr. Hay.

No. 948.]

LEGATION OF THE UNITED STATES,
Peking, March 15, 1902.

SIR: Continuing the subject-matter of my No. 932, of the 4th instant, I have the honor to inform you that the Russian minister, in response to Prince Ch'ing's proposal, has signified his willingness to make the terms for evacuation eighteen months, instead of three years, as the Russians had formerly proposed, or twelve months, which Prince Ch'ing had named. The probability is that a compromise will be made on fifteen months.

The British minister is still urging upon the Prince some minor changes, but I am quite certain that if the Russian minister consents to Prince Ch'ing's proposal, copy of which I sent you in my No. 932, the British minister, while not consenting, yet will not object to such a conclusion of the matter.

I have, etc.,

E. H. CONGER.

Mr. Bainbridge to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Peking, April 8, 1902.

(Mr. Bainbridge reports the signing, on April 8, by Russia and China, of the convention relating to Manchuria.)

Mr. Bainbridge to Mr. Hay.

LEGATION OF THE UNITED STATES,
Peking, April 17, 1902.

SIR: In the absence of the minister I have the honor to inclose a copy of the French text of the Russo-Chinese Manchurian convention, which was signed at Peking on the 8th instant.

I have, etc.,

W. E. BAINBRIDGE.

[Inclosure.—Translation.]

His Majesty the Emperor and Autocrat of all the Russias, and His Majesty the Emperor of China, with a view to reestablishing and consolidating the neighborly relations which were interrupted by the rebellion that took place in the Celestial Empire in 1900, have named as their plenipotentiaries, for the purpose of establishing an agreement upon certain questions concerning Manchuria, _____,

The aforesaid plenipotentiaries, provided with full powers which were found sufficient, have agreed upon the following stipulations:

ARTICLE I. His Majesty the Emperor of all the Russias, desiring to give a fresh proof of his love of peace and his sentiments of friendship for His Majesty the Emperor of China, notwithstanding the fact that the first attacks upon the peaceable Russian population were made from various points of Manchuria, which is situated on the frontier, consents to the reestablishment of the authority of the Chinese Government in the aforesaid province, which remains an integral part of the Empire of China, and restores to the Chinese Government the right to exercise governmental and administrative powers there as before its occupation by the Russian troops.

ART. II. In resuming possession of governmental and administrative powers in Manchuria, the Chinese Government confirms, as well in regard to the terms as to all the other articles, the engagement strictly to observe the stipulations of the contract concluded with the Russo-Chinese Bank on the 27th of August, 1896, and assumes, according to article 5 of said contract, the obligation to protect the railroad and its personnel by every means, and also pledges itself to guarantee the security, in Manchuria, of all Russian subjects in general who reside there and the enterprises established by them.

The Russian Government, in view of the assumption of this obligation by the Emperor of China, consents on its part, in case there shall be no agitations of any sort, and if the action of the other powers shall offer no obstacle thereto, gradually to withdraw all its troops from Manchuria so as—

(a) To withdraw, in the course of six months from the signing of the convention, the Russian troops from the southwest portion of the province of Moukden, as far as the Liao-he River, and again to place China in control of the railways;

(b) To withdraw, in the course of the six months following, the Imperial Russian troops from the remaining portion of the province of Moukden and the province of Kirin; and

(c) To withdraw, in the course of the six months following, the remainder of the Imperial Russian troops now in the province of Hei-lung Kiang.

ART. III. In view of the necessity of obviating in future a repetition of the disturbances of 1900, in which the Chinese troops quartered in the provinces adjacent to Russia took part, the Russian Government and the Chinese Government agree to order the Russian military authorities and the dzian-dziuns to come to an understanding for the purpose of regulating the number and determining the places of cantonment of the Chinese troops in Manchuria until the Russian troops shall have been withdrawn therefrom. The Chinese Government further pledges itself not to organize any other troops above the number thus agreed upon by the Russian military authorities and the dzian-dziuns, which shall be sufficient to exterminate the brigands and to pacify the country.

After the complete evacuation of the country by the Russian troops, the Chinese Government shall have the right to make an examination of the number of troops in Manchuria which are subject to increase or diminution, giving timely notice of such examination to the Imperial Government, for the maintenance of troops in the aforesaid province in superfluous numbers would manifestly lead to the increase of the Russian military forces in the adjacent districts, and would thus occasion an increase of military expenses, to the great disadvantage of both countries.

For police service and the maintenance of internal order in this region outside of the territory ceded to the Chinese Eastern Railway Company, there shall be formed, near the local dzian-dziun governors, a police force, both on foot and mounted, composed exclusively of subjects of the Emperor of China.

ART. IV. The Russian Government consents to restore to their owners the railway lines of the Shan-hai-kwan—Yin-kow—Simminting, which have been occupied and protected by the Russian troops since the end of the month of September, 1900. In consideration of this the Government of the Emperor of China pledges itself:

1. That in case it shall become necessary to insure the security of the aforesaid railway lines it will itself assume that obligation, and will not request any other power to undertake or participate in the defense, construction, or exploitation of these lines, and will not permit foreign powers to occupy the territory restored by Russia.

2. That the above-mentioned railway lines shall be completed and exploited on the precise bases of the agreement made between Russia and England April 16, 1899,

and on those of the contract concluded September 28, 1898, with a private company, relative to a loan for the construction of the aforesaid lines, and, moreover, in observance of the obligations assumed by the company, especially:

Not to take possession of the Shan-hai-kwan—Yin-kow—Simminting line or to dispose of it in any manner whatever.

3. That if a continuation of the railway lines in the south of Manchuria, or the construction of branch lines connecting with them, and the construction of a bridge at Yin Kow or at the transfer of the terminus of the Shan-hai-kwan Railroad, which is situated there, shall hereafter be undertaken, it shall be done after a previous understanding between the Government of Russia and that of China.

Seeing that the outlays made by Russia for the reestablishment and exploitation of the surrendered railway lines of Shan-hai-kwan—Yin-kow—Simminting have not been included in the sum total of the indemnity, they shall be refunded to it by the Chinese Government. The two Governments shall agree together upon the amount of the sums to be refunded.

The stipulations of all previous treaties between Russia and China which are not modified by the present convention shall remain in full force.

The present convention shall have legal effect from the day of the signing of the copies thereof by the plenipotentiaries of the two Empires.

The exchange of the ratifications shall take place at St. Petersburg within the space of three months from the date of the signing of the convention.

In faith whereof the respective plenipotentiaries of the two high contracting parties have signed and sealed with their seals two copies of the present convention, in the Russian, Chinese, and French languages. Of the three texts, duly compared and found to agree, the French text shall be the one that shall be authoritative as regards the interpretation of the present convention.

Done in duplicate at Peking the ———, corresponding to the ———.

COMMENCEMENT OF EVACUATION OF MANCHURIA BY RUSSIA.

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Peking, September 26, 1902.

(Mr. Conger reports that the Russians have commenced evacuating Manchuria; that they have already returned the railway to Chinese authorities, and that the Russian minister to China gives the assurance that the territory up to the Liao River will be completely evacuated, according to agreement, by October 8.)

Mr. Conger to Mr. Hay.

No. 1100.]

LEGATION OF THE UNITED STATES,
Peking, October 1, 1902.

SIR: I have the honor to inclose copy of a dispatch from Vice-Consul Bandinel, in charge at Niuchwang, suggesting the desirability of a foreign non-Russian gunboat at that port during the coming winter.

The Russians have, as reported in my telegram of the 26th instant, which is confirmed herewith, already returned to the Chinese the railway from Shanhaikwan to Niuchwang, i. e., as far as its terminus, which is on the opposite side of the river from Niuchwang, and by the 8th of October it is expected that the evacuation of all the territory up to the Liao River will be completed.

According to the Manchurian agreement, Niuchwang, must be evacuated during the next six months. Should this occur during the winter,

it is possible that there might be trouble from brigands, but the Chinese will probably be more particular about keeping order on the start than they may be later on, and as long as the Russians are there they will be able to give requisite protection.

It therefore may be desirable, if convenient, to station a gunboat at Niuchwang for the winter, but I doubt its absolute necessity.

I have, etc.,

E. H. CONGER.

[Inclosure.]

Mr. Bandinel to Mr. Conger.

CONSULATE OF THE UNITED STATES,
Niuchwang, September 24, 1902.

SIR: I have the honor to report as follows:

The governor-general arrived last night from Moukden, and left early this morning for Shanhaikwan, where it is supposed the Russians will hand over to him the Niuchwang-Shanhaikwan Railway. Meantime they are busily engaged in transporting troops and stores from the north (west) bank of the river to their railway settlement on the east bank.

General Chiao, formerly commandant of this port, is waiting with about 150 Chinese soldiers about 10 miles from this, ready to come in when the Russians evacuate this port. In Tung-wah Hsien and another eastern district which they have handed over to the Chinese magistrates the latter have been successful in restoring and maintaining order, which augurs well for the future tranquillity of the districts yet to be evacuated by the Russian authorities.

But I am nevertheless of the opinion that it is desirable that at least one non-Russian gunboat should winter here this year.

I have, etc.,

J. J. FREDK. BANDINEL,
United States Vice-Consul, in Charge.

Mr. Conger to Mr. Hay.

No. 1135.]

LEGATION OF THE UNITED STATES,
Peking, October 30, 1902.

SIR: I have the honor to inclose herewith a note from the foreign office communicating information of the withdrawal of the Russian forces from that portion of the province of Shengking lying southwest of the Liao River and the return to China of all the railways therein, in accordance with the terms of the convention between the Russian and Chinese Governments regarding the evacuation of Manchuria.

I have, etc.,

E. H. CONGER.

[Inclosure.]

Prince Ch'ing to Mr. Conger.

F. O., No. 427.]

Prince of Ch'ing, president of the Board of foreign affairs, etc., sends this dispatch: It appears from the records that the convention agreed upon between China and Russia for the transfer of the "three eastern provinces" provides that in six months after the signing of the convention all Russian Government troops which were in occupation of the southwestern section of the province of Shengking as far as the Liao River should be withdrawn, and in connection therewith that all the railways of the same district should be returned. By reckoning it appeared that this first period for transfer would expire on the 8th of the ninth moon of the present year,

or, according to the Russian calendar, the 26th of the ninth month, 1902. Our board then agreed with the Russian minister in Peking that we should memorialize, requesting the appointment of officials to take delivery. Now we have received telegraphic reports from the superintendent of trade for the north and the military governor of Shengking, respectively, saying that all the railways beyond the wall have already been returned and acknowledging that all Russian military forces have withdrawn from the section of the province lying southwest of the Liao River.

In this matter we are greatly indebted to your honorable country for the deep interest it has taken in preserving the entente cordiale. Now, China and Russia having both dealt with the matter of this first transfer in accordance with the treaty, I, as in duty bound, send this dispatch to your excellency for your information and hope that you will transmit the information to your honorable Government.

A necessary dispatch.

Kuanghsu twenty-eighth year, ninth moon, 27th day (October 28, 1902).

Mr. Hay to Mr. Conger.

No. 583.]

DEPARTMENT OF STATE,
Washington, November 13, 1902.

SIR: I have to acknowledge the receipt of your dispatch No. 1100, of the 1st ultimo, inclosing a copy of a dispatch from the United States vice-consul at Niuchwang, in which he suggests that at least one non-Russian gunboat should winter at Niuchwang this year.

In reply I have to inform you that copies of your dispatch and its inclosure have been sent to the Secretary of the Navy for his information, with the statement that no urgent need of stationing a gunboat at Niuchwang during the winter is perceived by the Department, but that it might be desirable to have a vessel visit the port on the opening of navigation next spring, if evacuation should take place by April 1, as you indicate.

I am, sir, etc.,

JOHN HAY.

COLOMBIA.

SEIZURE OF VESSELS OF AND ALLEGED DISCRIMINATIONS AGAINST AMERICAN ENTERPRISES IN COLOMBIA.

Mr. Hay to Mr. Hart.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 22, 1902.

(Mr. Hay states that it has been represented to the United States Government that the Colombian Government has seized the vessels of the Compañía Fluvial de Cartagena and also that it has discriminated against the company in the matter of navigation regulations, sailing permits, and government competition. Mr. Hart is instructed to bring the matter to the attention of the Colombian Government and say that an immediate restitution of the property, with full indemnity for damages caused by illegal acts of Colombian authorities toward said company, is requested by the Government of the United States.

That it has also been represented that the Colombian Government fails to afford reasonable protection to the Cartagena-Magdalena Railroad Company and its warehouses, and that the Government interferes with employees of the company and impresses them into the service of the Government, and that it discriminates against the company in respect to its traffic.

That it has also been represented by the Cartagena Terminal and Improvement Company that the Colombian Government discriminates in the administration of law against it by requiring payment of port and light-house dues in gold at Cartagena and not at other ports.

Mr. Hart is directed to immediately bring these matters to the attention of the Colombian Government and to request just treatment of the American companies mentioned above.)

Mr. Hart to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Bogotá, February 1, 1902.

(Mr. Hart acknowledges the receipt of the Department's telegram of January 22, and requests instructions as to amount of indemnity to be demanded of the Colombian Government. * * *)

Mr. Hay to Mr. Hart.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 8, 1902.

(Mr. Hay directs Mr. Hart, if the facts are as represented in Department's telegram of January 22 last, to make firm demand, as instructed, without specifying amount of indemnity, which depends upon further investigation.)

Mr. Hart to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Bogotá, February 15, 1902.

(Mr. Hart acknowledges the receipt of Department's telegram of February 8, and reports that, after receipt of Department's telegram of January 22 last, he at once addressed a note to the Colombian minister for foreign affairs, following literally those instructions, which note, up to the present time, is without acknowledgment, probably on account of a change in the ministry for foreign affairs; another change will be made within a few days, and Mr. Hart will then press the case from his knowledge of the circumstances; it is his belief that the facts are as represented; but the companies' agent in Colombia is more conversant with the facts, and difficulty of communication with Cartagena renders impossible any further early investigation from Bogotá.)

Mr. Hart states that he has always understood that the company would not accept the return of the vessels until the amount of indemnity had been fixed, and inquires if he is instructed to at once proceed with the demand.)

Mr. Hay to Mr. Hart.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 20, 1902.

(Mr. Hay directs Mr. Hart to demand of the Colombian Government immediate restitution of the vessels of the Fluvial Company of Cartagena, and full indemnity for damages occasioned by their seizure and use; and also to demand full indemnity for use of and damages done to the Cartagena-Magdalena Railway Company.)

Mr. Beaupré to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Bogotá, May 15, 1902.

(Mr. Beaupré reports that he has received from the Colombian minister for foreign affairs a reply concerning the subject-matter of Department's telegram of January 22, 1902, which reply is as follows: First. The Colombian Government vindicates the right of com-

pulsory use made of the vessels as being justified, during a disturbance of public order, by urgent necessity, precedent, international law, and the provisions of the treaty, article 8 of which is quoted.

Second. The Colombian minister for foreign affairs contends that because the company will receive hire and indemnification it has benefited by the seizure, whereas otherwise the vessels would have been forced to remain idle.

Third. That the governor of Bolivar has offered to the company's representative fair terms of settlement, both as to the return of the vessels, hire, and indemnification, which offer has failed owing to the perversity of Ford, the company's agent, who would not concede two points insisted upon by the Government, viz, that the Government would not again take the vessels, and that the Government would not interfere with the vessels carrying freight for the Government.

Fourth. The governor will be instructed to return the vessels to the company, to settle the question of hire and indemnification, and to advance moneys necessary for repairs.

Regarding the railway company, the governor is instructed to report as to complaints of want of protection, recruiting of employees, and interference in traffic. The minister for foreign affairs complains of want of precision in statement of grievances.

Regarding the terminal company, the minister for foreign affairs makes the same complaint; vindicates the right of the Colombian Government to levy dues in gold, but denies that this company has been singled out for harsh treatment.

The minister for foreign affairs commented unfavorably on the disposition of Ford, first, because of his arbitrarily fixing railway rates in currency unrecognized in Colombia, to the prejudice of commercial interests in Cartagena; second, in appealing to a diplomatic representative without having first had recourse to the tribunals of the country, and third, because of his unpleasantness, rudeness, and perverseness in dealing with officials of the Colombian Government.)

Mr. Beaupré to Mr. Hay.

No. 611.]

LEGATION OF THE UNITED STATES,
Bogotá, May 15, 1902.

SIR: On February 1, 1902, Mr. Hart addressed a note to the Colombian minister for foreign affairs, embodying the instructions contained in the Department's telegram of January 22, 1902, concerning the Compañía Fluvial de Cartagena, the Cartagena-Magdalena Railroad Company, and the Cartagena Terminal and Improvement Company.

I have endeavored at various times to impress upon the minister for foreign affairs the desirability and necessity of promptness in answering that note from this legation. On the 11th ultimo I addressed him a note to that effect, to which he responded the following day, saying that the delay was caused by the difficulty and slowness of communicating with the coast, where he was obliged to send for the data essential for his reply, but that I might anticipate his answer within a few days.

The few days lengthened into a month, but finally, on the 14th

instant, I received from the minister the statement of the views of his Government in this matter.

Considering the delay, as well as the importance of the subject, I deemed it best to embody a full brief of the minister's note in a telegram to the Department, which telegram is confirmed.

I have the honor to inclose herewith a copy and translation of the said note.

I am, etc..

A. M. BEAUPRÉ.

[Inclosure.—Translation.]

Mr. Paul to Mr. Beaupré.

REPUBLIC OF COLOMBIA, MINISTRY OF FOREIGN AFFAIRS,
Bogotá, May 12, 1902.

SIR: Now, as formerly, during a disturbance of public order which has already been going on for over two years and a half, it has been found necessary to make use of private property in order to aid the reestablishment of order. The requisition of property by the legitimate authorities has been extended to foreigners, as is sanctioned by the principles of international law, as also by treaties.

The Government has no flotilla in the Magdalena River. This river is the principal means of communication with the interior. The defense of this river has therefore to be provided for in times of disturbance by the arming of merchant vessels. This has been done with regard to boats, the property of various fluvial companies. Up to now objection has never been raised to this practice as being illegal, although such is now the contention of the Cartagena Fluvial Company. This company is evidently ignorant of what has been the practice up to now, and which is allowed by article 8 of the treaty still in force between Colombia and the United States, which sanctions the use which is being made of the said boats.

On this point the law of Colombia is clear that vessels of whatever class, engaged in the navigation of rivers subject to the jurisdiction of Colombia are, under the obligation of giving their services to the Government, subject to indemnization, whatever may be the services the latter may require, whether absolute transfer or only the use of the said vessels.

In times of revolution traffic on the Magdalena river and tributaries is completely interrupted. It is therefore difficult to understand the objections raised to the use of the vessels by the Government. Instead of having to bear the cost of keeping the boats in repair during a period of inactivity, they are receiving the pay of hire to the Government besides compensation for any deterioration that may result from their use.

With regard to the use made of the boats of the Cartagena Fluvial Company, the official bulletin, No. 46, published in Barranquilla, publishes the bases of arrangement proposed between the governor of the department of Bolivar and Mr. J. F. Ford, the representative of the above-mentioned company.

The principal points of the proposed arrangement referred to the return of the vessels to the company; to the fixing of the hire to be paid for their use; to the valuation and repair of the damages suffered by the said boats. A suitable arrangement had almost been arrived at; the governor had even set aside a considerable sum of money to be handed over to the company, which was being realized when matters were brought to a standstill by the absence of Mr. Ford. Although Mr. Shipley took charge of the business, he did not feel himself authorized to yield on two of the points brought forward by Mr. Ford, and which while being unacceptable to the Government are of no importance to the company, seeing that in all probability there will be no need for the present to again take over the boats which have been returned to the company; nor is there any idea of the Government continuing to run the traffic of merchandise for its own account. And these are the two points which are the subject of controversy.

Had it not been for the persistence of the company's representative with regard to the above, the vessels returned would already have begun to receive the benefits accruing from the transport of articles of import and export, instead of keeping exposed to rot by lying idle.

I have entered into the above explanations in order to give a satisfactory reply to Mr. Hart's note of the 1st of February last. Mr. Hart, referring to the occupation

of the vessels of the said company, deals also with the desired restitution of such vessels as still form part of the Government flotilla as soon as the Government can spare them. Orders in this sense will be transmitted to the governor of the department. He will be instructed to conclude with the representative of the company such arrangements as may be necessary to terminate the question at issue, granting him all the facilities necessary for the prompt repair of the vessels. For this he is, as has already been stated, to pay on account certain sums of money as an advance on the debt and indemnity payable to the said company.

Moreover, once the rebellion has been put down the Government will act as they have done in former times when the river companies have accepted the terms of payment offered. They will use every means in their power to raise the sums necessary for the prompt settlement of the debts owed by the Republic as the result of expenses incurred; expenses which it has not been found possible to meet with the sources of revenue hitherto at the disposal of the Government. These sources of revenue have consisted in emissions of paper money and extraordinary taxes on private property, as the ordinary sources of revenue have almost entirely ceased to give any yield whatsoever.

The above-mentioned note of the 1st of February last has been transmitted to the governor of the department of Bolivar. His report on the subjects which have been the cause of dispute with the Cartagena Fluvial Company will be transmitted to your legation; also the governor's report relative to the complaints of want of protection, recruiting of employees, and interference in traffic, formulated by the Cartagena-Magdalena Railroad Company.

Moreover, it must be pointed out that the governor can not furnish these reports or explanations till the companies shall have put their complaints into a concrete form. For example, with regard to the complaint of want of protection put forward by one of them, it is not known whether in a particular instance the company appealed for and was refused protection which it was in the power of the authorities to grant or whether the company regards itself as entitled to a permanent protection, even in the most critical moments, when the course of military operations would render such impossible.

I am also obliged to defer for the present any explanation relative to the complaint put forward by the Cartagena Terminal and Improvement Company with regard to payment of light-house and port dues, for want of details, as it will be necessary for them to specify the actual causes of complaint. With regard to this matter, however, it must be noted that in conformity with the legislative decrees of 1900 and 1901, light-house, harbor, port, tonnage, pilot, and ballast dues, and, in general, all dues connected with the port, have to be paid in gold or in the currency of the country, as the case may be. With regard to port and light-house dues, the case turns on the question as to whether they are the property of the nation or private concerns. In the latter case it depends on the arrangements made or the contracts which may be concluded in the future with the respective concessionees. The result, therefore, has necessarily been that, notwithstanding the fact that the measure applies generally, in some cases the said dues are payable in gold and in the others in paper currency. This does not mean, however, that payment in gold is to fall particularly on certain persons or companies. Payment of dues in gold is one of the measures which have been adopted with a view to restoring the circulation of a metallic currency.

The companies dealt with in this note are called upon to play a great part, resulting in benefit to themselves and to that portion of the country in which they have established themselves. But they need the impulse of a just administration. Considering the fact that the interests of the country and those of the company are one and the same, I feel it my duty to draw your attention to the above in the belief that your legation will deem the moment opportune to take the necessary steps so that the said companies may be properly informed of the real state of the case.

From the correspondence exchanged between the governor of the department and the representatives of the companies as well as from the reports transmitted by the former, the policy of the companies is clear. They wish, under any pretext, to rid themselves of the burden of carrying on the negotiations by having immediate recourse to the diplomatic channel. At the present stage this is quite unnecessary, ignoring as it does the nature of contracts concluded between the Republic and the companies. In the contracts themselves and in the laws can be found means sufficient for the settlement of any differences or difficulties that may arise.

In defiance of the contracts and of the laws relative to the circulating medium, the representative of the companies has arrogated to himself the right of fixing the tariff for freight, passenger tickets, etc., in currency noncurrent in the country, thus raising disproportionately the prices and directing trade from Cartagena. The commercial portion of that city, as well as the authorities, complain of the proceedings of the

said representative, his spirit of perpetual hostility in everything, and the brusqueness of his character.

It is clear, therefore, that it is owing to the measures taken and the disposition shown by the manager of these companies that instead of benefiting by the reaction now taking place in favor of peace, they are working their own ruin.

The Government has always taken into favorable consideration any claim put forward by these companies. Both the contracts and the laws of the country offer them every facility for the carrying into effect of their rights. The contracts themselves provide for arbitration when differences may arise as to their interpretation. The law decrees that the goods, rights, and interests of foreigners shall be subject to the decision of the same judges, tribunals, and administrative authorities as deal with the cases of their own nationals; that contracts concluded in Colombia between the Government and foreigners, whether as individuals or companies, shall be concluded in conformity with the Colombian law, and that the rights and obligations arising out of these contracts shall be subject to the exclusive interpretation of the local judges or tribunals.

The fact that the companies represented by Mr. Ford are privileged or subsidized by the Republic only proves the interest the Government takes in them, as was clearly shown when the governor of the department drew up the basis of an arrangement by which the Fluvial Company of Cartagena would again be in a position to carry on the business of navigation for its own account. It is to be hoped that the above-mentioned company will see its way to meet the patriotic advances made by the governor of the department, who, with the exception of two of the boats, has put their vessels at their disposal. These two will be returned as soon as possible, payment being made for hire and damage.

With regard to the other two companies, they will continue to receive not merely the treatment to which they are entitled, as is requested by your Government, but also such protection as the authorities can possibly extend to them and as the actual situation of the country will allow.

I avail, etc.,

FELIPE F. PAÚL.

Mr. Hart to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Bogotá, November 30, 1902.

(Mr. Hart, referring to the legation's dispatch, No. 611, of May 15, 1902, reports that the Colombian Government has ordered that all the Magdalena River boats except three, which are not named, be returned to their owners.

Mr. Hart understands that, until the indemnity is fixed, the boats of the Cartagena company will not be received.)

PROTECTION OF ROBERTO BECK, A SWISS CITIZEN, BY UNITED STATES OFFICIALS IN COLOMBIA. ^a

Mr. Hart to Mr. Hay.

No. 573.]

LEGATION OF THE UNITED STATES,
Bogotá, February 25, 1902.

SIR: I have the honor to inclose copy and translation of a letter from Roberto Beck, a citizen of the Swiss Republic, doing business in Colombia and claiming the protection of this legation.

Some time ago Beck came to this legation asking advice as to the purchase of mules which, he said, he needed to transport coffee. I told him the question was one of business, which he would have to

^a See also under Switzerland, page 979.

resolve for himself. He replied that he understood the risks and would purchase the mules; from which it appeared that the legation could not serve him in the matter of advice.

Since the taking of Beck's mules I have done what I could to aid him by the use of good offices, and it appears that my inability to accomplish the impossible has displeased him. * * * I required him to come to the legation for his papers and to give me a receipt for them.

I am, etc.,

CHAS. BURDETT HART.

[Inclosure.1

Mr. Beck to Mr. Hart.

BOGOTÁ, February 20, 1902.

MR. MINISTER: Two months ago, on the 18th of December of last year, I had the honor to address myself to your honorable legation, in order to seek protection for my own interests and those of foreign houses, which have been affected by the armed forces of the one and other of the two parties fighting in this country.

Already since June 23 of the same year and with the same object I had applied to your legation, without having reached any result, with notable injury to the interests which I represent and which, belonging to individuals, neutral as I am, ought to be assisted with due protection.

Only three days ago a new attack was made on my property. An armed force throwing down the gate and breaking the lock, entered a field of the hacienda of "El Guasimal," in Tena, where I had 56 beasts, and took them to La Mesa by order of an officer, Ampudia, in the service of the Government.

Mr. Minister has signified to me, verbally, that it has not been possible for him to obtain an audience of the minister of war of Colombia to speak about the protection which I have asked for as a foreigner and neutral, and this said circumstance is sufficient reason of itself why I should not insist with that honorable legation about that matter, for if the diplomatic minister of the American nation in Colombia can not succeed in being favored with an interview with one of the members of the cabinet, it must be believed that if the opportunity presented itself to have his petitions granted they would be indefinitely deferred.

For this reason, to avoid greater damages to the foreign interests which I represent and in order that the said property shall not continue to be at the will of the first person who may wish to take them, simply because he commands an armed force, I am obliged, with regret, to ask Mr. Minister to return to me, with the bearer of this communication, the documents which I have placed in your hands relating to these affairs, in order to send them to Washington with a copy of my correspondence with your legation, with the object of asking for the direct protection of that Government now that it has not been possible for the minister, whose good will I am pleased to recognize, to obtain it.

ROBERTO BECK.

Mr. Hay to Mr. Hart.

DEPARTMENT OF STATE,
Washington, May 31, 1902.

SIR: Referring to your No. 573, of February 25 last, in regard to the complaint of the Swiss citizen, Roberto Beck, I inclose copy of a memorandum^a left with me by the Swiss minister at this capital, in which he asks this Government to make representations to the Colombian Government, with a view to putting an end to the expropriation of Mr. Beck's mules, and to obtain compensation for the injuries already done to him.

The Department would be pleased to receive a more complete report regarding the case and the action taken by you than that contained in your dispatch above referred to.

I am, etc.,

JOHN HAY.

Mr. Hart to Mr. Hay.

UNITED STATES LEGATION TO COLOMBIA,
Washington, June 10, 1902.

SIR: I have the honor to acknowledge the receipt of the Department's communication of May 31, 1902, in regard to the complaint of the Swiss citizen, Robert Beck, and inclosing copy of a memorandum left with the Secretary of State by the Swiss minister, in which the Government of the United States is asked to make representations to the Colombian Government in Beck's behalf, and in which the Department asks for a more complete report regarding the case and the action taken by me than that contained in my dispatch No. 573, of February 25, 1902.

There is little, if anything, to add to my No. 573, in which I had the honor to advise the Department that "I have done all I could to aid him (Beck) by the use of good offices, but it appears that my inability to accomplish the impossible has displeased him."

The fact is that I have given to Beck all the assistance in the way of good offices that I could possibly have given to any American citizen, and I have been unable to secure the payment of his claim for the same reasons that have made it impossible to secure the payment of claims of citizens of the United States whose beasts have been expropriated as were the mules of the Swiss citizen, Robert Beck.

It is well to add that in the use of good offices it will be no more practicable to put an end to the expropriation of Mr. Beck's mules than it has been by like endeavor to put an end to the expropriation of mules and other property of citizens of the United States.

I have, etc.,

CHAS. BURDETT HART.

Mr. Hay to Mr. Beaupré.

No. 400.]

DEPARTMENT OF STATE,
Washington, June 20, 1902.

SIR: Referring to the minister's unnumbered dispatch of the 10th instant, explaining his action in behalf of the Swiss citizen, Robert Beck, I inclose copy of the Department memorandum^a of the same date in regard to the case, addressed to the Swiss legation at this capital.

I am, etc.,

JOHN HAY.

DEATH OF PRESIDENT SANCLEMENTE.

Mr. Beaupré to Mr. Hay.

No. 584.]

LEGATION OF THE UNITED STATES,
Bogotá, March 22, 1902.

SIR: On Wednesday, March 19, 1902, at 4 o'clock in the afternoon, Dr. Manuel Antonio Sanclemente, titular President of the Republic of Colombia, died at his residence in Villeta, after nearly a century of existence. He was 93 years old.

He was buried quietly at Villeta and with little ceremonial, as he had requested. In this city the Government caused a salute to be fired, and the usual symbols of public mourning to be assumed. The flags of the different foreign legations and consulates were unfurled at half-mast for three consecutive days.

Dr. Sanclemente's death was not a surprise, for it has been expected for a considerable time. His health had been failing rapidly, and for a month or more the end had seemed in sight.

In 1898 Dr. Sanclemente and Dr. José Manuel Marroquin were elected President and Vice-President, respectively, by the National party. The president took possession of his office, but it being speedily determined that he could not live in this climate, he did not remain in Bogotá more than a month, retiring to Anapoima, after obtaining leave of absence from the Senate. His physicians publicly declared at the time that he would never be able to return; and so it has been, he having continued to reside at Anapoima and latterly at Villeta. Notwithstanding his absence from the capital, Dr. Sanclemente continued to exercise the functions of his office until July 31, 1900, when Vice-President Marroquin, by a coup d'état, took possession of the Government and declared himself in the exercise of the executive power, and has so continued in possession to this date.

Dr. Sanclemente has long been a prominent figure in the affairs of Colombia. As a lawyer he was eminent, becoming a judge and then a magistrate of the supreme court. He was a member of the old provincial congresses, and afterwards a representative and a senator in the National Congress. He was active in politics, and was governor of the department before he was elected President.

While his death removes all question as to the legality of the Government, it will probably not have much effect on political conditions.

I am, etc.,

A. M. BEAUPRÉ.

Mr. Hay to Mr. Beaupré.

No. 394.]

DEPARTMENT OF STATE,
Washington, April 28, 1902.

SIR: In reply to your No. 584, of the 22d ultimo, I have to say that the Department has learned with great regret of the death of the late President of Colombia.

I am, etc.,

JOHN HAY.

REOPENING OF UNITED STATES MISSIONARY SCHOOLS AT BARRANQUILLA, BOGOTÁ, AND MEDELLIN, CLOSED BY COLOMBIAN AUTHORITIES.

Mr. Hay to Mr. Hart.

No. 385.]

DEPARTMENT OF STATE,
Washington, March 26, 1902.

SIR: I inclose copy of a letter from the board of foreign missions of the Presbyterian Church in the United States protesting against the action of the governor of Barranquilla in closing a boys' school in that city conducted under the auspices of that board.

You will report what you have done and what can be done to secure to the missionaries sent by this board all the rights they may have under the treaties between the United States and Colombia.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Fern to Mr. Hay.

THE BOARD OF FOREIGN MISSIONS OF THE
PRESBYTERIAN CHURCH IN THE UNITED STATES,
New York, March 19, 1902.

MY DEAR SIR: I have the honor to present for your consideration inclosed documents as follows: A letter dated February 10, 1902, from the Rev. Walter Scott Lee, a member of the Barranquilla station of the Colombia mission of the Presbyterian board of foreign missions in the United States; another letter from the Rev. W. S. Lee, dated February 17; a letter of February 5, 1902, from the United States consul, George W. Colvig, to the Hon. Joaquin F. Velez, governor of the department of Bolivar, and the governor's reply of February 11; a letter of January 11, 1902, from Jose Joaquin Casas to the governor at Barranquilla, and his reply of January 30.

It is possible that the matter referred to in these letters may have already been brought to your attention by the United States consul, Mr. Colvig, but as it has been the desire of our missionaries in Barranquilla that the matter should receive as speedy adjustment as possible, I venture to send these documents to you in the hope that it may be possible for the State Department to take such steps, or to advise such steps on our part, as may effect a relief of the present embarrassing conditions. Thus far our station at Bogotá has not been unpleasantly affected by the action of the Colombian Government decreeing the closing of all schools without special permit from the local authorities. The trouble at Barranquilla has, I think, been precipitated by the action of the Rev. W. S. Lee in endeavoring to secure from the business men of Barranquilla contributions toward a fund for a new building in connection with the boys' school. He has secured for this purpose contributions from those interested in the school, amounting to somewhat more than \$800 gold.

On learning of this movement, the Catholics of the city published an alarm, entitled "Awake, Catholics," a copy of which I will inclose you herewith. The governor of the city, being evidently a strong Roman Catholic, apparently saw his opportunity in the edict issued by the Central Government, and determined to close the school for which those funds had been asked. You will note, from his own statement of the reasons for his action, that the chief of these reasons is a religious one. It is quite possible that according to the constitution of the Republic of Colombia he has a legal right to base his action on such grounds, but whether or not it is necessary that American citizens laboring in that country for the education and general enlightenment of its people should submit to restrictions based on religious grounds, is a question which our board desires to propose to you.

The constitution of the Colombian Republic, adopted in 1886, contains contradictory statements with reference to this matter, article 38 reading as follows:

"The Roman Catholic Apostolic religion is that of the nation. The public authorities shall protect it and cause it to be respected as the essential element of social

order. It is understood that the Catholic Church is not and shall not be official, and it shall preserve its independence."

Article 39: "No one shall be molested on account of his religious opinions, nor compelled by the authorities to profess beliefs or to observe practices contrary to his conscience."

Article 40: "The exercise of all worship that may not be contrary to Christian morals, or to the laws, is permitted. Acts contrary to Christian morals or subversive of public order, which may be occasioned under the pretext of worship, shall be judged by the common law."

The treaty between the United States and New Granada, now Colombia, stipulates that "the citizens of the United States residing in the territory of the Republic of New Granada, shall enjoy the most perfect and entire security of conscience, without being annoyed, prevented, or disturbed on account of their religious beliefs."

With reference to the contention of the Government that Mr. Lee, the member of our mission in charge of the boys' school, had been offensive in his remarks as to what the Colombian Government would be compelled to do, you will note Mr. Lee's own answer, in which he flatly denies having taken any such attitude. Mr. Lee is a very enthusiastic and energetic man, but we regard him also as a man of good judgment and discretion.

Should the State Department desire any further information with reference to the institution most immediately concerned, or with reference to any other matter pertaining to this question, I shall esteem it a privilege to forward such information upon receipt of your request.

Hoping for your kindly consideration of this matter, which concerns so vitally our work in the entire Republic of Colombia, in which we have three mission stations, I am, etc.,

COURTENAY H. FENN.

P. S.—It is possible that the first thought with reference to this matter which the State Department would naturally embody in its answer would be, that the proper course for the matter to take would be through the United States minister to Colombia, the Hon. Charles Burdett Hart, at Bogotá. I would say that the reason why we have not waited for such a course of procedure was because of the excessively disturbed political conditions at present existing in the Republic of Colombia, which have rendered communication between Bogotá and Barranquilla extremely difficult and uncertain. It might be a matter of some months before the documents relating to the case could be brought before the minister in Bogotá. If, therefore, it is possible to secure the initiation of some measure of relief through the State Department at Washington it will greatly rejoice us.

COURTENAY H. FENN.

[Subinclosure 1.]

Mr. Lee to Mr. Fenn.

BARRANQUILLA, *February 10, 1902.*

MY DEAR MR. FENN: In October the station gave me permission to try to raise some money here in Barranquilla to be used toward the construction of a boys' school building. As I have already told you, I was able to obtain a little more than \$800 here. About two weeks after I had finished asking the business men of Barranquilla to contribute toward this fund the article "Awake, Catholics" was published in one of the leading papers of this city. As I have already sent you a copy of this article it will not be necessary to inclose it in this. Of course the article was meant as a direct insult to the foreign Protestants and the Jews who contributed, and they took it as such. When the Sisters of Charity and the priests went to ask for their regular Christmas offerings from the merchants, a number of merchants showed the solicitors the article and told them that as they, the merchants, were "heretics" that their money and gifts were "bad" also, and that, further, they would give what they meant to go for religious or charitable purposes to the representatives of their own "heretical faith" here in this city. We were in no way a party to this, and did not know of it until after it had taken place.

It is the common opinion that the decree which I inclose, dated at Bogotá, January 11, 1902, came from Bogotá, but was originated here as a measure of retaliation against us. I shall try to communicate with the missionaries at Bogotá to see if this is a fact. As is stated in the decree, we went to the governor of this department to

ask permission of him to open our schools. He answered us in the negative, giving the following reasons:

First. Because we are foreigners, and all foreigners are enemies of the Government, he could not grant us the permission.

Second. Because we are Protestants, and teach liberal and revolutionary ideas, he could not grant it.

Third. Because we are Protestants, and propagate a religion which is contrary to the religion of the country, he could not grant it.

We asked him then if we were to understand that the decree was made directly against us as foreigners and Protestants, and he answered frankly that it was. We also asked him if there were any other colleges open, to which he replied that he supposed not, as no other college had asked for permission to open. At the same time we knew that there were three girls' schools open and one boys' school. When we asked him if he had received any damaging reports of our schools, he replied that he was not compelled to answer such a question, and that it was sufficient for him to say that we were Protestants. He based his refusal on no *facts*, but rather on what he *thought* or on his *opinion*, as we are positive that he made no investigation whatever. He also said: "I would be an imbecile if I would not oppose this religion with all my power." He also told us that we could appeal to higher powers if we wished to, but that he would fight us to the end. We then consulted our consul here, Mr. George W. Colvig, and he advised us as a preliminary measure that we should let him send a memorial to the governor, asking him to reconsider his decision. He also asked us for a set of all the text-books in use in our schools, so that he might offer them to the governor for examination.

We gladly submitted them. The inclosed memorial, dated February 5, was sent on Friday morning, February 7, but as yet the governor has sent no answer. We are certain, however, that if he answers at all, it will be to refuse us permission. Indeed, our consul is of that opinion so firmly that he advised me to write to you immediately for advice as to how we are to proceed.

I quote a part of the treaty between the United States and Colombia, as New Granada, dated 1846, which is in force to-day:

"ART. XIII. Both contracting parties promise and engage formally to give their special protection to the persons and the property of the citizens of each other, *of all occupations*, who may be in the territories subject to the jurisdiction of one or the other, transient or dwelling therein, leaving open and free to them the tribunals of justice for their judicial recourse, on the same terms which are usual and customary with the natives or citizens of the country.

"ART. XIV. The citizens of the United States residing in the territories of the Republic of New Granada shall enjoy the most perfect and entire security of conscience, without being annoyed, prevented or disturbed on account of their religious belief. Neither shall they be annoyed, molested or disturbed in the proper exercise of their religion in private houses, or in the chapels or places of worship appointed for that purpose, provided that in so doing they observe the decorum due to divine worship and the respect due to the laws, usages, and customs of the country.

"ART. XXXV. * * *

"Fourth. If any one or more of the citizens of either party shall infringe any of the articles of this treaty, such citizens shall be held personally responsible for the same, and the harmony and good correspondence between the nations shall not be interrupted thereby; each party engaging in no way to protect the offender, or sanction such violation.

"Fifth. If unfortunately any of the articles contained in this treaty should be violated or infringed in any way whatever, it is expressly stipulated that neither of the two contracting parties shall ordain or authorize any acts of reprisal, nor shall declare war against the other on complaint of injuries or damages, until the said party considering itself offended shall have laid before the other a statement of such injuries or damages, verified by competent proofs, demanding justice and satisfaction, and the same shall have been denied, in violation of the laws and of international right."

The governor's three reasons for refusing us permission to open our schools clearly violate both Articles XIII and XIV of the treaty, and according to Article XXXV he personally is to be held responsible as to the permission, or refusal of permission, which power had been granted to him.

We must of a necessity make a protest against the refusal of the governor, and we write to you for advice as to how to act. Shall we protest in the name of the board, or in the name of the station, or in the names of the principals of the two schools, or by one single missionary? Shall we, or shall we not, make any claim for damages? It might make them act more carefully in the future and insure us against such annoyances as this; but, on the other hand, I think it is not the custom of the board to ask indemnity where no property is destroyed.

We are bound to be given our rights in the end, and as a result of this we shall have more pupils than ever. We in the boys' school would have started with about 75 boys, which is an unusually large number to begin with. The usual number is from 20 to 40. These same pupils will come back to us, and many more, when we are able to open the school. All the pupils who at any time have been in attendance in either of our schools are being refused admission into the Catholic schools. They are being told that being in a heretical school they will contaminate the children in those schools. This persecution is in direct violation of the constitution of Colombia of 1886, made by the conservatives themselves. In the first article it says that there shall be entire separation between church and state. The governor in his refusal said that he would oppose us because we were propagating a religion contrary to that of this country. The third article of the constitution says that there shall be entire freedom of religious worship and belief.

I speak of this that you may know that our attendance will not be likely to be at all diminished by this interruption in our work. We hope that this interruption in our school work will not influence you to withhold the granting to us the appropriation of the \$2,500 we have asked for the new building for the boys' school. Instead of influencing you not to give it, it should be an argument to persuade you to grant it.

First. Because this advertises the school more than ever and as a result we shall not have room for the boys who will come.

Second. It will take at least a year to build in this country even so small a building as the one we plan to satisfy our absolute needs.

Third. I shall have more time to supervise the building during the time of forced inaction in school duties. If you realize how carefully the process of building must be supervised here this last argument will appeal to you as strongly as it does to us.

Mr. Pellet, who has been living in this country for more than thirty years and has for a number of years been United States consul here, said that he regarded the governor's answer that the schools were closed because the missionaries were foreigners and *Protestants* as the "crucial point" on which to base a protest. In his opinion the missionaries who received the answer ought to make affidavit of that before the American consul. Some one suggests that as there is no one here who holds the power of attorney for the board, and as these properties are not under the name of the board, action will have to be taken in the name of an individual or individuals. I believe it takes a long time to get the power of attorney. We know of one case which took nearly a year. * * *

We anxiously await your reply.

Yours, very sincerely,

WALTER SCOTT LEE.

[Later.]

FEBRUARY 10, — 3 p. m.

I have just returned from the consulate where I saw the answer to the consul's memorial. As this is entirely private you will please treat it as such. The governor said that as the girls' school had been run with such moderation, and that as almost all the pupils are Protestants (which is not true, of course), it would not be inconvenient for him to grant Mrs. Ladd the permission to open her school. Mrs. Ladd will go this afternoon to obtain permission thus granted. He also said in the letter that he would appoint day after to-morrow, Wednesday, at 2 o'clock, to have a conference with the representatives of the boys' school. It seems as if he is beginning to back down. I will write to you by the next mail to tell you the result of the conference.

Yours, very truly,

WALTER SCOTT LEE.

[Subinclosure 2.]

Mr. Lee to Mr. Fenn.

BARANQUILLA, February 17, 1902.

MY DEAR MR. FENN: By the inclosed letter you will see that Mrs. Ladd has been granted permission to open the girls' school on the ground that she has used such moderation in her teaching, and that most of the pupils are of Protestant parents. In justice to Mrs. Ladd I would say that she has taught the Bible faithfully, and in no way done any different than you yourself would have done under the same circumstances. As for the children being mostly of Protestant parents, I would say that it is not so, for I regard that we have in the boys' school as many Protestant boys in proportion as she has in the girls' school. I believe that the real

reason that the governor allows the girls' school to open and not the boys' is that he thinks girls are less likely to wield an influence for the spread of Protestantism than boys.

You will see that the governor has absolutely refused us permission to open the boys' school. The grounds on which he bases his refusal are not such as refer to the present time, but rather to all time. We must fight against this or it will lead to our entire exclusion from Colombia if we do not. None of his charges hold against us. We have never tried, but rather avoided, when there was no principle at stake, to do anything hostile to the government. As for teaching any liberal or revolutionary ideas it is sufficient to say that we have taught the Bible and nothing else except our regular course of study, which it is unnecessary to say has nothing to do with political matters.

The declaration which the governor attributes to the rebels about their receiving money from mission boards on condition that the Protestant church will be made the state church was manufactured by a priest in the department of Santander in order to arouse the people against the liberals as well as against Protestants. It was proved to all persons open to conviction that it was a scheme of a priest and nothing else. You yourself know how foolish and unfounded a statement that a mission board, or boards, giving money for such a cause would be.

His charge that all liberal and revolutionary leaders and forces are not true Roman Catholic is absolutely false. The great majority of them hold firmly to the Church of Rome.

The argument used against the teaching of English in the school, that it weakens the spirit of loyalty to the country, must appeal to you as thoroughly ridiculous. You will surely understand that it is the wish of parents that the children learn the English language simply because it is the commercial language of the world, and therefore very useful to merchants in a seaport town like this. Naturally our aim in teaching the boys English is to teach them in the most practical way so as to enable them to have a speaking knowledge of the language. Our method of speaking to the children as much as possible in English appeals to the parents and pleases them very much, and this has been one of the drawing cards of the school. Of course the entire course of study is in Spanish, as must be the case in a Spanish-speaking country.

I absolutely deny the charge that I was not careful in expressing my opinion in public. I knew the kind of man I had to deal with, and therefore was especially careful. As for predicting the success that I would obtain through the intervention of the consul, I would say that I thought the governor might be influenced to grant permission through the memorial of the consul, but I never predicted the success, because I was never sure of it. I furthermore say most emphatically that I never discussed the matter in any public place. If anyone made such a remark I am very sorry, but I am in no way to blame for it. You will notice by this letter that the governor refused that audience only on the statement that I had spoken disrespectfully about him in connection with this matter. It seems clear to me that either he would have refused to grant us permission to open the school or else put so many restrictions on us that we could not have opened it.

His reasons, as expressed in this letter, are, as you know, in direct opposition to our treaty. As a result of this we will need to make a protest. Our consul thinks that it would be possible for you to make the protest at Washington directly, or if you think best, it can be made here. In either case I am sure you will use all the power and influence that you can to obtain our rights. As the other school is open, if you decide to have the protest made from here, I suppose it will most naturally be made under my name. Our consul is willing to help us in any way in his power, but he and we thought it best to wait for instructions or advice from you before we attempt to do anything further here. This decree affects our fellow-workers in Bogotá and Medellín also, and unless they have succeeded in getting permission from the governors of their departments, they are having the same difficulty that we are. A letter from Mrs. Candor informed us that the decree has been published in Bogotá, and she was afraid that it would close their schools.

It was suggested by several persons here that we open the school regardless of the decree, and regardless of the refusal of the governor to give us permission to open, basing our action on our treaty rights, but to us this did not seem wise unless we were instructed to do so by our board.

I meant, too, to say that I had no idea of coercion when I went to the consul about this matter, but hoped only for his friendly offices to help us when at our first interview with the governor he refused us permission to open the school and refused also to discuss the matter with us.

Knowing that you will do your part, and hoping to hear from you as soon as possible, I am, etc.,

WALTER SCOTT LEE.

[Subinclosure 3.]

Mr. Colvig to Governor Velez.

CONSULATE OF THE UNITED STATES,
Baranquilla, Colombia, February 5, 1902.

SIR: The faculty of the Colegio Americano de Baranquilla para Varones, Colegio Americano para Señoritas, and Escuela Popular have complained to me of your action in refusing them a permit to open their several institutions, which have been closed by operation of the national decree dated at Bogotá, December 30, 1901, subject to your option.

With a view to a continuance of friendly relations which have heretofore existed between these American schools and the government of this city and its inhabitants, I am asked to use my kindly offices to induce you to reconsider your former decision whereby you refused them permission to reopen their schools.

The decree referred to provides for official inspection of schools, doubtless to ascertain whether any revolutionary sentiment was being taught the pupils or whether the course of instruction has a tendency to weaken the national spirit of loyalty. The faculty have submitted to me the books employed in the several institutions and the published prospectus or list of studies pursued therein, and I annex the said list to this letter and tender herewith the said books for your inspection, hoping and trusting that you will examine the same and give these people a further hearing before you decide to close up their institutions which they have labored many years to establish.

I ascribe, etc.,

GEORGE W. COLVIG,
United States Consul.

[Subinclosure 4.]

Governor Velez to Mr. Colvig.

BARANQUILLA, *February 11, 1902.*

DEAR SIR: I have the pleasure to-day of amplifying my letter of yesterday in answer to yours of the 5th instant. I think that the National Government in resolving to close the private colleges that did not have special permission for their continuation has had in view the limitation of the propagation that is made against it in those establishments, and it is the duty of the governors not to concede authority to those colleges whose teachings are opposed to our institutions and to the tendencies of the present Government, teachings that justify and foment indirectly the war that is destroying the country.

The facts that I have respecting the American college for boys oblige me to include it among those that my duty obliges me to keep closed, and in order that I may not appear to adopt unfounded measures I shall make some explanations on the subject.

I have been able to observe that the generality of the foreigners maintain, without disguise, a position adverse to the Government, departing from the duties that the most simple discretion imposes; such an attitude as is unjustifiable with the guaranties and considerations that the Government vouches to them can obey no other course than a religious one; a special demonstration being noticed in the Protestants, who, considering the present Government, Catholic and clerical, think themselves obliged to hostile it and make propaganda against it.

The influence that the religious question obtains in this civil struggle is clearly proved by explicit manifestations made by the representatives of the rebels in the United States, Dr. Antonio José Restrepo, and of General Duran, one of the chiefs of the radicals in arms, who has declared publicly that by virtue of compromises of a religious character, which would be fulfilled if the revolution triumphs, this one (viz., the revolution) would receive aid in various ways from Protestants and Free Mason societies. These circumstances argue that all religious propaganda of Protestant tendency includes hostility towards the Government, against which the Government must prepare itself. Among the differences of doctrine that divide in Colombia the party that to-day governs and that which is in arms, that one that is most prominent is the religious divergency; the first having as its standard respect and protection for the Catholic Church, and the second hostility toward the same. Under these circumstances it is clear that the teaching of doctrine opposed to the Catholic religion, which it defends, must be considered as contrary to the Government, because they inculcate in the young the beliefs for which the rebel radicals struggle.

The national spirit suffers great loss by the weakening of the elements that constitute the nation, of which the first in line are the religion of the country and the mother tongue. Since that in the American college a teaching contrary to our religion is carried on, and it is the established rule of the college that the use of the English language for the boarding pupils of the establishment is obligatory, it is not risky to aver that as a result of such propaganda the decay of love of country would be the result, a pernicious influence at all times, and especially to-day when civil war afflicts us whose principal mark has been the obliteration of national boundaries.

These considerations and the character of the institutions for which you have intervened oblige me to adopt the resolution of not conceding the necessary permission for their opening.

I must confess that I had the same impression concerning the American college for young ladies, but having heard the ideas of several persons, among whom is the priest of San Nicolas, who inform me that Mrs. Ladd is very circumspect in her teaching, and that the greater part of the pupils are daughters of Protestant parents, I have been inclined to offer to concede permission for that school to open.

After having offered to you that I should concede the audience solicited for the directors of those colleges, I have been informed that the director of the school for boys has not had reserve in expressing his opinion in public on this subject in such terms that are little in conformity with the respect due to the authorities and predicting the success that he would obtain through the intervention of that consulate. This leads me to state to you that my condescension in respect to the opening of the school for young ladies is due to what I deemed just and nothing more; and at the same time I would request you to inform that gentleman that your intervention in this matter could not in any way be coercive, because I am not easily intimidated, and furthermore, I know how far a foreign consul can meddle in the disposition made by the Government. I furthermore inform you that, having adopted a firm resolution on this matter, and not considering myself obliged to receive those who do not know how to respect the authority that I exercise, by which he furthermore shows his desire to hostileize the Government, I believe the conference that I offered to have with the directors of the said colleges is unnecessary, and consequently I withdraw the citation that through you I have given to those gentlemen.

With feelings of consideration, I remain, etc.,

JOAQUIN F. VELEZ.

[Subinclosure 5.]

Minister of Public Instruction to Governor Velez.

BOGOTÁ, *January 11, 1902.*

Governors ———, *Barranquilla:*

With date of December 30, in use of the respective constitutional authorization, the Government issued a decree authorizing the inspection of private establishments of instruction. The decree provides that until public order is reestablished it is prohibited to open such establishments, of whatever grade, class, or condition they may be, without special or express permission of the Government, and that those who act contrary to this edict will be compelled to close their establishments and will pay a fine of 500 to 2,000 pesos. Please let the public know of this decree and enforce it in that department. You are authorized to grant the permission referred to or to deny the same according to the circumstances of each institution and with regard to the actual state of the nation.

JOSÉ JOAQUIN CASAS.

[Subinclosure 6.]

Governor Velez to the Minister of Public Instruction.

Very urgent.]

BARRANQUILLA, *January 30, 1902.*

MINISTER OF PUBLIC INSTRUCTION, *Bogotá:*

I had the honor of receiving on the 28th instant your important telegram communicating the substance of the decree of the Government dealing with the inspection of private establishments of instruction, which document will be published to-morrow officially. In the carrying out of the same and in exercising the authority that your honor gives me I will not permit the opening of any such schools where directly or indirectly revolutionary spirit is fermented or where is weakened the national sentiment so necessary for the maintaining of sovereignty and national independence. I greet you cordially.

JOAQUIN F. VELEZ.

[Subinclosure 7.]

"Awake Catholics!"

The Protestant minister and principal of the American college is collecting a sum in gold for the construction of a building for said college. No one is so foolish as not to believe that that college is for the propagation of Protestantism, although they deny it, and surely no Catholic will commit the error of aiding with his money, even though in form of a loan, the work of heresy. It is good that the foreigners here, who are almost all of them Protestants or Jews, should contribute; but that one of our fellow-countrymen, a son of a country so catholic as Colombia, should help the Yankee Protestants to sow the seed of disbelief in the minds of the youth, to say the least of it, with all its fatal consequences, thus preparing the way to Americanism, is not only sinning against religion, but also against society and against our native country.

Awake, Catholics and Colombians! Do not be deceived! Have no respect for any man! Before this, our country; and before our country, God.

Mr. Beaupré to Mr. Hay.

No. 607.]

LEGATION OF THE UNITED STATES,
Bogotá, May 12, 1902.

SIR: Referring to the Department's No. 385, of March 26, 1902, concerning the closing of the Presbyterian boys' school in Barranquilla, I have the honor to report that very nearly the same difficulties were experienced in this city, and it required considerable pressure on the part of Mr. Hart before permission was given to open the schools. Both the girls' and boys' schools are now running, the latter with an unusually large attendance.

On the 17th of March, 1902, I was handed a letter from the Rev. J. G. Touzeau, of Medellin, dated February 8, 1902, complaining that the governor of the department of Antioquia had refused to grant permission for opening the Colegio Americano in that city. I immediately called at the ministry of public instruction, and the minister being absent, I took up the matter with the subsecretary, who promised to acquaint the minister with what I had said. On the following day I again called at the ministry, and the minister being present said that the subject had already had his attention, and that he had telegraphed orders to the governor of Antioquia to permit the opening of the school. On the same day I wrote the Rev. J. G. Touzeau, giving him the above information.

A short time after this the Rev. A. R. Miles, of this city, told me that he had received a telegram from the Reverend Touzeau, saying that the schools had been opened.

With reference to the trouble at Barranquilla, this legation had no information until the receipt of the Department's instructions. I then called on the minister for public instruction, who said that before giving peremptory orders for the opening of the boys' school in that city he preferred to institute some inquiries; but that if he found the conditions there the same as at Bogotá or Medellin permission would be given to open the school. He promised to notify me as soon as possible of the result of his inquiries.

I am, etc.,

A. M. BEAUPRÉ.

Mr. Beaupré to Mr. Hay.

No. 632.]

LEGATION OF THE UNITED STATES,
Bogotá, July 11, 1902.

SIR: Referring to my No. 607, of May 12, 1902, concerning the closing of the Presbyterian boys' school at Barranquilla, I have the honor to report that I have received a note from the Colombian minister for foreign affairs, dated yesterday, in reply to one of mine dated the 7th instant, saying that the governor of the department of Bolivar would be instructed to permit the opening of said school.

I am, etc.,

A. M. BEAUPRÉ.

RIGHT OF UNITED STATES CITIZENS IN COLOMBIA AS TO EXPROPRIATION OF PROPERTY.

Mr. Beaupré to Mr. Hay.

No. 599.]

LEGATION OF THE UNITED STATES,
Bogotá, April 23, 1902.

SIR: With reference to the expropriation of the property of American citizens by the Colombian authorities, I desire to submit for the consideration of the Department, in connection with "the most-favored-nation" clause in our treaty of 1846, the following extract from the treaty between Great Britain and Colombia of February 16, 1866. Article XVI reads as follows:

The subjects and citizens of each of the contracting parties in the dominions and possessions of the other should be exempted from all compulsory military service as well as from all contributions, whether pecuniary or in kind, imposed as a compensation for personal service, and finally forced loans and military exactions or requisitions.

Article 3 of Colombian law 56 of 1890 says:

In the event of the presumption alluded to in the preceding article (grounds of public utility of expropriation) not being refuted, the expropriation will be decreed against whomsoever it corresponds, be it private individual, society, corporation or community, or political or municipal entity, *save the rights, exemptions, or immunities recognized in laws or in public treaties.*

I am not citing the foregoing in view of any particular case, but rather as general information for the Department.

Would it not seem that the said Colombian law 56 precluded the plea of legality for expropriations on the ground of municipal law? If treaty provisions prohibit expropriations, could the plea of urgent military necessity be interposed as justification in the absence of a state of war, even although military operations were in progress against insurgents, particularly when the military necessity, if any, was remote, and the articles taken consisted of mules and general equipment for an army not actually engaged with the enemy, being in fact strictly private property seized in a district occupied by and under the control of the Government authorities, and never having been under the jurisdiction of the insurgents?

Finally, is the intendment of the treaty quoted sufficiently clear to warrant its construction as an absolute prohibition of expropriation?

I am, etc.,

A. M. BEAUPRÉ.

Mr. Beaupré to Mr Hay.

No. 605.]

LEGATION OF THE UNITED STATES,
Bogotá, May 5, 1902.

SIR: Reference being had to my No. 599, of the 23d ultimo, concerning the expropriation of property by the Colombian Government, I have the honor to lay before the Department some additional information.

The position of the Government on this question is well defined by a telegraphic order addressed by the Colombian minister for foreign affairs to the departmental government of Antioquia, on July 10, 1901, and which is still in effect. This order laid down in terms that foreigners residing in Colombia were subject to the constitution and laws of Colombia in the same way as natives, compulsory military service being excepted, and that, consequently, if very urgent necessities made it indispensable to seize animals belonging to foreign private individuals for the maintenance and restoration of public order, these animals might be taken under the same conditions as from Colombians.

I inclose herewith a translation of said telegraphic order of July 10, 1901.

While this can not be admitted to be a correct view of the rights of foreigners protected by treaty stipulations, nor of the authority of the Government to impress the property of neutral foreigners for use against the enemy or in the public service in general, under existing conditions, still it is not the order itself that is especially to be complained of, but rather the importance and unlawful uses made of the authority it vests in the subaltern officials encharged with expropriations.

The "amigos del Gobierno" (friends of the Government) constitute a favored class, seemingly under special protection, and suffer scarcely at all in their persons or property. All over the savannas are herds of cattle, horses, and mules, belonging to such native friends, who might, it would seem, other things being equal, not unreasonably be selected in preference to foreigners to discharge the burdens arising through "urgent necessity" of the kind mentioned.

I wish to cite a case that recently came under my personal observation:

On the 3d instant Mr. Albert B. Dod, a citizen of the United States, was in Bogotá on some business, intending to leave early the following morning. His two riding mules, with saddles, bridles, saddlebags, waterproofs, etc., he left at the stable of a foreigner named Turner. Mr. Dod took a noon breakfast with me at my residence, after which he went to look after the animals, and there found that his saddles, bridles, etc., had been taken by a Government official, who had left a receipt for the property, fixing its value in the receipt at 1,000 pesos. It was impossible to trace the property that day, so that Mr. Dod was, therefore, compelled to go to a saddler and buy another outfit, which, although substantially no better than the one taken, cost him about 5,000 pesos.

Aside from the inconvenience and vexation of such a seizure, Mr. Dod is certain to be a large financial loser, for the Government insists upon its right to arbitrarily fix the value of expropriated property. Even with the good offices of this legation, I do not believe that he can get more than 1,000 pesos for his property, and even that only

after months of perseverance and waiting. I am quite of the opinion that such a claim should go through the diplomatic channel.

There are dozens of stores in Bogotá selling saddles, and hundreds of saddles for sale at a fair price. Therefore whence comes the urgent, immediate, and pressing emergency that would justify the forcible expropriation of Mr. Dod's property? Certainly, under the system of arbitrarily fixing the value of such property it is much cheaper to get it in this way, and the day of payment is indefinitely postponed, but I can not believe it consistent with the guaranties of public treaties nor the law of nations.

It is altogether probable that in the majority of cases the reasons for expropriations are no more valid nor just than those in the case just cited. Necessarily, with the financial distress of the Government it is almost impossible to collect claims, large or small, and the Government has announced to many, and to one American at least whom I know, and who has had a large amount of property seized, that no payments would be made until the close of the war. Therefore it is earnestly to be hoped that our citizens in Colombia will not in future be afflicted with this sort of amercement too often.

On the 3d instant I received a letter from Mr. Luis Soto L., the representative in Colombia of Messrs. G. Amsinck & Co., of New York, dated the 1st instant, saying that the owner of a coffee plantation, a debtor of the firm he represented, had informed him that he had received intelligence that the Government was thinking of issuing a decree expropriating all the coffee remaining in the different plantations which have their outlet on the Upper Magdalena River, and which had not been heretofore exported because traffic had been suspended on that part of the river; that the greater part of all that coffee is the property of Messrs. G. Amsinck & Co., who would suffer great loss should such a measure take effect, asking that this legation seek information about the matter and then take action to prevent such a decree being issued.

I have the honor to send herewith a translation of said letter.

I have no information whatever with respect of the intentions of the Colombian Government in the premises. The planter does not state the source of his knowledge, and it can only be presumed that there is a possibility of such a decree issuing.

I am, etc.,

A. M. BEAUPRÉ.

[Inclosure 1.—Translation.]

Columbian minister for foreign affairs to departmental governor at Antioquia.

[Telegram.]

BOGOTÁ, July 10, 1901.

To the GOVERNOR OF THE DEPARTMENT OF ANTIOQUIA, *Medellin*:

I have pleasure in replying to your important telegram of the 20th ultimo, received yesterday.

Foreigners residing in Colombia are subject to the constitution and laws of Colombia in the same way as the natives, the compulsory military service being expected. Consequently, if very urgent necessities make it indispensable to seize animals of foreign private individuals, for reasons relating to the maintaining or restoration of public order, you may give orders that they be taken under the same conditions as from Colombians, avoiding outrage or violence, being careful to record the same and to make corresponding valuations, in order to avoid unjust claims.

Desertion being a military crime, and as recruiting (drafting) is authorized by our laws, you may order that deserters be pursued, and that soldiers be recruited from the establishments of foreigners, only the residences of diplomatic ministers being inviolable and protection restricted to them. The above relating to individuals also applies to foreign companies. Foreigners are obliged to maintain strict neutrality in all civil disputes of the country, under penalty of being expelled from the Republic's territory, in accordance with our act 145 of 1888. You will kindly give notice to this effect, and in the event of your having to expel any person or persons, you will previously inform this ministry in order that you may obtain the necessary authority.

Yours, faithfully,

ANTONIO J. URIBE.

Authentic:
J. J. CHICA.

[Inclosure 2.—Translation.]

Mr. Soto to Mr. Beaupré.

BOGOTÁ, May 1, 1902.

SIR: One of the owners of coffee plantations, debtor of Messrs. G. Amsinck & Co., of New York, whose attorney and agent I am in this city, has come to say to me that he has just been informed that the Government is thinking of issuing a decree expropriating the coffee still deposited in the different plantations which have their outlet on the Upper Magdalena, and which, on account of there being no navigation on that part of the river, has not been exported.

As your excellency knows, all the coffee, or at least the greater part of the coffee, deposited in the houses of that region is the property of Messrs. G. Amsinck & Co., of New York, who, by having advanced money for it, have already paid its value, as I have had the honor of communicating to your excellency through letters addressed to that legation, and as this measure of the Government, if it should be brought into effect, would cause heavy damages to those I represent, Messrs. G. Amsinck & Co., of New York, I hasten to let this fact be known to your excellency, with the object that your excellency may find out the truth about it, and if possible to prevent the said measure being put into effect, which would largely fall on the foreign houses doing business in this country, and very especially on that of Messrs. G. Amsinck & Co., of New York.

It is highly honorable for me to subscribe myself, etc.,

LOUIS SOTO L.

Mr. Hay to Mr. Beaupré.

No. 397.]

DEPARTMENT OF STATE,
Washington, June 5, 1902.

SIR: I have to acknowledge the receipt of your No. 599, of the 23d of April last, in regard to expropriations.

In reply I have to say that the benefit of the provisions of Article XVI of the treaty of 1866 between Colombia and Great Britain in relation to exemption from military contributions and expropriation of property in Colombia can not be claimed by the United States by virtue of the most-favored-nation clause of our treaty of 1846 with New Granada (Article II), by which the United States and New Granada mutually engage not to grant any particular favor to other nations "in respect to commerce and navigation" which shall not immediately become common to the other party, "who shall enjoy the same freely if the concession was freely made, or on allowing the same compensation if the concession was conditional."

As between the United States and Colombia, the matter is governed by the express terms of the treaty of 1846 between the United States

and New Granada (Colombia), Article VIII of which provides that "the citizens of neither of the contracting parties shall be liable to any embargo nor be detained with their vessels, cargoes, merchandise, or effects for any military expropriation nor for any public or private purpose whatever *without allowing those interested an equitable and sufficient indemnification.*"

I am, etc.,

JOHN HAY.

Mr. Hill to Mr. Beaupré.

No. 407.]

DEPARTMENT OF STATE,
Washington, June 28, 1902.

SIR: I inclose copy of a dispatch from the United States consul at Barranquilla, forwarding correspondence alleging the forcible expropriation by the Colombian military authorities at Santa Marta, without compensation, of the property of American citizens.

You will notify the Colombian Government that this Government will hold it responsible for any proven cases of the seizure of American property for military purposes without due compensation.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

[Inclosure.]

Mr. Colvig to Mr. Hill.

No. 20.]

CONSULATE OF THE UNITED STATES,
Barranquilla, Colombia, June 4, 1902.

SIR: You will note by the inclosed letters that a very disturbed condition of affairs exists at Santa Marta, Colombia, which is at present occupied by a large force of Government troops. Messrs. Senter and Edwurn are American citizens engaged in business near the town and reside in said place. It is evident that the civil authorities are unable to control the troops, and it would therefore seem important that the United States should take some appropriate measure to command respect and afford protection to the American residents there.

I respectfully lay the matter before the Department as to what measures should be adopted to effect the desired end.

I am, etc.,

GEORGE W. COLVIG, *U. S. Consul.*

[Subinclosure 1.]

Mr. Trout to Mr. Colvig.

CONSULAR AGENCY OF THE UNITED STATES,
Santa Marta, May 31, 1902.

SIR: I beg to call your attention to the herewith inclosed statements of Messrs. Edwurn and Senter, in which a gross injustice is reported to have been done to American residents of this city, and which the chief authorities absolutely refuse to take notice of.

The facts are that the house of an American resident of this city has been entered by the Government troops, and without the knowledge of said American personal property has been taken there to the value of at least \$300 gold, and, as above stated, on protest being made to the governor he refuses to take any notice of the action of his troops. I therefore believe that public exigencies require the presence of a United States man-of-war at this port, and would request that one be ordered to visit this port with as little delay as possible.

I am etc..

WILLIAM A. TROUT,
U. S. Consular Agent.

[Subinclosure 2.]

*Mr. Senter to Mr. Trout.*SANTA MARTA, *May 31, 1902.*

DEAR SIR: The numerous inconveniences and insults we foreigners have been subjected to lately in Santa Marta have culminated in the forcible entry of our houses and the taking therefrom our personal property.

At daylight this morning my house was forcibly entered and my saddle horse and a mule taken for Government use, without compensation or receipt, and my efforts to get restitution are met by the governor's statement that the Government is in no way responsible for illegal acts of its soldiery. This statement was made to me in the anteroom of the governor's office, in the presence of a number of people, and you can readily imagine had a bad effect on foreigners' interests here.

I wish again to urge the necessity of a ship's presence here for our protection.

Yours, very truly,

HENRY M. SENTER.

[Subinclosure 3.]

*Mr. Edwurn to Mr. Trout.*SANTA MARTA, *May 31, 1902.*

SIR: In accordance with your suggestion I make the following report of an occurrence this morning:

At daylight this morning a squad of police or military forced its way into the house of Mr. Henry M. Senter and myself, and without warning or explanation, or the giving of a receipt, took from us two horses and a mule. We immediately sought the proper authorities, who informed us that they agreed it was an evil deed done by ignorant soldiery, and while the Government held itself "morally responsible, it was not legally so for the acts of its soldiers and police." The governor refuses to return the animals.

We are informed that this act has been repeated in the house of at least one other foreigner to-day.

Yours, very respectfully,

LEO. EDWURN.

Mr. Hill to Mr. Beaupré.

No. 412.]

DEPARTMENT OF STATE,
Washington, July 31, 1902.

SIR: I have to acknowledge the receipt of your No. 605, of the 5th of May last, reporting the position of the Colombian Government on the subject of expropriations.

It appears from your dispatch and its inclosure that the Colombian Government has announced that "if very urgent necessities make it indispensable to seize animals of foreign private individuals for reasons relating to the maintaining or restoration of public order," such property may be taken.

The Government of the United States regrets its inability to acquiesce in the application of such measure to its citizens. While it is not disputed that circumstances might arise in which the property of foreigners, as well as of natives, situated in Colombia might be lawfully expropriated for military uses or State purposes, it is impossible to recognize an order couched in such vague and general terms that it could be considered as a license to seize and confiscate the property of citizens of the United States under circumstances and for purposes which could not warrant and justify the seizure either upon principles of public law or under existing treaty stipulations between the United States and Colombia.

A state of public war does not exist in Colombia, and the belligerent right of expropriation which may sometimes be lawfully exercised does not exist. But even if the measure were defensible, which is not conceded, the discrimination alleged to be practiced by the seizure of private property of citizens of the United States, while property of "amigos" or friends of the titular Government, similiarly situated, is untouched, could not be characterized otherwise than as odious and intolerable.

Nor can the Government of the United States concede for a moment the right of the Colombian authorities arbitrarily to fix the value of the property so taken, so as to defeat the right of the owners of such property to full compensation and indemnity for its actual value when taken. For all property of United States citizens thus taken by the authorities of the Colombian Government the Government of the United States will expect that such compensation be made.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Adee to Mr. Hart.

No. 414.]

DEPARTMENT OF STATE,
Washington, August 4, 1902.

SIR: Referring to Department's Nos. 407 of June 18 and 412 of the 31st ultimo, in regard to the expropriation of the property of United States citizens in Colombia, I inclose copy of a letter from the Navy Department and invite your attention to paragraphs 8, 9, 10, and 11 of the report made by the commanding officer of the U. S. S. *Ranger* regarding his visit to David.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

Mr. Taylor to Mr. Hay.

NAVY DEPARTMENT,
Washington, July 30, 1902.

SIR: I have the honor to inclose for your information a copy of a letter received to-day from the commanding officer of the U. S. S. *Ranger* at Panama, dated the 19th instant, reporting on a visit to David.

Very respectfully,

H. C. TAYLOR,
Acting Secretary.

[Subinclosure.]

Commander Potter to Mr. Moody.

No. 3.]

U. S. S. RANGER,
Panama, Colombia, July 19, 1902.

SIR: 1. I have the honor to report that, in obedience to the Department's telegram of July 10, I left Panama on the 12th instant and arrived off the bar at the mouth of David River on the 14th.

2. On the morning of the 15th I proceeded up the river in steam launch to Pedregal, the head of navigation, 15 miles from the anchorage, and by carriage to David, 3½ miles inland.

3. Consul-General Gudger accompanied me.

4. Consultations were had with the English and French consular representatives and with some of the principal American property holders in the province of Chiriqui, two of whom from Boquete were fortunately in David at the time.

5. Most of the Americans are located at Boquete, some 40 miles in the interior from David, engaged in the culture of coffee, and do not appear to have been interfered with any more than would naturally be expected from the unsettled condition of the country.

6. Gen. Benjamin Herrera, the leader of the revolutionists, had left David by land with the greater portion of his forces for some point on the Gulf of Panama, presumably to meet the Government forces.

7. I received personal assurances from Gen. Manuel Quinteros, jefe civil y militar, the representative of General Herrera at David, that there would be no interference with the persons and property of Americans, and that orders had been issued that their native labor should not be molested or withdrawn to any greater extent than the exigencies of the situation demanded during the present condition of affairs.

8. The house of an American named Lawler, married to a Colombian, had been searched during his absence for the presence of Government sympathizers, for which a written apology was given immediately after the occurrence.

9. Mr. Lawler lost eight horses, which the authorities claim were taken by irresponsible marauding parties, and he was given written authority to recover them wherever found. The general informed me that in the meantime Mr. Lawler would be furnished with eight horses in lieu of his own until they could be recovered.

10. No general manifesto had been issued to foreigners in regard to levying money or supplies, as was reported. One individual demand was made in the case of a Frenchman, and that may have been for cause.

11. The reports of interference with foreigners appear to be much exaggerated, and, in my opinion, the Americans residing in the vicinity of David and in the province of Chiriqui are in no danger of person or property, although unavoidably subjected to some inconvenience in their business relations on account of the presence of armed forces in the locality.

12. Consul-General Gudger concurs fully in this view of the situation.

Very respectfully,

W. P. POTTER,
Commander, U. S. Navy, Commanding.

Mr. Hart to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Bogotá, August 21, 1902.

(Mr. Hart inquires if he is to understand, from Department's instruction No. 407, of June 28, 1902, that due compensation must be made at the time of seizure of property; and states that American citizens must continue to suffer without practical remedy if such rule is not observed.)

Mr. Hart to Mr. Hay.

No. 650.]

LEGATION OF THE UNITED STATES,
Bogotá, August 23, 1902.

SIR: Referring to the Department's No. 407, of June 28, 1902, just received, in the matter of the forcible expropriation by the Colombian military authorities at Santa Marta, without compensation, of the property of American citizens, I have the honor to submit the following:

On Thursday last, 21st instant, being the one day of the week fixed for the reception of diplomatic agents accredited to this Government,

I called at the foreign office to lay before the minister the several matters of complaint communicated to me in the Department's instructions bearing June dates. The assistant secretary said that the minister had been called to a cabinet meeting and had left word that any minister who desired to discuss any matter might do so with the assistant secretary. This was far from satisfactory, but, in order to lose no time, I opened to the assistant secretary, among other things, the case now under consideration, which I promised to set forth fully in a note to the minister for foreign affairs. The assistant secretary said that of course his Government learns always with regret of such unlawful acts, unhappily of too frequent occurrence during the present civil war, and he had no doubt that a prompt and thorough inquiry would be made. * * *

Assuming the truth of the statements in the Santa Marta matter, this is not the first case of its kind during the present civil war; and, if the war continue, it will not be the last, unless more impressive steps shall be taken to arouse the Colombian Government to a realizing sense of its responsibility. In my conversation, above referred to, with the assistant secretary of the foreign office, he said that unfortunately the military and police do as they please, and the more remote from the capital the more difficult it is to check them. He admitted that many so-called cases of expropriation are no more than common thefts committed in the interests of the seizing officers. The assistant secretary agreed with me that this does not relieve his Government of responsibility for the acts of its agents.

In my dispatches to the Department during the present civil war in Colombia I have frequently called attention to the free-handed way in which the property of foreigners is seized by the Colombian military authorities. During my absence in the United States, on leave, Mr. Beaupré, in No. 605, of May 5, 1902, laid before the Department a good specimen case of an outrage committed against an American citizen under the very thin disguise of an expropriation for military purposes. I take the liberty to recall Mr. Beaupré's dispatch to the Department's attention, because the act therein reported was committed at this capital and under circumstances which made Mr. Beaupré familiar at once with all the details. We have here a case that can not be lost in a distant Department, nor swept away by anybody's denial, nor justified on the ground of pressing public necessity—that can not be belittled nor befogged in any way whatsoever. Yet, if the matter be allowed to rest as it is, the American citizen whose property was taken will be paid, if ever, the ridiculously inadequate price arbitrarily fixed by the officer who arbitrarily took his property.

In the Santa Marta case there was forcible expropriation by the Colombian military authorities, without compensation and without receipt for the property taken.

In the Bogotá case there was forcible expropriation by the Colombian military authorities, without compensation, receipt being given for a ridiculously small part of the value of the property taken.

Cases of each kind are of frequent occurrence. Where they involve the property of American citizens, what can this legation do to extend the protection which the circumstances seem to warrant? And what is "due compensation?" If by "due compensation" is meant a fair price paid at the time of taking the property, and if the Colombian Government be notified of the intention to exact these conditions, the

seizure of American property for military purposes will come quickly to an end. Compensation fixed capriciously and delayed indefinitely can not be "due compensation."

The Colombian Government announces that while the war lasts it will not pay claims growing out of expropriations, so that the use of good offices in this behalf must almost certainly be unavailing.

I respectfully ask definite instructions in respect of the expropriation of the property of American citizens, so that, if there be a way to do so, I may know how the Department would have me proceed to extend to American citizens the protection which they ask, and, failing this, that I may secure for them promptly the compensation to which they may be entitled.

I am, etc.,

CHAS. BURDETT HART.

Mr. Adee to Mr. Hart.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 27, 1902.

(Replying to Mr. Hart's telegram of August 21, Mr. Adee states that article 8 of the treaty of 1846 stipulates equitable and sufficient indemnification; that the treaty does not stipulate when compensation shall be made but, according to general principles of international law, private property is subject to seizure only by way of military necessity, and the military commander must cause receipts to be given which will serve owner to obtain indemnification guaranteed by treaty, unless compensation is made at the time of seizure.)

Mr. Adee to Mr. Hart.

No. 421.]

DEPARTMENT OF STATE,
Washington, September 6, 1902.

SIR: Referring to the Department's telegram of August 27, and previous instructions, regarding the expropriation of the property of American citizens by the military authorities of Colombia, and the bearing thereon of the stipulations of Article VIII of the treaty of 1846, I inclose copy of a dispatch from the United States vice-consul-general at Panama reporting instances occurring near Cali.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

Mr. Ehrman to Mr. Hill.

No. 329.]

CONSULATE-GENERAL OF THE UNITED STATES,
Panama, August 25, 1902.

SIR: I have the honor to transmit herewith, for your information, a copy of a letter received from Mr. W. A. Barney, consular agent at Cali, Colombia, together with a letter from the firm of Holman & Shearer to Mr. Barney.

I have no information in regard to this subject other than that which is set forth in the inclosed letters.

Awaiting your instructions, I am, etc.,

FELIX EHRLMAN,
United States Vice-Consul-General.

[Subinclosure 1.]

*Mr. Barney to Mr. Gudger.*UNITED STATES CONSULAR AGENCY,
Cali, August 12, 1902.

DEAR SIR: Your favors of June 26, July 12 and 25 came to hand by the last mail, which was received here on the 8th instant.

I beg to say that I am somewhat suprised myself that you find anything new regarding the situation here in my notes to you of June 21, as I have copies of my former communications addressed to you bearing dates of December 19, 1899, December 3, 1901, January 14, 1902, March 22, 1902, May 18, 1902, and June 26, 1902, in which I endeavored to acquaint you with what was taking place here and asking instructions.

However, I hope that something can be done to relieve the trying situation here, and I inclose a letter which I received yesterday from the firm of Holman & Shearer, Americans, doing business here, which merits attention and on which I await your comments and instructions.

On the 9th of this month the military authorities here in Cali took from me, without asking or consulting me in any way whatsoever, 40 mules, unloading the animals and leaving the loads out in the open, without cover and subject to the weather and thieves, and later sent the animals off with soldiers in different directions, without acknowledging my ownership in any manner.

They have no excuse for this action under any circumstances, but less in view of the fact that there has never been an occasion when the Government has sent to me asking for animals that I have not given them those which they needed, and never received pay for the services rendered, either. I have furnished them with animals in large numbers at least a dozen times.

It is not too late as yet to make an effort to correct matters and to enforce respect for the property of the Americans located here, which I most earnestly ask you to do, for the situation is really most serious for all of us.

I am, etc.,

WILLIAM A. BARNEY,
United States Consular Agent.

[Subinclosure 2.]

*Messrs. Holman & Shearer to Mr. Barney.*REPUBLICA DE COLOMBIA,
Cali, August 11, 1902.

DEAR SIR: I beg to call your attention to the circumstances under which the local military authorities took from one of our pastures a lot of 32 animals during the night of the 9th instant, against which action we earnestly protest, and most respectfully ask your assistance in recovering the animals, and, furthermore, asking that the matter may be brought to the attention of our home Government with the object of obtaining some redress and preventing the recurrence of these outrages, of which this, as you are aware, is not the first we have suffered.

Last week I sent to our pastures near the town of Pavas and had brought to this city 32 mules, intending to use them in a trip to the railroad terminus loaded with hides, which we wish to ship to New York, and to return with merchandise, for which we are in urgent necessity.

I put these animals into our pasture, located about a mile from the center of this city, on the road to the "Paso de Juanchito." Some time during the night of Saturday, the 9th, they were taken from this place, although the gate was locked, and Sunday morning, after our men had discovered that the animals were missing, they were found scattered through the streets of this city, some loaded with camp equipage and others ridden by officers and soldiers of the troops which were preparing to march. During the day battalion "Pastuso" took some of the animals with them when they left for Popayan, and battalions Nos. 31, 35, and 36 took the others with them to Cordoba.

We were not advised that the Government needed animals, nor were we asked to rent them or to sell them, nor were we advised that the Government intended to take them or that they *had* taken them, and, having taken them because they had need for animals, were willing to arrange with us for their use. We have no receipt for these animals nor any contract or promise to pay for their use or order for their

return to us, nor have we any promise that they will be returned or to recompense us for their use or loss.

The Government has not and will not assume any responsibility in the question of the return of the animals. Yesterday the military alcalde sent me word by an employee of ours "that they were not responsible for the animals, and if I objected to the Government using them and wished to avoid losing them, I should not own animals at all."

Having stolen our animals, they are now using them precisely as though they were actually of their own legitimate property. We have no voice as to their use, management, disposition, destination, or return. In fact, we have purchased and maintained nearly 200 animals practically for the sole use of the Government, and we are told that we have no *right* to object. We have absolutely no use or security of our own property. We not only have no use of the amount invested in our animals, but risk and are likely to lose the entire amount. We have lost a few animals at a time all during the war, having been taken from out pastures or off the road.

We bought these animals and have had them for several years for the purpose of carrying our own export products toward the coast and to bring from there our imported merchandise, but on account of the interference of the Government we are unable to use them for our own purposes, and as a consequence we have lost many thousands of dollars' worth of goods of different kinds during the last months, as we have been unable to move them and have had to leave them to perish.

In this particular case we risk the loss of not less than \$192,000 as the value of the mules, about \$55,000 as the value of the freight charges on the goods which these animals could carry if they were now in our service, at least \$600,000 as the value of the merchandise which they would bring and which we are now forced to leave in the wet climate of the coast, where the resulting damage is quick and complete, and at least \$130,000 as the value of the exportable goods of a perishable character which for our inability to use our animals we are obliged to leave, with the probability that before we can move them they will be a complete loss.

This is only an approximate estimate in paper money and does not include the amount of the probable profit which we would reasonably expect to realize on the sale of the goods mentioned nor the interests on the amounts involved in the cost of the property.

As you know, we have suffered other similar and equally severe losses, about which we will not particularize now.

We further feel it necessary to advise you that we have recently been informed privately that the chief military commanders here have said that they intended to send to our other pastures and take *all* of our animals. We will further state that we have complied with the requirements of the law and have our "patents" giving us the right to use our animals. It is evidently their intention to ruin us if they are allowed to do so, and we can do very little to prevent them.

We have endeavored to the best of our ability to avoid interference by the Government and not to place ourselves or our property in a position to suffer by any act of the Government. We have taken pains to avoid collisions with the officials, and on this and other similar occasions we have tried to arrange matters quietly and with as little trouble and friction as possible. It seems to be of no use, as they manifest no intention or desire to treat us fairly.

Trusting that you will take such measures as you see fit, and that such may be prompt and, we hope, of some avail, we are, etc.,

H. M. SHEARER,
for *Holman & Shearer*.

Mr. Hay to Mr. Hart.

No. 427.]

DEPARTMENT OF STATE,
Washington, October 6, 1902.

SIR: Acknowledging the receipt of your No. 650, of August 23 last, in the matter of expropriation by the Colombian military authorities of the property of American citizens, I refer, in response, to the Department's cablegram of August 27. The treaty provision and the cablegram referred to cover the question generally.

I am, etc.,

JOHN HAY.

Mr. Hart to Mr. Hay.

No. 678.]

LEGATION OF THE UNITED STATES,
Bogotá, October 23, 1902.

SIR: Referring to the Department's No. 421, of September 6, 1902, and to various dispatches of this legation representing the hardships to which American citizens sojourning in this country are subjected, and having in mind the Department's consequent instructions, I assume that the only course open to Mr. Barney and Messrs. Holman & Shearer is to prepare their claims and forward them to the Department of State. I shall bring their cases to the attention of the foreign office; but since I know of no way to compel the immediate payment of indemnity, I presume the cases will rest where they are until the Department of State shall instruct me to present and press the claims.

I am, etc.,

CHAS. BURDETT HART.

Mr. Hay to Mr. Hart.

No. 441.]

DEPARTMENT OF STATE,
Washington, December 18, 1902.

SIR: In compliance with the suggestions contained in your No. 678, of October 23 last, claims circulars have been sent to the United States consulate-general at Panama for the benefit of American citizens who have lost their property by military expropriations.

I am, etc.,

JOHN HAY.

**NEUTRALITY OF ALIENS—“CERTIFICATES OF NEUTRALITY”
NOT TO BE ISSUED BY LEGATIONS TO UNITED STATES
CITIZENS.**

Mr. Beaupré to Mr. Hay.

No. 622.]

LEGATION OF THE UNITED STATES,
Bogotá, June 8, 1902.

SIR: * * * Transit in the country is as difficult as ever. In the case of foreigners desiring passports the authorities are very strict, indeed. On the appointment of General Fernandez as minister of war he issued a note stating that all foreigners were to be considered as enemies of the Government, and that passports were on no account to be granted to them. This order had the effect of confining foreigners to the capital for a time, although it is a notorious fact that native “amigos del Gobierno” were allowed free transit during that period. Fortunately, before the result had become seriously prejudicial an arrangement was made that all foreigners requiring passports should produce a certificate of neutrality from their respective legations countersigned by the minister for foreign affairs. Up to the present time this procedure has worked successfully. The Colombian foreign office has been notified that all foreigners applying for such certificates will be considered as neutral so long as no proof shall be shown to the contrary.

Postal and telegraphic communication is still very slow. The line to Buenaventura, the cable station on the Pacific, works by fits and starts. The director-general explains this as being due to a band of guerrillas near Honda, whose business it is to cut the telegraph wires. The Government is sending out and bringing in mails with more regularity and frequency, but owing chiefly to the slow transit on the Magdalena River it is not safe to figure on much less than two months for the going or coming of correspondence for Washington.

I am, etc.,

A. M. BEAUPRÉ.

Mr. Hill to Mr. Beaupré.

No. 410.]

DEPARTMENT OF STAT

Washington, July 22, 1902.

SIR: Your dispatch No. 622 of the 8th ultimo, reporting the political situation in Colombia up to that date, was received here on the 16th instant, thus bearing out your statements touching the delays of the mails owing to the disturbed condition of the country. * * *

Your remarks in regard to the difficulties of individual travel have attracted attention in view of the extraordinary measures affecting foreigners. You say:

In the case of foreigners desiring passports the authorities are very strict indeed. On the appointment of General Fernandez as minister of war he issued a note stating that all foreigners were to be considered as enemies of the Government and that passports were on no account to be granted to them. This order had the effect of confining foreigners to the capital for a time, although it is a notorious fact that native "amigos del Gobierno" were allowed free transit during that period. Fortunately, before the result had become seriously prejudicial, an arrangement was made that all foreigners requiring passports should produce a certificate of neutrality from their respective legations, countersigned by the minister for foreign affairs. Up to the present this procedure has worked successfully. The Colombian foreign office has been notified that all foreigners applying for such certificates will be considered as neutral as long as no proof shall be shown to the contrary.

The declaration of the minister of war that all foreigners should be deemed public enemies can not but be regarded as gratuitously offensive, and this Government must remonstrate against such characterization of its citizens availing themselves of their conventional rights of visit and sojourn in Colombia. It should have been made the occasion of instant and vigorous protest. Even though the immediate urgency seems to have passed with the adoption of the scheme of diplomatic certification which you report, the Colombian Government should be energetically advised that this Government can not acquiesce in such an extraordinary measure toward citizens of the United States.

Moreover, this Department is unable to approve the wholly irregular and unauthorized certification of the neutrality of its citizens. As good citizens they are bound by the laws of neutrality which the United States aims to uphold, and if they are unlawfully molested this Government will protect them. If they engage in proven acts violative of neutrality they do so with full liability for the consequences, but even then it is the duty of this Government to see that full justice and opportunity of defense are assured to them. This normal treatment of the matter is not to be set aside for the abnormal procedure you report. It is not deemed competent for the diplomatic

agent to certify to the neutrality of his countrymen. That must be presumed until the contrary be shown. The fact which the certificate purports to certify can not be within the official knowledge of the legation. If within the personal knowledge of the diplomatic agent, he can not be expected to make official certification thereof. The absence of any extraterritorial jurisdiction over the acts of the citizen excludes responsibility on the part of the legation for the repression or chastisement of any unlawful act done by the citizen. The certificate is, in its nature, alike incompetent and irresponsible, and, therefore, an absurdity.

You do not give the language of the certificate, and the Department would like to be assured that it does not exceed your authority by implying accountability on the part of the legation.

Your statement that the Colombian foreign office had "been notified that all foreigners applying for such certificates will be considered as neutral so long as no proof shall be shown to the contrary" is not clearly understood. The presumption of alien neutrality exists under international law and comity. Application to the legation for the certificate in question does not fortify the presumption which the legation is bound to entertain. It is its duty to consider the individual neutral until the contrary be shown.

You are instructed to communicate the substance of this instruction to the Colombian Government in order that the attitude of this Government may be clearly and firmly defined, and that the Colombian Government may be informed that the legation's action thus disapproved should not be taken as a precedent.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Hart to Mr. Hay.

No. 660.]

LEGATION OF THE UNITED STATES,
Bogotá, September 9, 1902.

SIR: Referring to the Department's No. 410, of July 22, 1902, I have the honor to inclose copy and translation of the certificate spoken of by Mr. Beaupré in this legation's No. 622, of June 8, 1902, also a copy of my note to the Colombian foreign office pursuant to the Department's instructions above referred to.

The situation has been extremely difficult for foreigners sojourning in the country, and for the legations in their efforts to reduce to a minimum the inconvenience and loss resulting therefrom to persons under their protection.

The central civil power, speaking through the ministry for foreign affairs, has seemed to desire to cooperate in this respect with the legations, but the military branch of the Government has been practically omnipotent, so that the ministry for foreign affairs, disavowing such views as those to which the Department's instructions refer, has in turn asked the legations to lend their cooperation in the hope of improving the situation as much as possible for foreigners. The ministry of foreign affairs, being helpless as against the ministry for war, realized the hopelessness of antagonizing that department. In the matter of passports this was realized as well by the legations, which have tried to make the best of a situation by no means ideal.

There were many foreigners held fast in Bogotá, for example, by the refusal to issue passports to them, and without passports they

could not leave this capital. The foreign office advised the legations that by certifying to the neutrality of the persons applying for passports the ministry for war would cause the passports to issue. The foreign office furnished a form of certificate, which was revised by this legation and, I think, accepted by all the others.

The revision made by this legation consisted in inserting the words "segun todos los informes que tengo de él (from all the information that I have of him), which seemed to leave the certificate as little objectionable as possible, though, perhaps, none the less a theoretic absurdity. This legation, among others, was quick to represent to the ministry for foreign affairs the irregularity of the proceeding and the unwarranted assumption of hostility toward the Government. The ministry for foreign affairs regretted and disavowed the assumption, but pointed out that as the matter was in the hands of the ministry for war, there was nothing to do but comply with the requirements of that ministry if passports were desired.

This was the condition which confronted the legations. There was no way to compel the issue of passports. Failure to secure those necessary documents meant great hardship to most of the persons who sought them, and hardship, I take it, without any hope of redress.

Referring in this connection to the Department's several instructions in respect of persons and materials, even much-needed food supplies, destined for the interior and detained arbitrarily for long periods at the coast, the present minister of war has admitted to me that unhappily the governor who did these things regarded all foreigners as enemies to his country, and that largely on this account another has been appointed governor. This assumption of hostility has been in the air even more than in public orders, and this has made it difficult to lay hands on it in the concrete. Passports could be denied to foreigners because they were foreigners, as is known to have been done in Cartagena and Barranquilla, but it was easier to know it than to prove it; and if the governor did not wish to issue the passports he withheld them, and that was the end of it. The Department has reason to know that this has cost American citizens heavily.

Certificates are no longer required, passports being issued without them. In view of the Department's instructions, of course this legation will not issue another such certificate under any circumstances; and yet at the time of doing it the very hard conditions did seem to justify what was done.

In view of the oral representations made by this legation to the minister for foreign affairs, and of the assurances, including those of recent date, given to me by the present minister for foreign affairs, my note to him, pursuant to the Department's instructions, is couched in milder terms than otherwise it would have been. I trust that this may be approved by the Department.

I am, etc.,

CHAS. BURDETT HART.

[Inclosure 1.—Translation.]

Certificate.

LEGATION OF THE UNITED STATES OF AMERICA,
Bogotá, _____.

This witnesseth, that _____, who desires to travel from Bogotá to _____, is a citizen of the United States of America. From all the information I have of him he is neutral in all that relates to the domestic politics of the Republic of Colombia, and he desires that there be issued to him the passport necessary for his journey.

[Inclosure 2.]

*Mr. Hart to Colombian Foreign Office.*LEGATION OF THE UNITED STATES,
Bogotá, September 9, 1902.

SIR: Referring to the several conversations which I have had the honor to have with your excellency in respect of citizens of the United States of America availing themselves of their conventional rights of visit and sojourn in the Republic of Colombia, which conversations grew out of the fact that certain of the Colombian authorities have held all foreigners to be public enemies, I am instructed to inform your excellency's Government that my Government can not acquiesce in this extraordinary assumption in so far as it relates to citizens of the United States of America. At the same time justice compels me to say that, in the conversations above referred to, your excellency was prompt to disavow on behalf of the Colombian Government the offensive grouping of all foreigners in the Republic under the head of public enemies.

Furthermore, my Government does not approve of any form of certification on the part of this legation to the neutrality of citizens of the United States of America visiting or sojourning in the Republic of Colombia, since the presumption of alien neutrality exists under international law and comity, and must be presumed until the contrary be shown. The certificate required some time since by your excellency's Government in behalf of foreigners applying for passports related to a matter which can not be within the official knowledge of the diplomatic officer, and therefore my Government holds that he can not be expected to make any sort of official certification thereto.

I avail, etc.,

CHAS. BURDETT HART.

Mr. Hill to Mr. Hart.

No. 433.]

DEPARTMENT OF STATE,
Washington, October 31, 1902.

SIR: I have to acknowledge the receipt of your No. 660, of the 9th ultimo, relative to the certification by the legation to the neutrality of citizens of the United States visiting or sojourning in the Republic of Colombia, and transmitting copies of the form of certificate in question, and your note of September 9 last to the minister of foreign affairs on the subject.

In reply I have to say that the form of certificate is objectionable, and contravenes our statutes, because certifying originally to the citizenship of the bearer, which makes it a paper in lieu of a passport. Citizenship can only be certified by a regular passport. The fact of citizenship could have been made to appear through the expedient of certifying that the bearer holds a passport issued by the Department of State (or by a legation, as the case may be), dated so and so, attesting his quality as a citizen of the United States. This should be borne in mind if the question of issuing these or similar certificates should at any time recur.

Your note of September 9 to Dr. Paul appears to be sufficient, under the circumstances, to establish the position taken in the Department's instruction No. 410, of July 22, 1902.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

P. S.—In connection with this general subject, you are referred to the Argentine precedent, Foreign Relations, 1894, page 19, and Uruguayan case, Foreign Relations, 1897, page 593.

**PROTECTION OF CUBAN INTERESTS BY UNITED STATES
CONSULAR OFFICIALS.**

Mr. Hart to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Bogotá, August 10, 1902.

(Referring to Department's telegraphic instructions^a concerning the protection of Cuban citizens and interests by United States consular officers, Mr. Hart reports that the Colombian Government has notified him that it grants the request, and will instruct governors accordingly. United States consular officers have been instructed by telegraph by Mr. Hart.)

**PROTECTION BY UNITED STATES CONSULAR OFFICERS OF
CHINESE ON THE ISTHMUS OF PANAMA.**

Mr. Adee to Mr. Hart.

No. 420.]

DEPARTMENT OF STATE,
Washington, August 30, 1902.

SIR: I inclose for your information copies of a note^b from the Chinese minister at this capital and of the Department's instruction of the 27th instant to the United States consul-general at Panama in regard to the protection to be afforded to Chinese subjects by the United States consular officers on the Isthmus of Panama.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

Mr. Adee to Mr. Gudger.

No. 158.]

DEPARTMENT OF STATE,
Washington, August 27, 1902.

SIR: I inclose herewith copies of correspondence between this Department and the Chinese minister at this capital in regard to the protection of Chinese subjects on the Isthmus of Panama.

You will consult the Department's instructions on file in your office, No. 34,^c August 26, 1885, * * * and No. 7,^c July 8, 1893, and with the consent of the

^a Printed, page 6.

^b Printed, p. 262.

^c *Mr. Porter to Mr. Adamson.*

No. 34.]

DEPARTMENT OF STATE,
Washington, August 26, 1885.

SIR: I inclose herewith for your information a copy of a memorandum handed to the Secretary of State from the Chinese minister in Washington, communicating the desire of the Imperial Chinese Government that the consuls of the United States on the Isthmus of Panama shall be instructed to lend their good offices for the protection of Chinese subjects in that quarter. * * *

The favor thus asked is analogous to that which the United States have granted to Switzerland for fifteen years past. By reference to the Department's circulars Nos. 11 and 15 of the 16th June and 15th December, 1871, the conditions will be found stated under which the good offices of our consular establishment may be exercised in countries or places where there is no Swiss representative. The same rules apply, in the present instances, to the protection of Chinese subjects on the Isthmus. The consular officers of the United States at Panama and Colon are given permission to take upon themselves, with the consent of the Colombian authorities, the function of

Colombian authorities use your good offices in behalf of any Chinese subject in your district who may request them in the absence of recognized Chinese representation.
I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

representing for the time being the interests of the Chinese Government so far as may be demanded by the circumstances of any special case affecting a Chinese subject residing on the Isthmus. When the consular officer so acts he becomes, for the precise matter in hand, to a certain extent the agent of the Chinese Government as to the services he may perform for its subjects, and, as touching responsibility for his acts in relation thereto, it must be deemed to rest with the Government of China, which has solicited his good offices. It is, however, to be distinctly understood that the United States consular officer shall not thereby be held to become a consular officer of the Chinese Government, for such employment is prohibited by the Constitution to officers of the United States who are citizens. The consent of the Colombian authorities is not expected to take the shape of a formal exequatur, whereby the American consul becomes, for the time, in their eyes, the Chinese consul also; but is supposed to be limited to admitting the use of the consul's good offices in behalf of any Chinese subject in his vicinity who may request them in the absence of any recognized Chinese representative.

By reference to a further circular of the Department dated March 19, 1882, which should also be found on your files, it will be seen that the Swiss Government has made provision for reimbursing to the Government of the United States the amount of such expense as may be actually incurred by our officers in extending protection to Swiss citizens, under the circumstances above stated, on presentation of the proper accounts. The Chinese minister has not yet made similar provision, but his attention has been drawn to this practical aspect of the matter, and it is not doubted that only actual and unavoidable expense, shown to have been incurred on behalf of Chinese interests, will be cheerfully borne by the Chinese Government.

* * * * *

In order to avoid delays in the present disturbed condition of communication with Bogotá, I have thought it best to bring the matter directly to the attention of the Colombian minister in Washington instead of approaching his Government through Mr. Scruggs, and I have accordingly requested Señor Becerra, who, it is understood, is in direct relation with the Isthmian authorities, to acquaint the latter with the desire manifested by the Government of China and the disposition of the Government of the United States to accede thereto, and to solicit from them the issuance of such orders as will suffice to attain the friendly object in view.

Pending his response, this instruction is sent to you for your guidance in the event of occasion presenting itself for the discreet and amicable use of your good offices on behalf of Chinese subjects who may need them. By conference with the local authority at Panama you will doubtless be able to obtain cheerful recognition of the limited and unofficial function which this instruction authorizes you to assume.

* * * * *

I am, etc.

JAMES D. PORTER,
Assistant Secretary.

Mr. Strobel to Mr. Vifquain.

No. 7.]

DEPARTMENT OF STATE,
Washington, July 8, 1893.

SIR: The Department has received a note dated the 28th ultimo from the minister of China at this capital, in which he calls attention to the Department's instructions to your predecessor, Mr. Thomas Adamson, touching the extension of friendly protection to Chinese subjects residing on the Isthmus of Panama.

He states that there is at present no diplomatic representative of China on the Isthmus, and asks that, in view of the retirement of Mr. Adamson, those instructions may be renewed to you.

The instructions referred to are No. 34, dated August 26, 1885, * * * the original of which is on file in your consulate-general, and to which you are referred.

I have now, therefore, to instruct you to continue the desired protection under the limitations indicated in said instructions.

I am, etc.,

EDWARD H. STROBEL,
Third Assistant Secretary.

CUBA.

ESTABLISHMENT OF INDEPENDENT GOVERNMENT IN CUBA.

General Wood, Military Governor of Cuba, to the Adjutant-General of the Army.

[Telegram.]

HABANA, CUBA, *May 20, 1902.*

I have the honor to report to you that in compliance with instructions received I have this day, at 12 o'clock sharp, transferred to the President and Congress of the Republic of Cuba the government and control of the island, to be held and exercised by them under the provisions of the constitution of the Republic of Cuba. The documents sent to me were read, and Mr. Palma, in accepting the responsibilities on behalf of the island, expressed himself in kind and endearing words and thanked the Republic of the United States and its officials for all that has been done for Cuba and for the fulfillment of promises made. The ceremony was most impressive, and I embark on the *Brooklyn* with my staff for the United States.

WOOD.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, COMMENDING TIMELY CONSIDERATION OF MEASURES FOR MAINTAINING DIPLOMATIC AND CONSULAR REPRESENTATIVES IN CUBA AND FOR CARRYING OUT THE PROVISIONS OF THE ACT MAKING APPROPRIATION FOR THE SUPPORT OF THE ARMY FOR THE FISCAL YEAR ENDING JUNE 30, 1902.

To the Congress of the United States:

I commend to the Congress timely consideration of measures for maintaining diplomatic and consular representatives in Cuba and for carrying out the provisions of the act making appropriation for the support of the Army for the fiscal year ending June 30, 1902, approved March 2, 1901, reading as follows:

Provided further, That in fulfillment of the declaration contained in the joint resolution approved April 20, 1898, entitled "For the recognition of the independence of the people of Cuba, demanding that the Government of Spain relinquish its authority and government in the island of Cuba, and to withdraw its land and naval forces from Cuba and Cuban waters, and directing the President of the United States to use the land and naval forces of the United States to carry these resolutions into effect," the President is hereby authorized to "leave the government and control of the island of Cuba to its people" so soon as a government shall have been established in said island under a constitution which, either as a part thereof or in an ordinance appended thereto, shall define the future relations of the United States with Cuba substantially as follows:

I.

That the government of Cuba shall never enter into any treaty or other compact with any foreign power or powers which will impair or tend to impair the independence of Cuba, nor in any manner authorize or permit any foreign power or powers to obtain, by colonization or for military or naval purposes or otherwise, lodgment in or control over any portion of said island.

II.

That said government shall not assume or contract any public debt to pay the interest upon which, and to make reasonable sinking fund provision for the ultimate discharge of which, the ordinary revenues of the island, after defraying the current expenses of government, shall be inadequate.

III.

That the Government of Cuba consents that the United States may exercise the right to intervene for the preservation of Cuban independence, the maintenance of a government adequate for the protection of life, property, and individual liberty, and for discharging the obligations with respect to Cuba imposed by the treaty of Paris on the United States, now to be assumed and undertaken by the Government of Cuba.

IV.

That all acts of the United States in Cuba during its military occupancy thereof are ratified and validated, and all lawful rights acquired thereunder shall be maintained and protected.

V.

That the Government of Cuba will execute, and as far as necessary extend, the plans already devised, or other plans to be mutually agreed upon, for the sanitation of the cities of the island, to the end that a recurrence of epidemic and infectious diseases may be prevented, thereby assuring protection to the people and commerce of Cuba, as well as to the commerce of the southern ports of the United States and the people residing therein.

VI.

That the Isle of Pines shall be omitted from the proposed constitutional boundaries of Cuba, the title thereto being left to future adjustment by treaty.

VII.

That to enable the United States to maintain the independence of Cuba, and to protect the people thereof, as well as for its own defense, the Government of Cuba will sell or lease to the United States lands necessary for coaling or naval stations at certain specified points, to be agreed upon with the President of the United States.

VIII.

That by way of further assurance the Government of Cuba will embody the foregoing provisions in a permanent treaty with the United States.

The people of Cuba having framed a constitution embracing the foregoing requirements, and having elected a President who is soon to take office, the time is near for the fulfillment of the pledge of the United States to leave the government and control of the island of Cuba to its people. I am advised by the Secretary of War that it is now expected that the installation of the Government of Cuba and the termination of the military occupation of that island by the United States will take place on the 20th of May next.

It is necessary and appropriate that the establishment of international relations with the Government of Cuba should coincide with its inauguration, as well to provide a channel for the conduct of diplomatic relations with the new State as to open the path for the immediate

negotiation of conventional agreements to carry out the provisions of the act above quoted. It is also advisable that consular representation be established without delay at the principal Cuban ports in order that commerce with the island may be conducted with due regard to the formalities prescribed by the revenue and navigation statutes of the United States, and that American citizens in Cuba may have the customary local resorts open to them for their business needs and, the case arising, for the protection of their rights.

I therefore recommend that provision be forthwith made; and the salaries appropriated, to be immediately available, for—

a. Envoy extraordinary and minister plenipotentiary to the Republic of Cuba	\$10,000
b. Secretary of legation	2,000
c. Second secretary of legation	1,500
d. Consul-general at Habana	5,000
e. Consuls at—	
Cienfuegos	3,000
Santiago de Cuba	3,000

I do not recommend the present restoration of the consulates formerly maintained at Baracoa, Cardenas, Matanzas, Nuevitas, Sagua la Grande, and San Juan de los Remedios. The commercial interests at those ports heretofore have not been large. The consular fees collected there during the fiscal year 1896-97 aggregated \$752.10. It is believed that the actual needs of the six offices named can be efficiently subserved by agents under the three principal consular offices until events may show the necessity of erecting a full consulate at any point. The commercial and political conditions in the island of Cuba while under the Spanish Crown afford little basis for estimating the local development of intercourse with this country under the influence of the new relations which have been created by the achievement of Cuban independence, and which are to be broadened and strengthened in every proper way by conventional pacts with the Cubans and by wise and beneficent legislation aiming to stimulate the commerce between the two countries, if the great task we accepted in 1898 is to be fittingly accomplished.

THEODORE ROOSEVELT.

WHITE HOUSE,
Washington, March 27, 1902.

RECEPTION OF MINISTER OF THE UNITED STATES.

Mr. Squiers to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Habana, May 27, 1902.

(Mr. Squiers reports his arrival at Habana on the 26th and reception by the President of Cuba on the 27th of May; that he was the first diplomatic representative to present credentials, and that a most cordial reception was accorded him by the Government and people of Cuba.)

Mr. Squiers to Mr. Hay.

No. 1.]

LEGATION OF THE UNITED STATES,
Habana, May 27, 1902.

SIR: Confirming my telegram of 27th instant, I have the honor to report that, in accordance with my instructions, I sailed from New York on Thursday, 22d instant, on steamer *Vigilancia* of the Ward Line, and arrived here on the following Monday evening, 26th instant, having been somewhat delayed owing to new machinery.

I was met on the arrival of the steamer by Mr. Aurelio Hevia, assistant secretary of state, representing the foreign office; Mr. Steinhart, in charge of the Cuban archives; Mr. Yero, acting captain of the port; Major Glennan, of the United States Marine-Hospital Service, and Captain Laborde, chief of the harbor police, who extended to me every possible courtesy.

I called on His Excellency Mr. Carlos de Zaldo, secretary of state and justice this morning, and arranged with him for my audience with the President, which was fixed at 4 p. m.

At the appointed hour I was waited upon by Mr. Hevia, assistant secretary of state, who had been designated to accompany me to the palace. A guard of honor of some thirty troopers also escorted me.

At the palace I was met by His Excellency Mr. de Zaldo, who presented me to the President, to whom I handed my letter of credence and took occasion to say:

The President sends you his most cordial greetings, and desires me to assure your excellency of his personal interest and sympathy in the welfare and prosperity of your people. In these sentiments I beg to join.

To be accredited as the diplomatic representative of the United States near your excellency is to me the greatest possible compliment, and it will be my constant endeavor to so conduct the business of my legation as to draw still closer the ties of friendship which now unite our people.

To which the President replied in Spanish, of which the following is a translation:

As the faithful interpreter of the sentiments of the people of Cuba, permit me—through you—to assure the illustrious President of the United States that our most ardent desires are the happiness and prosperity of the American people and of their worthy President.

At the same time I avail myself of this opportunity to express my satisfaction at your appointment as diplomatic representative of the United States near my Government, since no other person could be more agreeable nor more fit to the end that the friendly relations between both peoples may become the most intimate and cordial.

There were also assembled the principal officials of the Government, executive, judicial, and legislative, to all of whom I was formally presented, as I was afterwards to Her Excellency Madam Palma, wife of the President.

The reception was a most cordial one and intended to impress my Government with the deep feeling of appreciation and regard for the past which the Cuban people and Government seem to feel toward the people of the United States.

During the reception the United States flag was displayed from Morro Castle, the palace, and many of the public buildings.

I inclose a copy of a note of thanks to the foreign office which I hope will meet with your approval. I have no wish to be egotistical,

but I desire to win, as soon as possible, the confidence and good will of these people, feeling sure that under these conditions I will be able to render far better services to my Government even than would follow a like position under different circumstances.

I have, etc.,

H. G. SQUIERS.

[Inclosure.]

Mr. Squiers to Cuban foreign office.

F. O. No. 1.]

LEGATION OF THE UNITED STATES,
Habana, May 28, 1902.

YOUR EXCELLENCY: I have the honor to request that your excellency will take occasion to thank, in my name, Mr. Aurelio Hevia, assistant secretary of state, Mr. Yero, acting captain of the port, and Captain Laborde, chief of harbor police, for their kindness and courtesy in meeting my steamer and making my arrival here so very comfortable and pleasant.

I would also like to express my appreciation of the display of flags on Morro Castle and other public buildings, which I understand was done in honor of the diplomatic representative of the United States.

I desire also to congratulate the commanding officer of my military escort to the palace on the fine, soldierly appearance of his men; being an old cavalryman myself, I appreciate the high standard which he and his men have reached.

May I add that I have been extremely gratified with the cordial reception accorded me, in my official capacity, which I feel sure will be much appreciated by my Government.

I avail, etc.,

H. G. SQUIERS.

**RESOLUTION OF UNITED STATES SENATE CONGRATULATING
CUBAN REPUBLIC ON ITS APPEARANCE AMONG THE NATIONS
OF THE WORLD.**

Mr. Hay to Mr. Squiers.

No. 4.]

DEPARTMENT OF STATE,
Washington, May 26, 1902.

SIR: You are instructed to communicate to the foreign office the inclosed copy of the resolution of the Senate of the United States, dated the 21st instant, congratulating the Cuban Republic on its appearance among the nations of the world.

I am, etc.,

JOHN HAY.

[Inclosure.]

Senate resolution No. 232, Fifty-seventh Congress, first session.

Resolved by the Senate of the United States of America, That the Senate views with satisfaction and expresses congratulation at the appearance of the Cuban Republic among the nations of the world.

Resolved, That the Secretary of State be directed to transmit to the President of the Cuban Republic a copy of these resolutions.

RESOLUTION OF CUBAN HOUSE OF REPRESENTATIVES THANKING GOVERNMENT AND PEOPLE OF THE UNITED STATES FOR ASSISTANCE.

Señor Quesada to Mr. Hay.

[Translation.]

No. 3.]

LEGATION OF CUBA,
Washington, June 17, 1902.

EXCELLENCY: In compliance with instructions of my Government, I have the honor to send you a resolution of the House of Representatives of the Republic of Cuba of the 23d of May last, and sent to the honorable President of Cuba for transmission to the honorable President of the United States.

I avail, etc.,

GONZALO DE QUESADA.

[Inclosure.—Translation.]

Resolution of the Cuban House of Representatives.

HABANA, *May 23, 1902.*

To the honorable PRESIDENT OF THE REPUBLIC OF CUBA.

SIR: I have the honor to inform you that the House of Representatives, in its session of the 21st instant, unanimously resolved to sanction the proposition which I transcribe below, to the end that you may be pleased to transmit it to the honorable President of the United States:

“Whereas the Cuban people has now seen its aspirations for a country, independence, and freedom crowned with success, thanks to its own heroic efforts and to the noble aid of the glorious nation of the United States of North America;

“Whereas the people and Government of the American Union have been generous upholders of the Cuban revolution, and have afforded assistance even greater than that which they themselves received from the country of Lafayette and Victor Hugo in behalf of liberty;

“Whereas the American Government proclaimed to the world that Cuba is, and of right ought to be, free and independent, by a joint resolution in pursuance of which it declared war against Spain, and sent its Army and Navy to fight for the rights of the Cuban people until a complete victory was gained, which culminated in the evacuation of the island by the Spanish forces, the flags of both American peoples being unfurled to the breeze;

“Whereas the Government and people of the United States have faithfully carried out the solemn agreement which they spontaneously made with the Cuban people and the world at large by securing peace, establishing a Republican Government, and withdrawing after having suitably organized the various branches of the public service throughout the island, for which benefits the country is grateful;

“Whereas it is the moral, political, and social duty of the people of Cuba, being legally represented by this House, officially to express its deep gratitude to the noble American people and its upright Government in such a manner as will publicly show how greatly Cuba appreciates the sacrifice made in its behalf by the descendants of Washington, Franklin, and Lincoln:

“Now, therefore, the undersigned Representatives have the honor to submit to this House the following proposition, which they think should by all means be sanctioned. They propose

“First. That a solemn vote of thanks be passed, a sincere expression of heartfelt gratitude to the Government and people of the United States of North America for their earnest sympathy, their efficient aid, and for the sacrifices made by them in behalf of the independence and freedom of Cuba.

“Second. That an expression of our heartfelt thanks shall be conveyed to the officers and soldiers of the American Army and Navy who have aided the Cuban cause with their valor, their blood, and their lives, and who have shared with the Cubans the perils of war and the laurels of victory.

“Third. That our sincere condolence be expressed on account of the loss of those Americans who met their death on the field of battle, at sea, and in the performance of their duties during the American intervention.”

With sentiments of the highest consideration,

Very respectfully,

PELAYO GARCÍA, *Speaker.*

A true copy:

CARLOS DE ZALDO,
Secretary of State and Justice.

Mr. Adee to Señor Quesada.

No. 12.]

DEPARTMENT OF STATE,
Washington, August 2, 1902.

SIR: I have the honor to acknowledge the receipt of your note of June 17 last, in which you inclose a certified copy of the resolutions passed unanimously by the Cuban House of Representatives on May 21 last, thanking the Government and people of the United States for their intervention in behalf of Cuba.

Copies of the resolutions have been communicated to the President and to the Secretaries of War and the Navy, and I have the honor to assure you that they have been received by this Government with sincere appreciation.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

ANNOUNCEMENT OF ESTABLISHMENT OF CUBAN REPUBLIC.

Mr. Squiers to Mr. Hay.

No. 23.]

LEGATION OF THE UNITED STATES,
Habana, June 16, 1902.

SIR: I have the honor to inclose copy of a communication, with translation, sent by the President of the Republic of Cuba to the King of Spain, and also to heads of other Governments. * * *

I have, etc.,

H. G. SQUIERS.

[Inclosure.—Translation.]

Tomás Estrada Palma, President of the Republic of Cuba, to His Majesty Alfonso XIII, King of Spain.

GREAT AND GOOD FRIEND: I have the distinguished honor to inform Your Majesty that on the 20th of the present month, at 12 o'clock noon, the Republic of Cuba was established, inasmuch as the military occupation of the United States of America ceased on that date, and that I have assumed the duties of Chief Executive, as empowered by the Cuban constitution.

In communicating to Your Majesty such a happy event for this country, I take pleasure in informing you, in the name of the Cuban people, of the unalterable wishes of their present Government to maintain the warmest and most cordial relations of friendship with all nations and especially with the Government and people of Spain.

I express the best wishes for the personal welfare of Your Majesty and the prosperity of the Spanish nation.

Your good friend,

T. ESTRADA PALMA.

Given at the executive mansion the 26th day of May, 1902.

CARLOS DE ZALDO,
Secretary of Justice.

COURTESIES OF CUBAN GOVERNMENT ON OCCASION OF ANNIVERSARY OF INDEPENDENCE OF THE UNITED STATES.

President Palma to President Roosevelt.

[Telegram.—Translation.]

HABANA, *July 4, 1902.*

On this memorable date for the American people I send my greetings to Your Excellency, and make wishes for the prosperity of your great nation.

T. ESTRADA PALMA,
President of the Republic.

Mr. Squiers to Mr. Hay.

[Telegram.]

LEGATION OF THE UNITED STATES,
Habana, July 4, 1902.

President Palma writes that he shares with the people of the United States the happiness they enjoy in celebrating this holiday, the anniversary of the Independence of the thirteen English colonies, which, by the blessing of democratic institutions and love of liberty, have reached the highest stand as one of the most powerful nations in the world, and heartily wishes that the American people may enjoy forever the greatest prosperity and happiness.

SQUIERS.

Mr. Hay to Mr. Squiers.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 5, 1902.

(Mr. Hay states that President Palma's message of congratulation by reason of the national anniversary of the Independence of the United States is received with much gratification by this Government.)

Mr. Squiers to Mr. Hay.

No. 59.]

LEGATION OF THE UNITED STATES,
Habana, July 7, 1902.

SIR: I have the honor to confirm your telegram of the 5th instant referring to President Palma's message of congratulation by reason of the national anniversary of the Independence of the United States, and also to inclose a copy of my note to the foreign office conveying your cable acknowledgment.

I have, etc.,

H. G. SQUIERS.

[Inclosure.]

Mr. Squiers to Mr. Zaldo.

F. O. No. 26.]

LEGATION OF THE UNITED STATES,
Habana, July 7, 1902.

YOUR EXCELLENCY: I have the honor to inform your excellency, with the request that the matter be brought to the notice of the President, that I am just in receipt of a cable instruction from my Government advising me that President Palma's message of congratulation by reason of the national anniversary of the Independence of the United States was received with much gratification.

I avail, etc.,

H. G. SQUIERS.

Mr. Squiers to Mr. Hay.

No. 60.]

LEGATION OF THE UNITED STATES,
Habana, July 7, 1902.

SIR: I have the honor to transmit herewith, with translation and copy of my acknowledgment, copy of a note received from the foreign office advising me of the adjournment of the Cuban house of representatives in honor of our Independence Day, and beg to suggest that I may be instructed to make some due and proper acknowledgment in the name of my Government.

I have, etc.,

H. G. SQUIERS.

[Inclosure 1.—Translation.]

Señor de Zaldo to Mr. Squiers.

No. 86.]

REPUBLIC OF CUBA, OFFICE OF THE SECRETARY OF JUSTICE,
Habana, July 4, 1902.

MR. MINISTER: The President of the Republic directs me to communicate to your excellency the following note addressed to him this day by the president of the house of representatives:

“This house, in its session of to-day, resolved as follows:

“‘Considering that to-day, the 4th of July, the United States celebrate the glorious anniversary of their Independence, and that the great American nation contributed in an efficacious way to the constitution of Cuban nationality, it is resolved as a homage of gratitude, affection, and admiration for the noble country of Washington that the house rise and adjourn for the day, and that such resolution be communicated to the Government of the United States.’

“Which I have the honor to communicate to you for your information and that you may inform the Government of the United States.”

I beg your excellency to please acquaint your Government with the foregoing resolution.

I avail, etc.,

CARLOS DE ZALDO, *Secretary.*

[Inclosure 2.]

*Mr. Squiers to Señor de Zaldo.*LEGATION OF THE UNITED STATES,
Habana, July 7, 1902.

YOUR EXCELLENCY: In acknowledging receipt of your excellency's note of the 4th instant communicating the resolution of the house of representatives adjourning the session on that day in honor of the anniversary of our national Independence, I beg to request that you will convey to the proper quarter my personal thanks and appreciation of the honor and courtesy shown my country, with the assurances of

the pleasure that it will afford me to advise my Government of this special act and evidence of friendship and good feeling entertained for the United States by the representatives in congress of the Cuban people.

I have, etc.,

H. G. SQUIERS.

Mr. Hay to Mr. Squiers.

No. 43.]

DEPARTMENT OF STATE,
Washington, July 15, 1902.

SIR: In reply to your No. 60 of the 7th instant, I have to say that you may convey to the Cuban Government an appropriate expression of this Government's appreciation of the action of the Cuban house of representatives in adjourning in honor of the Fourth of July.

I am, etc.,

JOHN HAY.

**PROTECTION OF CUBAN INTERESTS BY UNITED STATES
CONSULAR OFFICIALS.^a**

Señor de Zaldo, Cuban secretary of state, to Mr. Hay.

[Telegram—Translation.]

HABANA, *May 22, 1902.*

The President of the Republic charges me to convey through you to the President of the United States his desire that the American consuls accredited to the several countries may continue to represent the interests of the Republic of Cuba, and of its citizens, until Cuban consuls shall have been appointed, and to ask of the President of the United States that he may see fit to comply with this desire and issue appropriate instructions to the consuls.

CARLOS DE ZALDO,
Secretary of State.

Mr. Hay to Señor Zaldo.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 24, 1902.

I have received your telegram of the 22d of May. The President directs me to say that it will give him great pleasure to comply with the request of the President of the Republic of Cuba, and the appropriate orders will go at once to all our embassies, legations, and consulates.

JOHN HAY.

Señor Quesada to Mr. Hay.

[Translation.]

No. 8.]

LEGATION OF CUBA,
Washington, June 28, 1902.

EXCELLENCY: In compliance with instructions of my Government I have the honor to request that your excellency will have the goodness

^a See index for same subject under various other countries.

to inform me of the purport and scope of the authority given by the United States Government to its diplomatic and consular officers for the temporary protection of Cuban interests abroad.

Accept, etc.,

GONZALO DE QUESADA.

Mr. Hay to Señor Quesada.

No. 10.]

DEPARTMENT OF STATE,
Washington, July 16, 1902.

SIR: I have the honor to acknowledge the receipt of your note of the 28th ultimo, in which, under the instructions of your department, you ask to be informed of the purport and scope of the authority given by the United States Government to its consular officers for the temporary protection of Cuban interests abroad.

I have the honor to say in reply that the Department is preparing instructions which will be communicated to you.

In general it may be said that the authorization given to the consuls does not empower them to act as agents of Cuba under the instructions of the Cuban Government, but to use good offices, as intermediaries, in all matters affecting Cuban citizens, reporting to this Department, which in turn communicates with the Cuban Government. Any requests of the Cuban Government for consular action on behalf of Cuban interests, upon being addressed to this Department, will be communicated to the respective United States consuls for appropriate action.

Accept, etc.,

JOHN HAY.

Señor Quesada to Mr. Adee.

[Translation.]

LEGATION OF CUBA,
Washington, August 12, 1902.

SIR: Dr. Ramon Neyra, a Cuban citizen, writes me from Panama to deplore the helpless condition of our fellow-citizens residing in the United States of Colombia, and the great peril to which they are exposed by reason of the state of war existing in that country.

By your valued note No. 10, dated July 16 last, I was informed that your Department was preparing instructions for the consuls of the United States, and that those instructions would be communicated to me; but that, in a general way, the authority given to the consular corps of your country for the temporary protection of Cuban interests abroad did not empower them to act as agents of Cuba, subject to instructions from the Cuban Government, but to use their good offices as intermediaries in all matters affecting Cuban citizens, and to report to your Department, which, in turn, would communicate with the Cuban Government; and that (it was added) any request from the Cuban Government would be transmitted to the proper consul of the United States for appropriate action.

Without any knowledge of the text of the instructions referred to in the said note No. 10, the note itself affords me sufficient ground to

believe it my duty to ask that your excellency be pleased to instruct the consuls of your country in Colombia, and particularly the consul at Panama, that, in the exercise of their good offices, they protect the citizens of Cuba residing in that Republic, and prevent any wrong to which they may be subjected by the authorities in power in that territory.

I improve this opportunity, etc.,

GONZALO DE QUESADA.

Mr. Adee to Señor Quesada.

No. 13.]

DEPARTMENT OF STATE,
Washington, September 13, 1902.

SIR: I have the honor to acknowledge the receipt of your note of the 12th ultimo, representing the danger in which citizens of Cuba find themselves during the conflict on the Isthmus of Panama, and asking that instructions be sent to United States consuls in Colombia directing them to exercise their good offices for the protection of your fellow-countrymen.

In reply, I have the honor to say that instructions have been sent to the consuls in Colombia as requested.

I inclose copy of the circular sent to United States consuls on July 21 last, directing them, so far as they should be permitted by the Governments to which they are accredited, to discharge the duties ordinarily devolving upon Cuban consular officers.

It is hoped that, acting under the instructions previously sent to them, the United States consuls in Colombia are affording all proper protection to Cuban citizens standing in need of it.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

Circular—Cuban interests.

DEPARTMENT OF STATE,
Washington, July 21, 1902.

To the Consular Officers of the United States.

GENTLEMEN: In pursuance of instructions already issued to you through the diplomatic representatives, at the request of the President of Cuba, to use your good offices in representation of the interests of Cuba and its citizens until Cuban consuls shall have been appointed, I now have to inform you that you are expected to discharge, so far as may be permitted by the Governments to which you are accredited, the duties ordinarily devolving upon Cuban consular officers. You will be guided by the instructions in force with respect to consular duties for Cuba prior to May 20, 1902, collecting fees for services performed, in accordance with the tariff of United States consular fees. All fees collected for services performed in pursuance of these instructions are to be kept separate from fees collected for services rendered as officers of the United States, and are to be remitted at the end of each quarter to this Department, with proper returns in duplicate.

I am, gentlemen, your obedient servant,

DAVID J. HILL,
Assistant Secretary.

Señor Quesada to Mr. Hay.

[Translation.]

No. 42.]

LEGATION OF CUBA,
Washington, October 27, 1902.

EXCELLENCY: I have the honor to advise your excellency that the Republic of Cuba has appointed consuls in different places in America and Europe, and that the said consuls are on their way to their respective posts.

My Government charges me to inform your excellency thereof and to lay before you the testimony of our most sincere acknowledgment of the services rendered in regard to Cuban interests by the diplomatic and consular officers of your nation, and to express the wish of the Government that they may continue rendering such services in countries where the Republic is not yet represented by accredited diplomatic or consular agents.

Each Cuban representative has been specifically instructed to give notice of his entrance into office to the American representative who may be at his post of duty, and I beg that the Secretary will recommend that the American officers will, as far as practicable, turn over to the consuls of Cuba such documents as appertain to Cuba and are in the possession of the respective officers of the United States.

I avail, etc.,

GONZALO DE QUESADA.

Mr. Hay to Señor Quesada.

No. 28.]

DEPARTMENT OF STATE,
Washington, November 15, 1902.

SIR: I have the honor to acknowledge the receipt of your note of the 27th ultimo advising the Department that your Government has appointed consular officers in different places in America and Europe, who on their arrival at their posts have been directed to notify the respective United States consuls.

You express the thanks of your Government for the action of the United States consular officers in behalf of Cuban interests, and ask that it may be continued where no Cuban consular officers shall be appointed.

I take pleasure in inclosing copies of the Department's circular issued to United States consuls in view of your note.

As to your request that the United States consular officers should, as far as practicable, deliver to the Cuban consuls all such documents as appertain to Cuba and are in their possession, I have the honor to point out that in performing duties for your Government our officers have acted merely as "consuls of the United States in charge of Cuban interests," and not as "Cuban consuls," and that the papers and documents pertaining to such acts are a part of the records of the United States consulates. Should, however, any particular papers be desired at any time, the United States consuls will be directed to furnish copies to the Cuban consuls.

Accept, etc.,

JOHN HAY.

[Inclosure.]

*Circular—Cuban interests.*DEPARTMENT OF STATE,
*Washington, November 8, 1902.**To the Consular Officers of the United States.*

GENTLEMEN: Referring to the Department's circular instruction of July 21, 1902, requesting you to use your good offices in behalf of Cuban interests and Cuban citizens, pending the appointment of consuls by the Government of Cuba, I now have to inform you that under date of the 27th ultimo the minister of Cuba at this capital expresses the sincere thanks of the Republic of Cuba for the services rendered, and states that his Government has appointed consuls at various places in Europe and America, and that they are now on their way to their respective posts, each having been instructed to communicate on arrival with the United States consul there.

If no consuls of Cuba have been appointed in the country to which you are accredited, you will continue to discharge the duties ordinarily devolving upon Cuban consuls, in accordance with the circular instruction of July 21, 1902, until such officers are appointed.

I am, gentlemen, your obedient servant,

DAVID J. HILL,
*Acting Secretary.***MESSAGES OF THE PRESIDENT OF CUBA TO CONGRESS.***Mr. Squiers to Mr. Hay.*

No. 5.]

LEGATION OF THE UNITED STATES,
Habana, June 2, 1902.

SIR: I have the honor to inclose herewith a translation of the President's message.

The message recognizes a Higher Power in the affairs of Cuba, a recognition which has called forth considerable unfavorable comment from a certain class of Cubans, as is generally the case in a new republic; acknowledges the debt of the Cuban people to the United States; advises strict economy in the administration of the Government; shows the necessity for promoting all branches of agricultural industry; states the necessity for reduction in our tariff in favor of Cuba; promises to open negotiations looking toward a reciprocity treaty; calls attention to the necessity for good municipal government; pays a very high tribute to the American provisional government on account of general improvement in sanitary conditions and recommends that the work be continued; calls attention to the present state of penal institutions, where the prisoners lead lives of idleness; shows necessity for an honest judiciary, and takes up at some detail the matter of education; advises bringing in foreign capital for the exploitation of railways; regrets that the financial condition of the country is not now favorable to a military pension list; advocates cultivating most cordial relations with all nations and particularly with the United States, and urges that a good understanding must exist between the legislative body and executive power.

To us the message is not of great interest outside of the reference to sanitary conditions, a pension list, and Cuba's relations with the United States. Regarding the matter of sanitation, the matter seems to be passed over very lightly and not given that importance which the necessity certainly demands. His resolution regarding the pension list ought to be very gratifying as it indicates economy in administration, which, under present or even more favorable conditions, is the only hope for a good and lasting government.

While I have not had sufficient time to form an opinion as to the general situation, I have been impressed with the confidence which Cubans of all classes seem to have in Mr. Palma's honesty of purpose and his desire to do what is best for the country as a whole, regardless of special interests or particular political parties.

I have, etc.,

H. G. SQUIERS.

[Inclosure.—Translation.]

Message of Tomás Estrada Palma, President of the Republic of Cuba, to the Congress of Cuba.

Let our first acknowledgments be to Almighty God, as an act of thanksgiving for the work which with His help we have accomplished, and beseech His divine protection, in order that the people of Cuba, which now takes rank as an independent and sovereign nation, may firmly establish a stable government and proceed always along the pathways of justice, resolutely pledged to the maintenance, with right and lofty criterions and noble intent, of the democratic institutions which serve as bases for the Republic of Cuba.

Never have a people struggled with more perseverance nor been subjected to greater sacrifices in their unbending purpose of acquiring the blessed benefits of regenerative liberty, nor, consequently, have any people more greatly merited seeing their efforts crowned by the realization of their noble ideals and worthy aspirations.

Cuba on this memorable date takes her place in the family of nations and commences the pursuit of her rightful destiny, in conformity with the precepts of the fundamental law decreed and affirmed by the legitimate representatives of the people united in a constitutional assembly to that end.

It is unlikely that such an event will be seen again in the course of many centuries, and it is even more unlikely that it be carried into effect under like circumstances to those which have accompanied the birth of our Republic. These circumstances, in fact, have been so special as to make it impossible not to acknowledge and remember them.

Joined to the traditional heroism of three generations of patriots is the splendid attitude of a great people, who, consulting only their love of liberty, put themselves resolutely at our side in the tenacious struggle which we sustained for the independence of our country. The motive was simply a generous sentiment, pure and disinterested in its origin. At the impulse of this sentiment the powerful Republic of the North recognized the independence of Cuba, through their illustrious President, William McKinley, fought for her, and took upon herself the obligation to deliver the island and its government in due course. This formal promise has now been faithfully fulfilled by the no less illustrious President, Theodore Roosevelt. At this moment, in which we feel ourselves to be men of our own right, and people free and independent, it is impossible to repress the gratitude which overflows from our bosoms, and which we owe to the people and to the Government of the United States, as intense as our love for Cuba, as lasting as must be the good received.

To acknowledge, in this historic moment, the debt so contracted, to proclaim our gratitude to the great Republic which has aided us, and to inaugurate the Cuban nationality, is an act which exalts our people, and which makes them worthy of the consideration and respect of the other peoples of the earth.

Our country, having been organized in the form of a free Republic, in accordance with the fundamental law already promulgated, makes it necessary that the statutory laws, which are the complements of the constitution, be enacted, and that there be made all those acts which have as purpose the strengthening of the bases of an orderly Republic, capable of filling, in itself, all the ends of civilization, and of duly complying with the obligations and engagements entered into.

The existence of a people, as of individuals, depends absolutely upon the means of livelihood which they possess, and, consequently, our first duty is to assure to the state a sufficient sure income to cover, within a regimen of prudent economy, the inevitable expenses of the distinct departments of the public administration. With this in view, and guided by discreet foresight, the budgets must be made up in order that, counting upon definite receipts, the total amount of the disbursements may be less than that of the income, since it would be expedient to arrange for a reasonable surplus set apart for emergencies or for public services of undoubted utility.

The budget is, in a way, the motive power of the wheels of state, for which must be set a regular, harmonious, and uninterrupted movement, as, if in any case it be insufficient to procure this end, there would be a disarrangement of the gear of the governmental machinery, bringing with it discredit to the Republic, both at home and abroad, and accompanied, perchance, by grave danger touching the future of the Republic.

The Government proposes to present to Congress a general budget of expenses to serve as an index to the economic life of the Republic, but this labor, difficult in itself even in normal and well-regulated conditions, becomes more difficult at this time in which the transition from one system of government to another exacts the almost complete transformation of the administrative organisms, and carries with it the alteration or obligation of certain services, and the creation of new ones, fitting the order of things which has been effective since the 20th day of this month.

The practice of the American military administration of providing only for the expenses which the public services demanded, by setting apart funds for periods of two months, instead of formulating annual budgets, obliges me to call to the attention of Congress the necessity of adopting means to avoid the embarrassing situation which may shortly be experienced. Appropriations have been made only for the expenses of the public administration up to the 30th day of June next. As within that time the budgets can not be approved, it will be impossible for the Government to make provision for the expenses of the nation, as it lacks the power to dispose of the funds of state. The consequences of this condition of affairs are so manifest that the Congress can not fail to appreciate them, and, anticipating this contingency, will surely adopt such measures as their patriotism suggests.

The development of our national and industrial wealth is intimately connected with the budget. In direct proportion to the productive capacity of the country, the exportation of Cuban products will be augmented, and in the same ratio our purchasing power abroad will also increase. It therefore follows that the expediency of promoting, by all direct or indirect means at the command of the Government, the improvement of those branches of agricultural industry which we now possess, the creation of other branches of industry which may readily be established on our soil, and the building up of the cattle industry, which must be restored at the earliest possible moment to the degree of prosperity formerly enjoyed by it. The importance of the agricultural problems can not fail to be seen by anyone in a country where the principal wealth is derived from the soil, nor is it possible to overlook the many benefits that will be obtained by the establishment of agronomic stations for the purpose of improving and perfecting the culture of sugar cane and tobacco, as well as the introduction of the culture of other plants useful as the bases for new industries.

While still ignorant of the resources at our disposal and of the result of the efforts now for some time directed to the reduction of the import tariffs into the United States, it is almost impossible to determine the measures for facing the crisis through which are now passing the two primordial fountains of the national wealth, agriculture and industry. On the other hand, the Government can give assurance that it is well advised of the present situation, and that it will devote to it all proper attention, recommending opportunely to the Congress the steps which, in its judgment, should be taken for meeting it.

A prime factor contributing to the profound economical crisis now oppressing the country is the ruinous price of sugar due to the excessive production of beet sugar in Europe. The immediate remedy would be to obtain a satisfactory reduction in the American tariffs, an object to which the endeavors of the Executive will henceforth be dedicated, and who, at the same time, will open negotiations for the conclusion of a reciprocity treaty in the hope of securing advantages for the Cuban producer.

The continuance of social life imposes as a prime necessity the regular and orderly progress of the public service, without interruptions which, if at all times injurious, would be even more prejudicial at a time when it is of supreme importance to maintain the efficacious action of all the springs of administration and government. In this regard there will be only such changes made in the personnel of the administration as shall be deemed necessary.

The municipal arrangements must receive early attention. In these lie the root by whose means must be nourished the highest organism of the Government. It is idle to speak of their importance. Inasmuch as the mayors and councillors are to-day performing their functions by virtue of an election effected by direct suffrage, they fit perfectly, with respect to this particular, in the mold of the constitution; but in so far as refers to the organization of the town councils and the attributes of these and of the mayors, this is not true. It is therefore urgent for the legislative body to formulate the municipal law, within the meaning of the constitution, as soon as possible.

On the other hand, the constitution creates a completely new body, the provincial councilors, whose cooperation with the municipal administration and with the State, and whose intimate connection with the civil governors calls for the enactment without delay of a statutory law regulating their actions. Otherwise, we would have a body without legal conditions for its operations. The councilors, consequently, will, although for an indefinite time, have a nominal existence, and will not be able, therefore, to regulate the procedure of the civil governors, who are subordinate to them in the economic order; but, seeing that in the provincial sphere the civil governors are the highest governing authority, it is proper to authorize the Executive, giving to this branch of the administration the necessary uniformity, to look after the indispensable expenditures.

The preservation of public order is the first duty of every government, and for assuring this we have to depend only upon the scant personnel of the rural guard and the artillery corps, so that suffice to say that the tranquillity and security of the public rest upon the proper police of the country, in the common confidence and the surpassing interest which we all have in raising to the greatest height the authority and prestige of the nascent Republic.

If the public forces in the outlying districts are to be a firm guaranty for the person and a safeguard for the interests of all, it is indispensable that provision be made as soon as possible for the necessities of this service, duly increasing the rural guard and organizing it under the most rigid discipline.

I acknowledge a debt of justice, very pleasing to me, in recognizing that the American intervention has improved the sanitary condition of Cuba to such a degree that the death rate can even now, without discredit, be compared with that of communities where the sanitary conditions have been arranged according to the most modern and efficacious methods. But it is also incumbent on me to say that, up to this time, there remain to be done certain works absolutely necessary for guaranteeing the present satisfactory conditions. The means taken for procuring the entire disappearance of yellow fever as the exponent of an exceptional sanitary condition, may perhaps be successful, inasmuch as they treat of a programme of such magnitude as not only to relate to the internal welfare, but to claim serious consideration as regards the international well being.

Charitable enterprises shall receive the most careful attention, not only because of the humanitarian duty involved, but because patriotism places us under the obligation of caring for the orphans which the mishaps of war have left unprovided for. This can be accomplished with relative economy, because, through the piety of our people, there have been accumulated considerable resources for the maintenance of asylums and hospitals.

I have to invite attention to the present practice in our penal institutions, which calls for prompt and radical modification. The life of idleness, in community, which is the usual course followed, lends itself more to instruction in vice than to the reformation of moral delinquents.

A very important factor in the development of material and moral interests is the good administration of justice, as this is the first guaranty and the best safeguard of the respect for property and other civil rights. To decree the laws regulating the exercise of the judicial functions and prescribing the principle of permanency of the functionaries of this branch, ought to be one of the first duties of Congress. In this way there could be expected from the judges and magistrates the independence of action which they require in order to proceed, free from all influence, without other desire than the right and honorable application of the laws.

I shall devote myself with especial solicitude to public education in the several divisions of university, high school, and primary instruction.

It is not long since a new plan, intended to give a more practical character to the studies which are pursued in the university, was adopted. In a matter of such transcendental importance to the intellectual growth of our people, I shall proceed with moderation, to the end that due consideration be given, on the application of the improvements introduced, to the results of the experience and the counsels of the wisdom of the university itself. Exponent, as it is, of the highest culture, the Government feels consummate interest in its apogee and splendor, and shall endeavor to provide for its necessities and so make way for the due fulfillment of its high ideals.

There have also been effected in the high schools certain reforms analagous in tendency to those brought to bear in the university. Perhaps a little later, when the conditions of the general instruction shall permit, it will be deemed proper to vary in somewhat its organization, in order to combine it with the primary education.

This latter has experienced a radical change. The merited importance has been given to the branch, and I declare it to be my purpose to devote my energies to the

building up of the public schools, convinced as I am that in them lies the future of our country.

The primary education to-day has an administrative and technical organization more adequate to the principles of pedagogy. As a result of these reforms there are now receiving instruction in our schools a number of scholars so largely increased as to find no precedent in the annals of our primary instruction.

It is but just to give tribute of warm applause to the intervening Government for its zeal in the diffusion of education. The number of schools now existing, as compared with those of note prior to 1895, is great; but even the present number is not sufficient, for, in fact, the whole problem of the future of Cuba rests in the school. Wherefore, the Government will look with extraordinary interest to the improvement of this branch, in so far as the economic condition of the country may permit, to the end that the benefits of instruction may reach those places hitherto untouched.

Means of communication are essential to the development of the country and indispensable to the easy movement of agricultural products, but the works undertaken and the rapidity of their conclusion are necessarily in closest possible relation to the pecuniary means at disposal. The Government, notwithstanding, will direct its endeavors to conserving in the best condition existing works and to finishing such as are now in course of construction.

It will be your duty to invite the greatest possible exploitation of railroads, giving to the capital invested in them all kinds of guaranties, at the same time stimulating the extension and improvement of the enterprises already on foot, as well as the establishment of new enterprises that may seek to avail of the shelter of the statutes now effective or of such as may hereafter be enacted.

The Executive bears in mind the engagements entered into by the revolutionary government with the liberating army, and if at the moment the means for fulfilling them are not at hand, it is only due to the bad economic situation of the country, and ignorance of the actual resources upon which the State may count for meeting the ordinary needs of the administration.

It is indeed lamentable that at this moment it should be impracticable to attend to an obligation so sacred as that of requiting the services of those who struggled arms in hand, and of alleviating the sad condition at present suffered by the widows and orphans of many of those who died so gloriously for the fatherland.

It must be very pleasing to all of us that the Republic of Cuba should have been officially recognized not only by the United States, but by the Governments of Great Britain, Italy, France, Mexico, Guatemala, Nicaragua, Santo Domingo, Ecuador, and Paraguay.

It is to be hoped that other Governments may do likewise, and that we may be able to count upon the good wishes and friendship of the foreign nations.

On our part, we must improve the occasion of cultivating with all of these the most cordial relations, endeavoring to conclude such treaties of friendship and commerce as may be favorable to the interests of Cuba. To the facilitation of this result, we shall have to accredit in the several countries consular agents and such diplomatic representatives as may be deemed essential.

We shall, in addition, take especial pains to secure at all times a perfect understanding between the United States and ourselves, in order that there may never be even the slightest difficulty in the arrangement of those political and economical matters as commonly interest the two countries.

If the benefit of friendly and cordial relations as with other States is universally admitted, it is certainly still more necessary that, within the Republic of Cuba, there be maintained a lofty spirit of unvarying concord which may bind together all the people as a unit, resolutely determined upon the conservation of the Cuban nation for the material and moral progress of the country and the individual and collective welfare of all the inhabitants in the island.

Can anyone deny that unity and mutual agreement among the members of an association are the most certain guaranties for the lasting existence of that association? Hence, among us who have just assumed the responsibilities of an independent people, it is absolutely indispensable that the noble example of harmony, concord, and unity which we have given to the world in these first days of our political existence continue as the normal state maintained by us in our life as a nation. A factor of the most exceptional importance in this much-desired concord is the good understanding which should always subsist between the legislative bodies and the executive power. These constitute the government of the State in accordance with the principles of the constitution now ruling us. The regular conduct of the public administration necessarily depends on the agreement and harmony which may subsist as between the various powers, on the confidence which the senate and house of representatives may have in the patriotism and good faith of the executive body.

Only in this way can there be the most perfect cooperation regarding the needs, true interests, and positive necessities of the Republic. To this end I pray that the Supreme Being may guide us and strengthen our spirit so that there may be observed in all of our actions a constant and discreet prudence and right judgment at the inspiration, pure and disinterested, of our great love for Cuba.

T. ESTRADA PALMA,
President of the Republic of Cuba.

Habana, May 26, 1902.

Mr. Squiers to Mr. Hay.

No. 280.]

LEGATION OF THE UNITED STATES,
Habana, November 8, 1902.

SIR: I have the honor to transmit herewith copy of the President's message to Congress presenting the project of the general budget of expenses and revenues for the year 1903, showing an estimated surplus of \$2,614,032.28.

Mr. Palma calls attention to a decrease of \$7,157,855.21 in the disbursements during the last fiscal year without making any reduction in services of sanitation, which he points out will yearly call for increased expenditures.

Educational matters are well supported, number of schools being 3,474, with an attendance of 163,348.

An agricultural station is to be organized, at a cost of \$75,000.

The statistics submitted show a decrease in imports during the first six months of 1902 amounting to \$1,700,000 and of exports \$12,300,000, or 5 per cent in the former and 28 per cent in the latter, as compared with the year 1901, due, it is claimed, to the low price of sugar.

Estimated receipts on account of consular fees amount to \$250,000, as compared with \$850,000 estimated receipts under first consular-fee bill which passed Congress and \$550,000 under the amended bill which passed the Senate and is now pending in the House.

It is stated that this is the smallest Cuban budget presented since the middle of the century, and when certain expenses are transferred from the general administration to the provincial or municipal there may be a still further reduction of 25 per cent.

I am, etc.,

H. G. SQUIERS.

[Inclosure.—Translation.]

Cuban Presidential Message.

HABANA, November 1, 1902.

To Congress:

I fulfill with true satisfaction the duty imposed upon me under section 5 of article 68 of the constitution, in presenting to Congress the project of the general budget of the nation for the fiscal year of 1903.

For the first time we, as Cubans, exercise the most important of the rights which a people can enjoy—that of freely regulating its revenues and expenses—and this must be for all a cause of true pleasure, because it was one of our most ardent aspirations, which, after bloody sacrifices, we see to-day happily realized. The Government congratulates itself upon contributing on its part to the regulation of the economic life of the State, proposing to the legislative power the estimates for the maintenance of the public services and the revenues deemed necessary to cover them.

During the existence of Spanish sovereignty the Cuban budgets were approved, first, without the concurrence of the representatives of the country, and, later, with the intervention of the few who were sent to the Spanish Parliament, and who, by

reason of their small number and other causes, never had any effective influence in favor of interests genuinely Cuban. In the 31 tables accompanying the revenues and expenses are shown in detail which were estimated for Cuba from the year 1850 to 1898, and it may be seen from them what was the total amount of the obligations which were a charge upon the local treasury and the application given to the income which was exacted from the Cuban people, justifying the protest of the same against that system, which was contrary to its legitimate aspirations and most pressing necessities.

During the rule of the intervention budgets were not made, and on this account I requested in the messages which I addressed to the chamber under your worthy presidency on the 11th of June and the 22d of August last the necessary authorization to pay the expenses of the State until these general budgets were approved, indicating in those messages the causes which prevented the realization with the promptness desired of such an important work. A starting point was lacking because of the special organization given by the intervening government to the public services which discharged their duties without any budget, the needs of the State being paid by means of the concession of funds on the request of the disbursing officers of the various departments, in monthly requisitions at first, and afterwards bimonthly. On the cessation of that government on the 20th of May, services which before had an independent organization, or were directly subject to the headquarters of the Department of Cuba, passed over to form part of the departments of the cabinet, and on this account there did not exist any precedents in the departments. It has been necessary, therefore, as a preliminary task, to reorganize and distribute those bureaus in conformity with the new order of things established at the inauguration of the Republic.

In the project which I have the honor to submit to Congress the endeavor has been to establish the greatest economy, in accord with the manifestations which I made in my programme of the 7th of September, 1901, in which I expressed the necessity of organizing the Republic as modestly as was possible, so as to avoid difficulties and embarrassments for lack of foresight, for which reason we should carefully combine the organization of the public services, as well as their allowances of funds, adjusting them to the capacity of the island in the matter of income and resting upon actual data and never upon flattering hopes.

As a consequence of that purpose the expenses have been limited to the necessities which are a charge upon the State, in conformity with the laws and provisions regulating the public services and in accordance with one of the clauses of the appendix of our constitution in what relates to the land and marine sanitary service.

The general summary of the project is as follows:

Revenues:	
Customs	\$14, 781, 000. 00
Tax on beverages	1, 200, 000. 00
Consular fees	250, 000. 00
Internal revenue	500, 000. 00
Communications (posts and telegraphs)	420, 000. 00
Properties and dues of the State	119, 800. 00
Various sources	243, 200. 00
Total	<u>17, 514, 000. 00</u>
Expenses:	
Legislature	<u>413, 319. 68</u>
Executive—	
Presidency	85, 700. 00
Department of state and justice	310, 396. 00
Department of government	4, 529, 998. 00
Department of finance	1, 801, 117. 88
Department of public instruction	3, 721, 790. 84
Department of public works	2, 923, 011. 82
Department of agriculture, industry, and commerce	165, 319. 50
Total	<u>13, 537, 334. 04</u>
Judiciary	<u>949, 314. 00</u>
Total	<u>14, 899, 967. 72</u>
Surplus	<u>2, 614, 032. 28</u>

Deducting from \$14,899,967.72, the amount of the expenses in the accompanying project, the amount of the services newly created—i. e., Congress, the Presidency, the consular corps, and the increase of the rural guard—amounting to \$1,457,947.68; also the amount of the contracts entered into by the military government, which the actual Government has to carry out, aggregating \$1,085,271.38, it would result that the expenses for the services before established would amount only to \$12,356,748.66, or \$7,157,855.21 less than the sum of the disbursements in the past fiscal year of 1901–1902, without making any reduction in the services of sanitation and charities and others of not less importance. These sums, compared with those of the last three years, present the following results:

Year.	Income.	Expenses.	Surplus.	Deficit.
1899–1900 ^a	\$17,385,905.30	\$15,691,453.06	\$1,694,452.24	.....
1900–1901 ^a	17,154,929.28	17,644,991.81	.....	\$490,062.53
1901–1902 ^b	18,791,473.21	19,514,603.87	.....	723,130.66
1903–1904 ^c	17,514,000.00	14,899,967.72	2,614,032.28	.....

^aData from the report of the Secretary of War of the United States of America.

^bData from the report of the general treasurer of the island.

^cEstimated.

Examining the expenses, it is to be observed that all those of the legislative power, those of the Presidency and Vice-Presidency, and those of the diplomatic and consular corps are of new creation and unavoidable constitutionally, the latter having a permanent character in conformity with the fundamental law, for which reason they constitute a portion of the fixed estimates and should govern until amended by special laws.

The expenses of the administration of justice also have a permanent character; but, as Congress has not yet enacted the organic law for the judiciary wherein those expenses should be definitely assigned, it is the duty of Congress to adopt such measures as it may deem proper in order that the constitutional provision regarding the legality of such expenses be complied with. In the meantime the necessary sums to maintain the actual organization are included in the project as the only existing legal organization. For this reason the allowance for the municipal courts has not been included in this project, because the fixing of its amount is an exclusive attribute of Congress.

In the department of government appear the obligations of a transitory character which the State has taken upon itself, such as those of the provincial governments and of sanitation and charities—the first, because the provincial councils are not yet organized, and the last, because by their own nature they require the tutelary action of the State whenever the local organizations have not the resources to attend to them.

It is possible that the expenses of the provincial government will figure in the actual budget only a few months, taking into account the proximity of the promulgation of the organic provincial law; and those of charities, amounting to nearly \$1,000,000, will surely be decreased as soon as the municipal councils are in such condition that the Government can deliver over to them the beneficent institutions of a municipal character.

The cost of the sanitary service, far from decreasing, will increase, inasmuch as on the extension of the organization of the service to the entire country and even beyond it the amount required for its maintenance will have to be greater. Among those expenses appears the project of the establishment of a chemical bacteriological laboratory of a general nature, wherein shall be made the scientific preparations which to-day are very costly to the State, and wherein chemical analyses will be made, which at present are made under heavy expenses; for which reason it may be asserted that this laboratory will not only produce effective saving, but will yield a positive revenue.

Among the new expenses of government are included the cost of the rural guard under the law of October 18, amounting to \$1,783,582; the secret police, previously supported in part by the municipality of Habana, and now a charge upon the State because of existing provisions; as well as the subvention assigned to the corps of firemen by order No. 103, series 1902, which is reduced to \$6,000 in place of the \$12,000 assigned in said order, for which reason the municipality of Habana should contribute a greater amount than the State for the maintenance of that useful institution, as it has been relieved of other expenses of a local character, and it is enabled, therefore, to attend with greater freedom to the municipal expenses.

Regarding the branch of finance, the greatest economy has been observed in all the services attached to the department. On the termination of the American occupation the reorganization of all the services was effected, seeking uniformity in the economic and financial administration of this island. By order No. 113, of March 7 last, it was provided that the offices of the treasury and of the general auditor (to-day general auditing department of the State) should pass over to that department, and by order No. 142, of the 10th of the same month, the same disposition was made of the customs service, the coast guard, and the bureau of mercantile statistics.

It was also provided—order No. 133—that the immigration and quarantine services should be attached to that department, and by a resolution of headquarters on the 19th of the same month it was given possession of the arsenal, Camp Colombia, the Triscornia Railroad, and various other properties of the State which had been administered directly by said headquarters.

In the estimate of the department of finance are stated the sums considered indispensable for the expenses of transportation; the commission of the National Bank, according to the contract of February 18 of this year the increase of the coast-guard service; the cost of leasing the lands at Triscornia according to the instrument of November 13, 1900; the expenses under the contract of the ice plant and electric-light plant of Hospital No. 1, and of the electric plant established at the Cuartel de la Fuerza; the \$91,027.56 to be paid annually to the clergy according to the instruments of October 2, 1901, and January 11, 1902; the amount calculated as necessary for reimbursement and returns for account of land and marine rents; and that which is believed to be indispensable to satisfy the "censos" recognized as liens upon properties of the State.

By the decree of the 7th of June of the present year the marine sanitary service, which had been attached, by order No. 133, to the department of finance, was transferred to that of government, inasmuch as the general direction of sanitation created by the intervening government belonged to that department. To the latter belonged also, by reason of its special character, the matters relating to that branch.

By the decree of June 9 last the administrations of rents and taxes of the fiscal zones of Guanajay, Cardenas, Cienfuegos, and Manzanillo were suppressed. This reform represents for the Treasury a saving of \$39,800 a year. The suppression of various municipalities of the island having been provided by order No. 23, current series, the action of some of these zones was diminished, and consequently the work intrusted to them decreased.

That of Cienfuegos collected in the year 1901 only 4.321 per cent of the total of the internal revenues of the island; that of Cardenas, 4.146 per cent; that of Manzanillo, 1.379 per cent; and that of Guanajay, 1.349 per cent.

The receipts of these suppressed zones, as compared with their cost, was as follows in the year 1901:

Zone	Collections.	Cost.
Guanajay	\$9,060.56	\$9,060.00
Cardenas.....	27,846.10	9,360.00
Cienfuegos.....	29,020.03	12,320.00
Manzanillo	11,688.11	9,060.00
Total.....	77,614.80	39,800.00

It results, therefore, that the budget of these branches would absorb more than 50 per cent of their collections.

The service for payments has not suffered any injury with the suppression of said zones, because they continue to be made, as previously, by the administrations of the provincial capitals, with the exception of those in the zone of Holguin.

On the creation of the zones of Cienfuegos and Manzanillo, various municipal districts belonging to the province of Puerto Principe were attached, altering the provincial division, which was reestablished with the suppression of those offices, as was just and proper, according to the provisions of the constitution.

The zone of Holguin has been left in existence because of the great distance which separates it from the capital of the province, and its preservation facilitates the service without doing violence to the provincial regimen.

By the order No. 78, dated June 14, 1899, of the military governor, the suppression of all the captaincies of the port of the island was provided, intrusting the same to the administrators of customs, with the exception of that of Habana, which was left in existence and in absolute independence of every other administrative organism.

To put an end to that exception, which was of no benefit to the service, but rather, on the contrary, was an obstacle to the same, the office of captain of the port of this capital was suppressed by decree of May 29 last, its functions passing over to the administrator of customs.

It has been necessary to increase the personnel somewhat in the central offices in order to attend to the new duties to them intrusted.

In the department of public instruction it has been necessary to preserve the actual regimen as much in higher instruction as in intermediate and primary, because the organization of the university, the institutes of secondary instruction, the academy of arts and trades, and the schools of primary instruction follow plans of study established by existing legislation, and the executive lacks power to make alterations in organizations created by law and in the allowances therein assigned for them all.

Article 31 of the constitution ordains that primary instruction shall be compulsory, and that it, as well as that of arts and trades, shall be free, both being in charge of the State, while the municipality and the province are unable to sustain them, respectively, for lack of sufficient resources. Consequently the 3,474 schools are maintained, having an attendance of 163,348 scholars of both sexes, such primary instruction using up the greater part of the estimate for the branch.

It is evident that if schools were suppressed it would be easy to reduce the expenses of primary instruction, but this would be a saving to the prejudice of the social culture of the Cuban people, which requires that the Government should further education by all the means within its reach as the basis of our national life.

In public works the Government has had to accept the contracts made by the American military government, which left in plan and under contract various works whose completion must be attended to, as well as the carrying out of those demanded by the necessities of the island, among them the construction of several bridges and highways, the improvement of harbors, and the service of light-houses to facilitate the interior and exterior traffic of the Republic, and consequently the commercial movement.

In the budget of this branch the items destined for certain expenses of a municipal character, which have passed over to be obligations of the respective municipal councils, have been suppressed, which councils the State assists with some pecuniary subvention, having ceded to them in addition all the properties and implements with which the works were carried on, which were partly, and still are partly, for account of the public treasury.

For the branches of agriculture, industry, and commerce the credits only are assigned which are necessary for the maintenance of the department and the creation of the meteorological service and that of crops, together with a small credit of \$75,000 to organize an agricultural station.

The Government laments the meagerness of the allowance for this department, and it hopes that when the loan is approved which is now under discussion by the chambers the organization will be provided for the services of the same, so that it will reach the importance which corresponds to it and which it should have in a country like ours, essentially agricultural.

Whatever may contribute to the betterment and prosperity of agricultural wealth will be the object of the attention of the executive, who will favor within his power the initiative and purposes of all to the end that its reconstruction may be effected with the greatest brevity, carrying out the improvements which the actual cultivation exacts and devoting itself to the development of others which offer appreciable advantages in other countries and which can yield them in our own by virtue of the exceptional conditions of our soil, for the greater part still uncultivated.

The economic situation of the country is certainly not satisfactory, but there is no reason to entertain doubt regarding a very near improvement, as soon as the reciprocity treaty is negotiated with the United States and an outlet can be given, under favorable conditions, to our two principal products—sugar and tobacco.

According to statistical data compiled by the department of finance, the commercial movement between the Republic of Cuba and foreign countries during the first six months of 1902 shows a result inferior to that of the like period of 1901. The decrease of imports is equivalent to \$1,700,000, and represents 5 per cent of those of the first six months of 1901. In exports the decrease is greater—\$12,200,000, or 28 per cent of those for the like period of 1901.

So remarkable a decrease is due to the low price of the sugar shipped abroad and to the diminished sale of this product in expectation of the tariff concessions for Cuba which were urged in the United States and which might bring about more favorable prices.

In the first six months of 1901, 465,000 tons of sugar were exported, 132,000 tons remaining in storehouses.

In the like period for 1902, the exportation has only reached 332,000 tons, and the amount on hand in store on the 30th of June was 450,000 tons, which facts per-

mit the total exportation for the year to be calculated at about 760,000 tons, deducting the consumption of the island; but in spite of this probable larger exportation in 1902, if the sales are effected at the average price of 3 reales per arroba, the value would result \$2,000,000 less than last year.

The general commercial movement of Cuba during the last three years is as follows:

Year.	Imports.	Exports.	Excess of imports over exports.	Excess of exports over imports.
1899.				
First 6 months	\$35,911,800	\$31,600,600	\$4,311,200	.....
Second 6 months.....	39,391,700	19,332,100	20,059,600	.....
Total.....	75,303,500	50,932,700	24,370,800	.....
1900.				
First 6 months	37,478,200	30,066,600	7,411,600	.....
Second 6 months.....	32,601,100	21,385,800	11,215,300	.....
Total.....	70,079,300	51,452,400	18,626,900	.....
1901.				
First 6 months	33,663,800	42,942,500	.....	\$9,278,700
Second 6 months.....	34,089,300	23,559,600	10,529,700	.....
Total.....	67,753,100	66,502,100	1,251,000	.....
1902.				
First 6 months	31,977,100	30,687,000	1,290,100	.....
Grand total	245,113,000	199,574,200	45,538,800	.....

For the comparison of values, the reduction in the price of the sugars which were exported must be taken into account, as well as the amount on hand for sale, which, fortunately, has so diminished in the last two months that it will probably be entirely realized upon in the remainder of the present year.

The situation through which the sugar industry is passing is not exclusive for Cuba, for all countries which produce cane sugar are feeling as she does the rigor of the competition of the beet, which, thanks to very advanced methods of elaboration and the protection afforded to it by bounties, direct and indirect, can be placed in all the markets of the world under favorable conditions. For us this competition has been more keenly felt because of the afflictive circumstances through which Cuba has passed and because the reduction has not yet been reached in the tariff duties which are collected in the United States upon our products; but we should have faith that so soon as the reciprocity treaty is entered into with that nation, whose first magistrate is carrying on an active campaign in furtherance of this just cause, with the suppression of the bounties agreed upon in the Brussels conference and the measures which Congress will adopt to favor agriculture, industry, and commerce, the reconstruction of our wealth will, within a few years, be complete.

The conditions of our soil and the energy of its inhabitants, demonstrated under all circumstances, are factors which will aid also in the accomplishment of these patriotic desires.

Congress has already demonstrated the importance which it attributes to the development of the cattle industry by enacting the law of September 15, which grants tariff franchises for the importation of some classes of cattle as a powerful stimulus for reaching, by that branch of our wealth, its complete development.

Taking into account the circumstances set forth in the preceding paragraphs, the income has been calculated with some reductions as compared with the collections for the last three economic years and the result of the first three months of the current year.

The same items of taxation are left in force, to which the revenues of the State were reduced since the reform of the tax system of the island was made by the decree of March 25, 1899, all direct taxes and some indirect passing over the municipal councils, the State reserving for itself only the indirect revenues of customs, posts, telegraphs, real property, transfer taxes (impuestos de derechos reales), the fees from banks and corporations, the income of its estate and properties, and the dues imposed upon the same.

It is for Congress to determine at the proper time whether the obligations of the State ought to be met, as actually happens, only with the proceeds of indirect taxes

of an uncertain amount and subject to variations from natural causes, or for unforeseen circumstances or external causes, or whether a complete transformation should be effected in the actual revenue system of the Cuban State by virtue of the attributes conferred by section 8 of article 59 of the constitution, so that in turn the provinces and the municipal councils may make use of the rights conferred upon them by articles 93 and 105 of the same.

It is proposed to restore the tax on the importation and manufacture of beverages, created by the budget law of 1892-93, which yielded approximately \$1,250,000.

The tax on alcohols constitutes one of the bases of the budgets of the principal European nations and of that of the United States. In England it yields 36 per cent of the total of the budget of revenue; in France, 19 per cent; in Germany, 18 per cent; and 29 per cent in the United States. Now, then, although it is not possible for it to yield in like proportion in Cuba, because a great part of the spirituous beverages which are consumed among us is imported and is subject to the payment of tariff duties, and also because we have to attend to the development of our local industry, it may be asserted, nevertheless, that the proceeds will be of considerable importance. Under that aspect, wines and spirituous and fermented beverages should be subjected to the proposed tax, regulating at the same time the tax upon the factories established in the country, with the exception of those that exist in the sugar mills, all being under obligation to contribute to the State in the amount proposed, and omitting from the tariffs of the industrial tax the items which said factories contribute to the municipal councils, for the purpose of unifying the collection of said tributes.

By reason of the creation of the consulates, the corresponding fees will be exacted, which it is calculated can produce approximately \$250,000 a year.

The surplus which results from a comparison of the income and the expense is justified by the necessity of attending to the new expense which will be caused by the increase in the artillery corps, the allowance for municipal courts, and the interest and sinking fund for the loan which is pending approval in the Chambers, the latter of which items is properly given the character of permanent, in accordance with the provisions in section 2 of article 59 of the constitution.

I will conclude by stating that the present project presents the smallest budget which Cuba has had since the middle of the last century, with the favorable circumstance that now for the first time all of its appropriations will be applied to necessities and obligations resulting in her own advantage; and I may add that when Congress enacts the provisions to regulate and organize everything related to the general administration, the provincial, and the municipal—and it will be possible for the provinces and the municipality to bear their own special expenses—the general budget of the State will be considerably reduced, for more than 25 per cent of its total is devoted to-day to the payment of provincial and municipal obligations.

It will then be possible to devote annually important sums to the reconstruction of the country and the furthering of its general interests, and their development will solidify the work of our independence upon the firm foundation of labor, education, and public and private wealth.

The project is accompanied by the bases of those provisions which are deemed necessary for the application and orderly operation of the budget, it being understood that in this case the Executive only suggests a series of ideas or principles of a general character, which Congress may accept in part or in whole, as it may deem most convenient for the public service and the general interests of our Republic.

Yours, respectfully,

T. ESTRADA PALMA.

REPUBLIC OF CUBA, DEPARTMENT OF FINANCE—PROJECT OF THE BUDGET FOR THE FISCAL YEAR 1903.

Revenues.

Customs	\$14,781,000.00
Tax on beverages	1,200,000.00
Tariff fees [evidently consular]	250,000.00
Internal revenues	500,000.00
Communications	420,000.00
Properties and rights of the State	119,800.00
Various sources	243,200.00
Total	17,514,000.00

Expenses.

LEGISLATURE.

Senate.....	\$125, 739. 68
House.....	266, 820. 00
Journal of sessions.....	20, 760. 00
Total.....	413, 319. 68

EXECUTIVE.

Presidency.....	85, 700. 00
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Department of state and justice:

Office of secretary.....	6, 000. 00
Direction of state.....	85, 826. 00
Diplomatic corps.....	167, 100. 00
Direction of justice.....	51, 470. 00

Total.....	310, 396. 00
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Department of government:

Office of secretary.....	132, 724. 00
General archive.....	13, 500. 00
Secret police.....	52, 620. 00
Rural guard.....	1, 783, 582. 00
Artillery.....	123, 133. 00
Habana prison.....	147, 628. 00
Women's prison.....	8, 880. 00
Jails.....	352, 898. 00
Charities.....	873, 659. 00
Sanitation.....	292, 048. 00
Communications.....	623, 628. 00
Civil governments.....	125, 698. 00

Total.....	4, 529, 998. 00
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Finance:

Secretary's office ^a	618, 469. 00
Fiscal zones.....	116, 540. 00
Customs.....	766, 010. 00
Properties of the State.....	197, 287. 56
Immigration.....	56, 811. 32
Drawbacks.....	36, 000. 00
Contingent.....	10, 000. 00

Total.....	1, 801, 117. 88
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Public instruction:

Secretary's office.....	124, 274. 00
University.....	290, 530. 00
Institutes and schools.....	285, 673. 00
Primary instruction.....	3, 021, 313. 84

Total.....	3, 721, 790. 84
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Public works:

Secretary's office.....	163, 720. 00
Highways and bridges.....	661, 272. 82
Ports.....	805, 239. 00
Light-houses.....	147, 416. 00
Sanitation.....	863, 680. 00
General expenses, new works.....	256, 684. 00
Railroad commission.....	25, 000. 00

Total.....	2, 923, 011. 82
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^a This item includes expenses of general treasury, general auditor, central section of customs, and central disbursing office.

Agriculture, industry, and commerce:	
Secretary's office	\$43,020.00
Meteorological service	7,808.50
Provincial boards (agriculture, industry, and commerce)	11,064.00
Inspection, public lands and mines	10,650.00
Provincial sections—	
Public lands	10,904.00
Mines	6,873.00
Agricultural station	75,000.00
Total	165,319.50

JUDICIARY.

Supreme court	109,050.00
Audiencias	348,802.00
Trial courts	395,112.00
General expenses	96,350.00
Total	949,314.00
Grand total	14,899,967.72

Résumé.

Income	17,514,000.00
Expenses	14,899,967.72
Surplus	2,614,032.28

Mr. Squiers to Mr. Hay.

No. 282.]

LEGATION OF THE UNITED STATES,
Habana, November 8, 1902.

SIR: I have the honor to inclose herewith a translation of Mr. Palma's message to Congress, which met on Monday, the 3d instant.

The message is of interest mainly wherein it points out the economies practiced by the Government, probably due to Mr. Palma's personal supervision and his avowed purpose of making expenditures less than receipts, no matter what the latter amount might be. His principal strength lies there, and you may feel assured that so long as he is at the head of affairs financially this Government will be economically and honestly administered.

There is some disappointment expressed by those who are interested in that the President makes no reference to either the payment of the army, including the loan, or revision of the tariff.

He refers particularly to Cuba's relations with the United States; the pending commercial treaty; number of states which have recognized Cuba; to the subject of sanitation, and to the work contracted by the government of intervention which is now being completed under those contracts.

I am, etc.,

H. G. SQUIERS.

[Inclosure.—Translation.]

*President's message.**To the Congress of the Republic:*

It is with pleasure that I comply with the precept contained in article 68 of the fundamental law on the occasion of the opening of the second Legislature of the nation.

Some of the matters which I took the liberty to recommend to the consideration of Congress in my former message are now promulgated laws. Others, such as those referring to the organization of the provinces and the municipalities, are under discussion, either in the House or in the Senate, and it is to be hoped that on account of their importance both the provincial law and municipal law may be terminated during the present Legislature.

The enactment of a law on the organization of the courts is likewise of urgent necessity, to the end that their authority and the method of exercising it may be properly regulated. More especially is this the case with regard to the supreme court, encharged with the high mission of passing upon the constitutionality of the laws, decrees, and regulations.

During the time the Republic has been in existence the most complete order has reigned in all its territory. There has been no alteration of public order whatsoever, and neither has there been a case of organized brigandage in any part of the island.

This speaks very highly in honor of the Cuban people, and particularly of the rural towns. In spite of the scarcity or lack of work in consequence of the economic crisis we have been undergoing, they have maintained themselves with resignation to the bitterness of circumstances, giving plain evidence of their pacific nature, morality, love of order, and true patriotism.

The sanitary condition continues improving in such manner that it can advantageously stand comparison with many European and American cities.

The annual rate of mortality in June last was 23.56 per 1,000; in July, 24.98; in August, 22.81; in September, 17.86; and from the data obtained in the sanitary department, and which have not yet been made public, it can be assured that the rate for October last was 17.96, the lowest occurring in this capital in that month for thirty-two years—that is to say, since 1870.

With regard to yellow fever, thirteen months have now passed since the last case occurred in Habana. Happily the entire territory of the island has been free of not only that cruel disease, but others of quarantinable nature, including smallpox. Therefore it can be asserted that the sanitary condition of the Republic is even better than during the military government.

The same system as was followed by the intervening government has been followed in sanitation. The number of employees has been slightly increased in the last few months, however, without increasing the cost of the service. The greatest vigilance is carefully exercised by the sanitary officers to avoid the reappearance of yellow fever or any other epidemic disease, and endeavors are being made, all possible means being employed, to prevent the reappearance of cases of glanders and infantile tetanus, as well as to diminish the mortality rate from tuberculosis and enteritis.

The sanitary law must be considered as of immediate importance. We yet lack a fixed guide for Habana itself as well as for the remainder of the island. Military orders are all we now have, contrary, in not a few cases, to constitutional precepts.

The postal and telegraph service of the Republic has continued operating without any deterioration whatsoever, despite the fact that on the transfer of the Government nearly all the personnel was changed, many old employees, Americans, being replaced by Cubans without experience in the service, particularly in that of posts.

The Government promptly made the efforts necessary for Cuba's entrance into the Universal Postal Union. It has already obtained favorable answer, and very shortly, as soon as certain detail requirements are fulfilled, the country will be able to enjoy all the benefits of the said international convention. The Government has petitioned Cuba's admission into the postal convention held at Washington on June 15, 1897, and that it be included in the arrangements concerning exchange of postal orders and parcels, so useful for small commercial negotiations.

In the department of public charity the same expenditures as were made to care for this obligation in the bimonthly period of May and June continue to be made; in general terms, however, notable economies are proposed in the general estimate, although the services are amply provided for in the way of funds.

Experience acquired during the last five months and the practical difficulties arising in the management and good administration of the charitable institutions make it necessary to recommend the study and amendment of the present legislation in this matter and that the powers and attributes of the central authority in charity matters be definitely fixed.

The State prison, where 598 convicts from all parts of the island are working out sentences, is at this moment a matter of preferred attention, as the requirements of this service demand that it be installed in a more commodious building and a spot better adapted to its purposes.

The relations we sustain with other nations are very satisfactory. The Republic has been recognized successively by the United States of America, the Mexican United States, England, France, Spain, Belgium, Guatemala, Costa Rica, Haiti,

Switzerland, Santo Domingo, Venezuela, Italy, Nicaragua, Ecuador, Salvador, Denmark, Portugal, Russia, Germany, the Netherlands, Bolivia, Brazil, Austria-Hungary, Greece, the Argentine Republic, Chile, Peru, Honduras, Paraguay, Uruguay, and Sweden and Norway.

Especially cordial and friendly are our relations with the United States. The negotiations already commenced for a commercial treaty on the basis of mutual tariff concessions are evidence of the good will that unites the Government of the great Republic with our own. The primordial object of this treaty is to obtain real advantages in the United States market for our products, particularly for sugar and tobacco, above all the first, which constitutes our main industry and in great proportion here the foundation of the public wealth.

The never disproven sympathies of the American people toward us; that we have for it admiration and gratitude; the manifest interest it feels in the prosperity of Cuba; the generous wishes in this same sense and spirit of justice of the illustrious magistrate presiding over the destinies of the great Republic, permit it to be confidently expected that a reasonable agreement will be arrived at with regard to the terms of the contemplated convention. There is nothing that will make so solid and lasting the ties of affection and gratitude now binding the people of Cuba to the people of the United States as the welfare to be derived from the development of our industries through the development of mutual commerce between the countries.

Extremely flattering is the present condition of our treasury. The collection of public revenues is accomplished with regularity, and the ordinary and extraordinary obligations of the State have been met with punctuality. After paying off all of our obligations up to the end of the past month, the cash on hand in the general treasury was \$1,561,942.06.

The ordinary demands from May 20 to June 30 were paid with funds allotted for the purpose by the military government of the island.

Those for July, August, September, and October have been paid in conformity with the authorizations granted me by the laws of July 12 and September 5.

The extraordinary demands have been paid and charged to the allotment of \$300,000 referred to by the law of June 3, and of the same there remains a balance of \$157,067.44.

The monthly average of all the expenses for the last four months is \$1,295,428.48, or \$147,063.62 less than that of the corresponding months of last year, as is shown in the following comparative statement. It should be said that in the first of the amounts mentioned are comprised the extraordinary expenditures and the services newly created:

Disbursements.

Year 1901 to 1902:

July	\$1, 148, 821. 25
August	1, 766, 279. 49
September	1, 320, 374. 07
October	1, 534, 493. 60
Total	5, 769, 968. 41

Year 1902 to 1903:

July	1, 236, 852. 39
August	1, 260, 957. 93
September	1, 228, 912. 29
October	1, 454, 891. 25
Total	5, 181, 613. 86

Monthly average:

1901-2	1, 442, 492. 10
1902-3	1, 295, 428. 48

Difference	147, 063. 62
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We received the treasury of the Republic with \$539,984.99 cash on hand. The difference between this sum and that of \$689,191.02 appearing in General Wood's letter on turning over the Government was explained in the message I had the honor of addressing to the House of Representatives on June 27 last. To-day, five months and ten days after the inauguration of the Republic, we have in the treasury the mentioned sum of \$1,561,942.06.

The receipts have been as follows:

May 20 to 31.....	\$416, 953. 39
June.....	1, 373, 641. 84
July.....	1, 552, 638. 13
August.....	1, 239, 048. 34
September.....	1, 596, 401. 89
October.....	1, 610, 196. 48
Total.....	7, 788, 880. 07

A financial statement of the general treasury from May 20 to October 31, 1902, is attached.

Public instruction has followed its regular and ordered course, without any lessening whatsoever of the branches therein comprised.

The university and the high-grade institutes inaugurated on October 1 their new academic course.

Judging by what has been observed up to the present time, there are reasons to believe that the studies in both institutions will each day acquire greater development. For the purpose of bringing about this result reports and data are now being gathered together, the object being to introduce in the plan of studies now in force some modifications that may contribute toward improving the system and making it more practical.

The painting and sculpture academy is proceeding with like regularity. I take pleasure in stating that commencing to-day (November 3) the national library, recently installed in one of the divisions of the department of public instruction, is open to the public.

In June and August last examinations for selection of first and second grade school-teachers were had. To-day we have a personnel of both sexes, equipped for the profession, in sufficient number to attend to the needs of teaching.

From July to August, for a period of four weeks, the summer normal schools were open in the capitals and other important cities of the provinces.

The success attained toward their better organization and discipline and most practical method of the lectures has been much greater this year than last, and it is to be noted that these schools to-day have a surplus of funds, derived from their own resources, which is to be devoted to acquiring teaching material necessary to the end pursued.

I will not omit saying that on September 8 the kindergarten normal school was inaugurated. In addition to the scholars formally entered in this school various others attend as auditors. In this way they prepare themselves to later on render their services in the Republic's primary instruction.

In the department of public works all the work under way when the American Government of intervention ceased is being continued.

In the province of Pinar del Rio the construction of three sections of highway, a bridge, and a wharf has been completed, as well as the reconstruction of various works.

In the province of Habana two sections of highway and a bridge have been completed.

In the province of Matanzas the construction of two sections of highway has been finished, and the work of building a wharf in the capital of the province and dredging the bay of Cardenas is continuing.

In the province of Santa Clara four sections of highway have been finished.

In the province of Santiago de Cuba the construction of three sections of highway has been completed, as well as that of four bridges and the Gibara wharf.

In the light-house service also has work of some importance been done. Seven light-houses have been finished, as well as others repaired.

Four state buildings which were under way have been finished; also the repairing of thirty-two more. The greater number of these buildings were schoolhouses.

Important repairs are being carried out in various of the Republic's institutions, among them the university and the insane hospital.

All cleaning, sanitary repairing and maintenance of streets, parks, and avenue work, including those along the sea front, vulgarly known as the "Malecón" (sea wall), is done by the department of engineers of the city of Habana, under the orders of the department of public works since May 20.

When this branch was transferred to the department of public works, the average monthly expenditures amounted to \$133,000, or \$1,596,000 per annum. The municipal architect was transferred to the city council from the department of engineers of the city, as likewise were the branches in charge of construction and reconstruc-

tion of state buildings and port works, now operating like the said department of engineers of the city within the organization of the department of public works. This done, the expenditure of the department of engineers amount to \$89,000 per month, or \$1,068,000 per annum. Of this sum the huge amount of \$300,312 corresponded to the roster of employees. As soon as the department of public works took charge of the department in question it proceeded to carry out all the economies reasonably compatible with the duties the department discharges, especially in the heading covering employees, the former list of which, amounting to \$300,312, has been reduced to \$122,444.

The total per annum allotted to cover the expense of the said department of engineers of the city does not now exceed \$862,000. However, all the services corresponding thereto have been carried on up to date with all regularity.

There are various works now under way in each of the six provinces.

The economies effected in salaries in the various branches of public works is represented by the sum of \$248,000 per annum.

It has not been possible to accomplish anything practical in the agricultural department, due to the lack of funds allotted for the purpose. To attend to the development and improvement of the industries therein comprised this department requires annually a large sum. One of the most efficacious means to attain this end is the establishment of agricultural stations, wherein the cultivation of the plants which are the basis of our industrial wealth can be perfected and where that of others that may become very productive in our soil, as they are now in other countries, may be introduced.

The flattering condition of our treasury after five and a half months of self-government makes us expect with absolute faith that by honestly managing the public revenues and using them with prudence and discretion we will succeed in having in the future funds sufficient not only for bringing great impulse to bear upon our agriculture, the proper thing for an essentially agricultural country, but for undertaking in all the provinces works of genuine advantage, as demanded by the high level of civilization we have reached.

I feel certain that Congress is inspired with the same purposes, and trust that the Executive will always find in both legislative bodies sure support for the material and moral development of our beloved land.

HABANA, *November 3, 1902.*

T. ESTRADA PALMA.

CEREMONIES ATTENDING HAULING DOWN OF UNITED STATES FLAG AT MATANZAS.

Mr. Squiers to Mr. Hay.

No. 7.]

LEGATION OF THE UNITED STATES,
Habana, June 3, 1902.

SIR: I have the honor to inclose to you a copy of a translation of a resolution passed by certain citizens of high standing of the province of Matanzas on the occasion of the transfer of the Government by the United States to Cuba.

I have, etc.,

H. G. SQUIERS.

[Inclosure—Translation.]

Resolution.

In the city of Matanzas, island of Cuba, at 12 o'clock on the 20th day of May, 1902, assembled in the consistory house, Mr. Juan Carbo, collector of the customs in Matanzas and captain of the port, the mayor of the city, Mr. Domingo Lecuona y Madan, the town council, the secretary of the civil governor, chief clerk for the civil governor, Mr. Bonifacio Byrne, the consular body, the president and magistrates of the audience court, the provincial council, the municipal judges, the judges of instruction, the presidents of and committees from all societies, associations, trades unions, and

the general public, the notary for the occasion being Mr. Manuel del Portillo, secretary of the town council, proceeded to lower the American flag from the place it occupied on the building used by the consistory.

Mr. Lecuona, mayor of the city, caused the flag to descend, and during the lowering two little girls showered flowers on it, the flag being finally received on a silver platter, entirely covered with flowers, while the immense multitude broke into cheers for the United States and the band of the benemerito body of firemen played the American national hymn.

The flag referred to was carried with all signs of respect to the council chamber of the town council and placed on the table of the presiding officer, where it was delivered by the mayor of the city to Mr. Juan Carbo, collector of customs for Matanzas and captain of that port, accompanying the delivery with feeling expressions of gratitude and affection for the American people and warm congratulations to the honorable President Roosevelt, especially charging that the aforesaid expressions come to the knowledge of those to whom they correspond.

Upon receiving the flag Mr. Carbo delivered it into the custody of the civil governor of the province with the same formalities as those with which he had received it, and the flag was deposited in that headquarters.

And in order that it may be known at all times, three resolutions are passed, all of the same tenor, one for transmission to the American governor, the second for the archives of the town council, and the other to be delivered to Mr. Juan Carbo, collector of customs for Matanzas and captain of the port, in testimony of the act accomplished by him, to be authorized and subscribed to by the mayor of the municipality, Dr. Domingo Lecuona y Madan; Mr. Juan Carbo, collector of customs and captain of the port of Matanzas, and the secretary in charge of the office of the civil governor, Mr. Bonifacio Byrne. Before me, the secretary of the town council. To which I certify.

D. LECUONA.
BONIFACIO BYRNE.
JUAN CARBO.
MANUEL DEL PORTILLO.

**AMNESTY GRANTED AMERICAN CITIZENS WHO COMMITTED
CRIMES IN CUBA DURING INTERVENTION PERIOD.**

Mr. Squiers to Mr. Hay.

[Telegram.]

LEGATION OF THE UNITED STATES,
Habana, June 10, 1902.

Amnesty has been granted by Cuban Government crimes committed American citizens during intervention period.

SQUIERS.

Mr. Squiers to Mr. Hay.

No. 17.]

LEGATION OF THE UNITED STATES,
Habana, June 11, 1902.

SIR: I have the honor to confirm my telegram of yesterday, announcing the passage by Congress of an act granting amnesty to Americans for offenses committed during the period of intervention, and also inclose copy of the act, together with translation.

I have, etc.,

H. G. SQUIERS.

[Inclosure.]

Translation of act granting amnesty to Americans.

THOMAS ESTRADA PALMA, CONSTITUTIONAL PRESIDENT OF THE REPUBLIC OF CUBA.

By the present I make known that the Congress has decreed and I have sanctioned the following:

ARTICLE I.

Amnesty is granted for the crimes committed during the period of the intervention by citizens of the United States of America.

ARTICLE II.

The district courts will annul all pending proceedings against said citizens, to which end the supreme court will return, and the magistrates will pass on to the respective district courts the motions of which they have cognizance and in which process is had as against such citizens.

ADDITIONAL CLAUSE.

The amnesty shall include all penalties imposed on those other than citizens of the United States of America now serving sentences with such citizens by virtue of the same judgment, and in the actions which have been brought against American citizens the penal proceedings as against the coadjutors, accomplices, and abettors held on the same charge are declared extinguished, notwithstanding their nationality.

Wherefore I order that the present law be complied with in all its respects.
Given in the Presidential palace in Habana on the 9th day of June, 1902.

T. ESTRADA PALMA.

EXCLUSION OF CHINESE FROM CUBA.^a*Mr. Hay to Mr. Squiers.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 13, 1902.

(Mr. Hay states that the Department has been advised that a Ward Line steamer is detained at Habana with Chinese, and instructs Mr. Squiers to suggest to Cuban Government that it would be reasonable not to consider exclusion provision enforceable against vessels arriving upon voyages begun before promulgation of the law excluding Chinese from Cuba.)

Mr. Squiers to Mr. Hay.

[Telegram—Paraphrase.]

LEGATION OF THE UNITED STATES,
Habana, June 16, 1902.

(Mr. Squiers reports that the Cuban authorities decline to allow Chinese to land, claiming that the Chinese minister at Washington was notified on May 15 of the prohibition.) * * *

^a See also under China, page 263.

Mr. Squiers to Mr. Hay.

No. 25.]

LEGATION OF THE UNITED STATES,
Habana, June 16, 1902.

SIR: I have the honor to confirm my telegram of to-day.

It was sent after a conference with the President regarding * * * the enforcement of the Chinese exclusion regulations as against certain Chinese now detained here.

As to the admission of the Chinese, his objections were:

First. * * * While they are good workers, they carry or send out of the country all the results of their labor.

Second. Because at this time, while thousands of Cubans are being thrown out of employment, it hardly seems reasonable to admit an alien laborer to drive out still more of the Cubans.

I have, etc.,

H. G. SQUIERS.

Mr. Squiers to Mr. Hay.

No. 28.]

LEGATION OF THE UNITED STATES OF AMERICA,
Habana, Cuba, June 18, 1902.

SIR: I have the honor to confirm the Department's telegram of the 13th instant, and my reply on the 16th instant (see also dispatch No. 25, dated June 16, 1902), regarding the application of the Chinese exclusion regulations to Chinese immigrants who had undertaken the voyage prior to the promulgation of the law.

Mr. Palma himself took an active interest in the matter, as indicated in my dispatch No. 25 of the 16th instant, but, I regret to say, finally decided he could not accept the suggestion of the Department.

I have the honor, etc.,

H. G. SQUIERS.

[Inclosure 1.]

Mr. Squiers to Mr. Zaldo.

No. 8.]

LEGATION OF THE UNITED STATES,
Habana, June 14, 1902.

YOUR EXCELLENCY: Acting under telegraphic instructions from my Government regarding detention on account of violation of the Chinese immigration law of a certain Ward Line steamer having on board Chinese immigrants, I have the honor to suggest to your excellency that it would be reasonable not to consider exclusion provision in force against vessels arriving upon voyages begun before promulgation of the law.

As the detention of these immigrants is entailing some considerable expense, I would be pleased to have an early reply.

I avail, etc.,

H. G. SQUIERS.

[Inclosure 2.—Translation.]

Mr. de Zaldo to Mr. Squiers.

No. 19.]

FOREIGN OFFICE,
Habana, June 16, 1902.

MR. MINISTER: The President, to whom I have communicated your attentive note, No. 8, of the 14th instant, instructs me to say to your excellency that it would be

exceedingly pleasant to him to accede to your request with regard to the Chinese immigrants who may have undertaken the voyage before the promulgation of the immigration law of the 15th of May of this year, but the text of the law being so definite it is not possible for him to give any such instructions as your excellency indicates, as in doing so it would be tantamount to an infraction of the said law.

I avail, etc.,

CARLOS DE ZALDO.

Mr. Adee to Mr. Squiers.

No. 88.]

DEPARTMENT OF STATE,
Washington, September 13, 1902.

SIR: I inclose copy of a note^a from the Chinese minister at this capital, protesting against the order issued by the military governor of Cuba on May 15, 1902, in regard to Chinese immigration into that island; also copy of this Department's reply.^a

You may communicate this correspondence to the Cuban Government, in order that it may be advised in the event of a protest being made to it directly by the Chinese Government.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

SUSPENSION OF TONNAGE DUES ON CUBAN VESSELS.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION.

Whereas, satisfactory proof has been given to me by the Government of Cuba that no discriminating duties of tonnage or imposts are imposed or levied in the ports of Cuba, upon vessels wholly belonging to citizens of the United States or upon the produce, manufactures, or merchandise imported in the same from the United States, or from any foreign country:

Now, therefore, I, Theodore Roosevelt, President of the United States of America, by virtue of the authority vested in me by section four thousand two hundred and twenty-eight of the Revised Statutes of the United States, do hereby declare and proclaim that, from and after the date of this, my Proclamation, so long as vessels of the United States and their cargoes shall be exempt from discriminating duties as aforesaid, any such duties on Cuban vessels entering the ports of the United States, or on the produce, manufactures, or merchandise imported in such vessels, shall be suspended and discontinued, and no longer.

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, the 3d day of July in the year of our Lord one thousand nine hundred and two, and of the Independence of the United States the one hundred and twenty-sixth.

[SEAL.]

THEODORE ROOSEVELT

By the President:

JOHN HAY

Secretary of State.

**DIPLOMATIC IMMUNITIES: TESTIMONY OF UNITED STATES
DIPLOMATIC REPRESENTATIVES IN FOREIGN COURTS.**

Mr. Squiers to Mr. Hay.

No. 149.]

LEGATION OF THE UNITED STATES,
Habana, August 22, 1902.

SIR: Transmitting herewith the correspondence between this legation, the judge of the court of first instance, and the foreign office, regarding a request to the first secretary, Mr. Sleeper, that he appear in said court to give his testimony in a certain case, I have the honor to say that I understand my action is in accordance with diplomatic usage in such cases and with the views of the State Department as set forth in Mr. Adee's telegram to Mr. Iddings, August 1, 1901 (p. 302, Foreign Relations, 1901), and to be, etc.,

H. G. SQUIERS.

[Inclosure 1.—Translation.]

Judge of first instance to secretary of United States legation.

HABANA, August 7, 1902.

In the case instituted in this court on account of theft of a clock, I have ordered that you be addressed, which I have the honor now to do, requesting that you have the kindness to appear in this court between 1 and 3 p. m. to testify.

Very respectfully,

CRIMINAL JUDGE OF THE EASTERN DISTRICT.

[Inclosure 2.]

Mr. Squiers to Mr. Montes, acting secretary of state and justice.

LEGATION OF THE UNITED STATES,
Habana, August 12, 1902.

YOUR EXCELLENCY: The first secretary of this legation is in receipt of a communication from the judge of the first instance, requesting him to appear at court to give testimony in a case of robbery which recently occurred at the legation.

While I have no objection to having the first secretary give testimony on terms consistent with representative dignity, I must nevertheless inform your excellency that unless interrogatory in open court is absolutely indispensable, I much prefer personal deposition at the legation.

Trusting that this course may meet with the approval of the Government of your excellency, I improve the occasion, etc.,

H. G. SQUIERS.

[Inclosure 3.—Translation.]

Mr. Montes to Mr. Squiers.

DEPARTMENT OF STATE,
Habana, August 16, 1902.

EXCELLENCY: In reply to your polite note of the 12th of the month, I take pleasure in informing you that there is no objection to having the first secretary give his testimony in the legation, to which end the necessary orders will be given to the judge of the first instance to name a day and hour on which to visit the legation and take the aforesaid testimony, previous notice having been given through this department to the first secretary.

I improve, etc.,

JOSE M. GARCIA MONTES.

Mr. Adee to Mr. Squiers.

No. 79.]

DEPARTMENT OF STATE,
Washington, August 30, 1902.

SIR: In reply to your No. 149, of the 22d instant, I have to say that your suggestion to the foreign office that the secretary of your legation, who had been summoned to give evidence in the court of first instance at Habana, could make his deposition at the legation, was in accordance with established precedent, and satisfactory.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

ACCIDENT TO PRESIDENT ROOSEVELT.

President Palma to President Roosevelt.

[Telegram—Translation.]

HABANA, September 4, 1902.

I profoundly deplore the accident that has befallen Your Excellency and make sincere wishes for the complete restoration of your health.

T. ESTRADA PALMA.

President Roosevelt to President Palma.

[Telegram.]

OYSTER BAY, September 4, 1902.

I thank you for your solicitous message.

THEODORE ROOSEVELT.

LAW ESTABLISHING PROCEDURE FOR OBTAINING CUBAN CITIZENSHIP.

Mr. Squiers to Mr. Hay.

No. 291.]

LEGATION OF THE UNITED STATES,
Habana, November 13, 1902.

SIR: I have the honor to forward herewith a translation of a law passed by the Cuban Congress and promulgated on November 7, 1902, establishing a procedure for obtaining Cuban citizenship, and to be, etc.

H. G. SQUIERS.

[Inclosure—Translation.]

DEPARTMENT OF STATE AND JUSTICE.

Be it by these presents known that the Congress has enacted, and I, Tomás Estrada Palma, constitutional President of the Republic of Cuba, have sanctioned the following

LAW.

ARTICLE 1. The acts by virtue of which Cuban nationality is acquired, lost, or recovered shall be made to appear by means of a record in the section of citizenship of the registry of civil status.

The persons included in the cases referred to in sections 2 and 3 of article 5 of the constitution and the second of the transitory provisions of the same, and residing abroad, shall exercise the right conferred upon them by the former sections before the diplomatic or consular agent of Cuba nearest to their places of residence.

ARTICLE 2. The inscriptions to which the preceding article refers shall be made with the following formalities and requirements:

1. The date and place where they are drawn.
2. The names and surnames of the officials authenticating the same.
3. The names, surnames, and filiation of the parties and the witnesses participating in the act.

The witnesses referred to in the preceding paragraphs shall be two, having legal capacity, and shall make a declaration setting forth the truth of the circumstances which should be expressed in the inscription.

ARTICLE 3. The interested parties shall present to the custodian of the registry their certificates of baptism or the certificates of birth, as the case may be, as well as the record or certificate of marriage, should they be married, together with the certificates of birth of the wife and of the children.

Should it be impossible to present the documents referred to in the preceding paragraph, they shall indicate the archives where they may be found and their approximate date.

In the cases where the birth of the interested parties, their wives or their children, shall have been inscribed in the registry of civil status of this island, or in the register in charge of the diplomatic or consular agent, the acquisition, loss, or recovery of Cuban citizenship shall be made by a marginal note on the record of birth, for which purpose the custodian of the register wherein the said acquisition, loss, or recovery occurs shall remit, within the term of fifteen days counting from that on which the inscription took place, a certificate of the same to the custodian of the register wherein the said birth appears.

For failure to comply with the provisions of the preceding paragraph a fine of from ten to twenty-five dollars, American currency, shall be imposed on the custodian of the register required to remit the certificate.

ARTICLE 4. In the inscriptions mentioned in this law the following circumstances shall be expressed if it is possible:

1. The former domicile of the interested parties.
2. The names, surnames, place of birth, domicile, and profession or occupation of his parents.
3. The name, surname, and place of birth of his wife, if he be married.
4. The names, surnames, place of birth, residence, and profession or occupation of the parents of the latter.
5. The names, surnames, place of birth, residence of the children, setting forth if any of them are emancipated.

Whenever it is impossible to express any of the circumstances mentioned previously a statement shall be made in the inscription of the reason of that impossibility.

ARTICLE 5. In order to be inscribed as Cuban citizens the persons included in section 1 of article 6 of the constitution shall prove by means of the discharge or of any other document issued by a competent revolutionary authority that they have belonged to the liberating army. This proof shall be made by such persons before the custodian of the civil registry of their domicile, should they be in this island, or by means of a special attorney before the custodian of the civil registry at their last place of domicile therein or of the place of domicile where they intend to fix their residence in Cuba, if they are abroad.

ARTICLE 6. In order to be inscribed as Cuban citizens the persons included in sections 2 and 3 of article 6 of the constitution shall prove before the custodian of the civil registry of their place of domicile in Cuba the residence required by said sections by means of an authentic document, or proof by witnesses made in the manner established in article 8 of the present law.

The declaration of intention to which the third section of article 6 of the constitution refers should be made before the custodian of the civil registry of the domicile which the interested party has in Cuba with the same formalities as in case of inscription.

ARTICLE 7. To be inscribed as Cuban citizens the persons included in section 4 of article 6 of the constitution shall prove before the custodian of the registry of civil status of their place of domicile in Cuba that they have not been registered in the registry of Spaniards opened in pursuance of the provisions of the treaty of Paris of December 10, 1898; that they are of full age, and that they resided in this island on the 11th day of April, 1899.

The proof of not being inscribed in the said registry of Spaniards must necessarily be made by means of a certificate issued by the functionary of said registry.

The circumstances of full age and of residence shall be accredited by means of

proof by witnesses received under oath, before the custodian of the registry of civil status, the witnesses declaring that they resided on the aforesaid date of the 11th of April, 1899, in the same locality as the moving party making the proof.

The interested party shall present a certificate of the captaincy of the port, or proper authority, wherein shall appear the date of his arrival in the island, the age which he then had, whether he came alone or with a family, the name of the vessel which brought him, and of the captain of the same.

ARTICLE 8. To be inscribed as Cuban citizens, the persons included in section 5 of article 6 of the constitution shall prove before the custodian of the civil registry of their place of domicile that the circumstances exacted in said section exist as to them by means of a declaration of witnesses received under oath.

ARTICLE 9. In all the inscriptions to which this law refers, it shall be made to appear that the interested parties renounce their previous nationality, and that they swear to obey the constitution of the Republic, the laws which are actually in force in this island, and those which may be in force in the future.

ARTICLE 10. The custodians of the registry of civil status in this island shall remit to the division of state of the department of state and justice a certificate of each inscription which they make in the books of the section of citizenship; and to the section of registries and notarial affairs of the same department, a comprehensive table of the inscriptions, classified according to the model which said section shall formulate.

The diplomatic or consular agents shall remit to the department of state certificates of the inscriptions referred to in paragraph 2 of article 1 of this law, for their transcription in the registry of civil status of the last place of domicile which the interested parties may have had, or of that which they propose to have in this island.

The term for the remission provided for in the two preceding paragraphs shall be fifteen days, counted from the day following that on which the inscription of transcription in question shall take place.

Failures to fulfill this duty shall be punished gubernatively by the secretary of state.

ARTICLE 11. Those who prior to the promulgation of this law have proven in the extinct department of state and government that there exist as to them the circumstances exacted in articles 5, 6, 7, and 8 of this law, are exempted from the proof of the same; as well as those that may have made in the registry of civil status of their domicile the declaration of option or renunciation of nationality, to the end that they might be registered as electors according to the provisions of the additional dispositions of order No. 218 of October 14, 1901.

ARTICLE 12. All laws, provisions, orders, or decrees contrary to the provisions of this law are repealed.

Therefore, I command the obedience and enforcement of this law in its entirety.

Given at the palace of the President in Havana, October 30, 1902.

T. ESTRADA PALMA.
CARLOS DE ZALDO,
Secretary of State and Justice.

RELATIONS BETWEEN CUBA AND THE UNITED STATES.

No. 301.

HEADQUARTERS DIVISION OF CUBA,
Habana, July 25, 1900.

The military governor of Cuba directs the publication of the following instructions:

Whereas the Congress of the United States by its joint resolution of April 20, 1898, declared—

That the people of the island of Cuba are, and of right ought to be, free and independent;

That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said island except for the pacification thereof, and asserts its determination, when that is accomplished, to leave the government and control of the island to its people;

And whereas the people of Cuba have established municipal governments, deriving their authority from the suffrages of the people given under just and equal laws, and are now ready in like manner to proceed to the establishment of a general government which shall assume and exercise sovereignty, jurisdiction, and control over the island: Therefore, it is

Ordered, That a general election be held in the island of Cuba on the third Saturday of September, in the year 1900, to elect delegates to a convention to meet in the city of Habana at 12 o'clock noon on the first Monday of November, in the year 1900, to frame and adopt a constitution for the people of Cuba, and, as a part thereof, to provide for and agree with the Government of the United States upon the relations to exist between that Government and the Government of Cuba, and to provide for the election by the people of officers under such constitution and the transfer of government to the officers so elected.

The election will be held in the several voting precincts of the island under and pursuant to the provisions of the electoral law of April 18, 1900, and the amendments thereof.

The people of the several provinces will elect delegates in number proportioned to their populations as determined by the census, viz:

The people of the province of Pinar del Rio will elect 3 delegates.

The people of the province of Habana will elect 8 delegates.

The people of the province of Matanzas will elect 4 delegates.

The people of the province of Santa Clara will elect 7 delegates.

The people of the province of Puerto Principe will elect 2 delegates.

The people of the province of Santiago de Cuba will elect 7 delegates.

J. B. HICKEY,

Assistant Adjutant-General.

No. 455.

HEADQUARTERS DIVISION OF CUBA,
Habana, November 9, 1900.

The military governor of Cuba directs the publication of the following official statement made to the Cuban constitutional convention assembled in the city of Habana, Cuba, November 5, 1900:

To the Delegates of the Constitutional Convention of Cuba.

GENTLEMEN: As military governor of the island, representing the President of the United States, I call this convention to order.

It will be your duty, first, to frame and adopt a constitution for Cuba, and, when that has been done, to formulate what, in your opinion, ought to be the relations between Cuba and the United States.

The constitution must be adequate to secure a stable, orderly, and free government.

When you have formulated the relations which, in your opinion, ought to exist between Cuba and the United States, the Government of the United States will doubtless take such action on its part as shall lead to a final and authoritative agreement between the people of the two countries to the promotion of their common interests.

All friends of Cuba will follow your deliberations with the deepest interest, earnestly desiring that you shall reach just conclusions, and

that, by the dignity, individual self-restraint, and wise conservatism which shall characterize your proceedings, the capacity of the Cuban people for representative government may be signally illustrated.

The fundamental distinction between true representative government and dictatorship is that in the former every representative of the people, in whatever office, confines himself strictly within the limits of his defined powers. Without such restraint there can be no free constitutional government.

Under the order pursuant to which you have been elected and convened you have no duty and no authority to take part in the present government of the island. Your powers are strictly limited by the terms of that order.

LEONARD WOOD,

Major-General, U. S. Volunteers, Military Governor.

Official:

J. B. HICKEY, *Assistant Adjutant-General.*

Mr. Squiers to Mr. Hay.

No. 298.]

LEGATION OF THE UNITED STATES,

Habana, November 21, 1902.

SIR: For the information of the Department I have the honor to inclose herewith a translation of a report made to the constitutional convention by a committee appointed therefrom to report upon the relations which, in the judgment of the convention, should exist between Cuba and the United States.

This committee was composed of Messrs. Diego Tamayo, as president, now secretary of government; Juan Gualberto Gomez, now editor of *La República Cubana* and leader of the Independent Republicans; Gonzalo Quesada, now minister at Washington; Mr. Enrique Villuendas, now Representative; and Mr. Manuel R. Silva, as secretary, now a Senator.

The report is particularly interesting at the present time, as it shows the views of the committee, adopted by the convention, relative to what are now known as Articles III and VII of the appendix to the constitution, and also that in the text of said report as prepared by this committee no provision was made for final ratification of all the provisions by treaty.

I have the honor, etc.,

H. G. SQUIERS.

[Inclosure.—Translation.]

NOVEMBER 19, 1902.

Report on the relations which should exist between Cuba and the United States—Presented by the committee corresponding.

The committee appointed to draw up a draft of the relations which in the judgment of the constitutional convention should exist between Cuba and the United States, to the convention.

In conformity with the orders of the American Government, published in the gazettes of this island on July 26 and November 6, 1900, with the Nos. 301 and 455,^a containing the convocation of the constitutional convention and the address read by the military governor on its inauguration, said convention has various duties to per-

form: Draw up and adopt a constitution for Cuba; reader opinion on the relations which, in its judgment, should exist between the Government of Cuba and the Government of the United States; provide for the election of the powers or functionaries the constitution may establish; and, lastly, provide for the transfer to these said functionaries or powers of the government of the island.

Happily ended now the work of drawing up and adopting the constitution, it remains for the constitutional assembly to devote itself, as charged in the said order No. 455, to expressing *its opinion* on the relations which ought to exist between the United States and Cuba.

The commission to which such an honorable duty was intrusted imagined the first time it met that its task would be as easy as it would be brief. The sentiment of gratitude toward the people of the United States for the powerful and decisive aid they rendered our people in their struggle to separate themselves from Spain, to the end that they might establish themselves in an independent and sovereign State, is so alive in all Cuban patriots that in order to express the opinion requested it seemed to all that we could simply declare we thought the United States and Cuba should eternally maintain ties of the most intimate and fraternal friendship, inasmuch as there is not a glimmer of the slightest opposition between their legitimate interests, nor possible the least disparity in their reasonable aspirations.

But hardly had the commission convened when the military governor of the island asked it for a private interview, in which he made known a communication from the Secretary of War of the United States, containing suggestions as to the points which the American Executive suggests and recommends as basis of the opinion it requests.

From that moment the commission had to proceed with greater care, since the matter had to be considered under a different aspect.

It results, in effect, that both by the text of the convocation of July 26 (order 301) and address of November 5 (order 455) the convention was to freely formulate the kind of relations which in its judgment it would be advisable should exist between the United States and Cuba.

However, after the communication referred to—of the Secretary of War—the contents of which have since been sent in a letter of the military governor of the 21st instant, there exists something new suggested by the American Executive, of which the commission can not fail to take notice. There is no reason to insist on the importance of this occurrence; no delegate can help but recognize it; but it is important to state that after mature examination and careful study of the matter the commission believes that from the outset, and as soon as the suggestions referred to are known, the constitutional assembly should proceed with the same liberty of judgment, with the same independence of opinion, as before they were known. Various circumstances support this belief of ours.

We are the delegates of the people of Cuba. On this account our primordial duty consists in interpreting the will and heeding the interests of our country; and more, it happens that the suggestions of the executive department of the United States Government only contain the stipulations of that which, in its judgment, "the people of Cuba *should desire* be established and agreed upon as the relations between Cuba and the United States."

Thus it is that on communicating them to us, insinuating that we should adopt them, it is explicitly recognized that *the desires* of Cuba are the ones which are to prevail, since it is the endeavor to obtain that Cuba *should desire* in a certain way. Lastly, it is necessary to bear in mind that the stipulations suggested do not, absolutely, have a definitive or legal character, considering that the formal reservation is made that nothing of what is communicated to the commission "can in any manner be interpreted as binding the United States to a policy which should properly be fixed by Congress." Even more is said, that "these stipulations, it may result, are not in conformity with the conclusions Congress may finally reach when this body considers the matter." Thus it is, then, that they are simply presented "as the opinion of the executive department."

Clear it is that this is already sufficient for us to give it "careful consideration," much more so when they are recommended to us as "wise and prudent and for the best interests of both countries." However, integral remains our authority to accept or not accept; to choose from among them what seems proper to us, and to add to, amend, or substitute them, in conformity with the dictates of our conscience, having always in view our duty to aid whatever may be a legitimate interest and a reasonable purpose of the people of the United States, and the supreme interest and sacred rights of our own.

As a consequence of these ideas, the commission, the suggestions of the Executive of the United States having been carefully considered, believes that the interests of both countries are preserved, as far as human foresight will reach, within the precepts of the constitution we have just adopted for the Republic of Cuba. It is drawn

from the communication of the Secretary of War of the United States, in effect, that the departing point of all his suggestions is the following: "The United States must have the assurance that the island of Cuba is to forever be an independent country."

The executive department of the Union believes it can feel this assurance if the convention will opine in favor of these five stipulations:

1. That no government organized under the constitution shall consider it has authority to enter into any treaty or contract with any foreign power that may lessen or oppose the independence of Cuba, or to grant to such foreign power any special right or privilege without the consent of the United States.

2. That no government organized under the constitution will have authority to assume to contract any public debt which will exceed the capacity of the usual revenues of the island to pay the interest after defraying the current expenses of the government.

3. That on the transfer of the control of Cuba to the government established under the new constitution, Cuba consents that the United States shall reserve and retain the right to intervene for the preservation of the independence of Cuba, and the maintenance of a stable government that will duly protect life, property, and individual liberty and fulfill, with respect to Cuba, the obligations imposed upon the United States by the treaty of Paris and now assumed and taken upon itself by the Government of Cuba.

4. That all the acts of the military government and all the rights thereby acquired will be valid and maintained and protected.

5. That to enable the United States to fulfill such duties as will fall upon her by the stipulations mentioned, and for her own defense, the United States may acquire title to, and preserve it, lands for naval stations, and maintain such naval stations in certain specified places.

The undersigned commission, taking the American Executive's departing point that it is important that the independence of Cuba be absolutely guaranteed, considers that some of these stipulations are not acceptable, exactly because they impair the independence and sovereignty of Cuba. Our duty consists in making Cuba independent of every other nation, the great and noble American nation included, and, if we bind ourselves to ask the Governments of the United States for *their consent* to our international dealings, if we admit that they shall reserve and retain the right to intervene in our country to maintain or precipitate conditions and fulfill duties pertaining solely to Cuban governments, and, lastly, if we grant them the right to acquire and preserve titles to lands for naval stations and maintain these in determined places along our coast, it is clear that we could seem independent of the rest of the world although we were not in reality, but never would we be independent with reference to the United States.

In the constitution we adopted we have used special energy in founding our independence and sovereignty on solid bases. The organisms to which legislative and administrative functions correspond are taken from the very vitals of the people; therefore they have the qualification that gives greatest stability to governments, the consent of the governed. Furthermore, we have taken care to establish a reasonably wide range between these organisms, to the end that they may work in harmony and that contentions and even friction may be thereby avoided. It can even be asserted that with free play of the institutions created, this people's suffering either of the two maladies, despotism and anarchy, which have alternately placed the life of other societies in danger, will be prevented. We have likewise taken all proper precautions to render the disorder or ruin of our treasure impossible, adopting *motu proprio* the precept that none of the organisms authorized to contract loans, be such loans of municipal, provincial, or national character, can do so without voting at the same time the permanent tax or taxes to be applied to the payment of their interests and redemption, and without fulfilling other requirements equally foreseeing, as determined in articles 59, 93, and 103 of the constitution.

Finally, we have specially endeavored to avoid every contention with those foreign to us, making foreigners equal to natives in all that refers to protection of their persons and property, and with regard to the enjoyment of civil rights, individual guaranties, and protection of the Cuban laws and authorities. From this it is to be deduced that the undersigned commission could very well advise the constitutional assembly to answer the suggestions made by the American Executive simply as follows: "With the loyal observation by ourselves and all others of the precepts of our constitution, the aspiration you have, and for which we have been and are willing to zealously care that the independence of the island of Cuba may be made secure, is attained." The commission, however, desirous of strengthening the confidence which the United States should feel with regard to our gratitude and the decisiveness with which we are resolved that the independence of our native land shall never run any risk through our fault, believes there is no objection to the conven-

tion *opining* that the constitutional power of the Republic of Cuba, if they deem it proper, may declare:

First. The Government of the Republic of Cuba will make no treaty or convention with any foreign power or powers which compromises or limits the independence of Cuba or in any other manner permits or authorizes any foreign power or powers to obtain, by means of colonization or for military or naval purposes or in other manner, settlement in, authority, or right over, any portion of Cuba.

Second. The Government of the Republic of Cuba will not permit that its territory serve as a basis of war operations against the United States nor against any other foreign nation.

Third. The Government of the Republic of Cuba will accept the treaty of Paris of December 10, 1898, in its integrity, the same in what affirms Cuba's rights as with regard to the obligations it limitedly assigns her, and especially those obligations imposed by international law for the protection of lives and properties, substituting the United States in the obligation they acquired to that effect in conformity with articles 1 and 16 of said treaty of Paris.

Fourth. The Government of the Republic of Cuba will recognize as legally valid the acts done for the good government of Cuba by the American military government in representation of the Government of the United States during the period of its occupation, likewise the rights proceeding therefrom, in conformity with the joint resolution and section 2 of the United States army bill for the fiscal year from 1899 to 1900, known as the Foraker amendment, or with the laws existing in this country.

Fifth. The Governments of the United States and of the Republic of Cuba should regulate their commercial relations by means of a convention based on reciprocity, and which, with tendencies toward free trade in their natural and manufactured products, will mutually assure them ample and special advantages in the respective markets.

If the future Government of the Republic of Cuba believes acceptable the opinion we have just rendered, and which is set forth in the five preceding articles, we hold that with the same and the constitution adopted the United States will be able to consider that they should not entertain the slightest suspicion regarding our future. On preparing, as they assert, to cease in the exercise of the intervening authority, their generous work of liberty and pacification can be called ended by them with the entire conviction that no one is more interested and resolved than ourselves in maintaining the absolute independence of our native land, living in peace with all the world, orderly and pacifically governing ourselves, and being to the people of the United States a brotherly, deferent, and thankful people.

For all these reasons the commission recommends that the convention agree to communicate the opinion which has been asked of us to the Government of the United States in the following form:

The constitutional convention, in compliance with its duty to indicate what, in its judgment, might be the relations of the people of Cuba with that of the United States, and in its desire that they should be the most cordial, inalterable, and fruitful, to the end that common interests may be promoted and guaranteed, has carefully considered the suggestions transmitted to it through the military government.

From the context of those suggestions it results that the United States Government is infused with the preoccupation that the independence of Cuba should not be for the United States a cause of apprehension, on account of the dangers to be wrought by the instability of our future institutions, disorder of our treasure, or noncompliance, on our part, with international duties.

The convention is sure that the immediate future will not justify either those apprehensions or any fear as to the capacity of the Cuban people for independent life, nor also the least uneasiness with regard to the operation of the government established by the constitution it has just adopted.

The entire world has been witness of the moderation, respect for law, and generous qualities evidenced by the Cuban people during these two years it has lived under the régime of the intervention, when it had just gotten out of a terrible war that subverted the organization of society and sowed the soil with ruins, leaving the country exhausted and in a state of confusion. It can be proclaimed that in no people, even during less profound crises, have virtues been contemplated that were so excellent and commendable as those which in the midst of these reverses have exalted the people of Cuba.

Only oblivion or ignorance of these facts could engender doubts and suspicions with regard to the patriotism and prudence of our people.

Furthermore, in the convention which we have just turned over to the military governor we have taken special pains in founding our independence and sovereignty on solid bases. The organisms to which legislative and administrative functions correspond are taken from the very vitals of the people, therefore they have the qualification that gives greatest stability to governments—the consent of the governed.

Furthermore, we have taken care to establish a reasonably wide range between these organisms, to the end that they may work in harmony and that contentions and even friction may be thereby avoided. It can even be asserted that with free play of the institutions created this people's suffering either of the two maladies, despotism and anarchy, which have alternately placed the life of other societies in danger, will be prevented. We have likewise taken all proper precautions to render the disorder or ruin of our treasure impossible, adopting *motu proprio* the precept that none of the organisms authorized to contract loans, be such loans of municipal, provincial, or national character, can do so without voting at the same time the permanent tax or taxes to be applied to the payment of their interests and redemption, and without fulfilling other requirements equally foreseeing, as determined in articles 59, 93, and 105 of the constitution.

Finally, we have especially endeavored to avoid every contention with those foreign to us, making foreigners equal to natives in all that refers to protection of their persons and property, and, with regard to the enjoyment of civil rights, individual guaranties, and protection of the Cuban laws and authorities.

Other measures more efficacious for the purpose of the United States, which at the same time are the supreme interest of Cuba, to guarantee order and secure the pacific development of our country, are not possible to the human.

The relations between the two peoples, which perforce will continue to grow closer through intercourse, that is, through mutual interest and the invariable ties of our gratitude and our affection, will tend to establish between two collectivities so different, and despite their absolute independence respectively, an intimacy which, favoring American interests, will develop at the same time a community which will be a tie of union between the two great races populating this hemisphere.

Working to these noble ends, the new Government which the constitution establishes will certainly agree with the United States to such measures as may facilitate dealings between the two countries, adopting first of all such decisions on local and international hygiene as may be directed to the extinction of transmissible diseases, as well as many others as may most contribute to the development of mercantile and social relations.

The convention considers that with the foregoing the Government of the United States could deem its interests sufficiently guaranteed and aspirations satisfied; however, it desires to strengthen the confidence which the United States should feel with regard to our gratitude and the decisiveness with which we are resolved that the independence of our native land shall never run any risk through our fault. With this idea *it is of the opinion* that the constitutional powers of the Republic of Cuba, if they deem proper, should declare and adopt the following stipulations:

First. The Government of the Republic of Cuba will make no treaty or convention with any foreign power or powers which compromises or limits the independence of Cuba or in any other manner permits or authorizes any foreign power or powers to obtain, by means of colonization or for military or naval purposes, or in any other manner, settlement in, authority, or rights over any portion of Cuba.

Second. The Government of the Republic will not permit that its territory serve as a basis of war operations against the United States nor against any other foreign nation.

Third. The Government of the Republic of Cuba will accept the treaty of Paris of December 10, 1898, in its integrity, the same in what affirms Cuba's rights as with regard to the obligations it limitedly assigns her, and especially those obligations imposed by international law for the protection of lives and properties, substituting the United States in the obligation they acquired to that effect in conformity with articles 1 and 16 of said treaty of Paris.

Fourth. The Government of the Republic of Cuba will recognize as legally valid the acts done for the good government of Cuba by the American military government in the representation of the Government of the United States during the period of its occupation, likewise the rights proceeding therefrom, in conformity with the joint resolution and section 2 of the United States army bill for the fiscal year from 1899 to 1906, known as the Foraker amendment, or with the laws existing in this country.

Fifth. The Governments of the United States and of the Republic of Cuba should regulate their commercial relations by means of a convention based on reciprocity and which, with tendencies toward free trade in their natural and manufactured products, will mutually assure them ample and special advantages in the respective markets.

Convention Session Hall, February 26, 1901.

DIEGO TAMAYO, *President.*
 JUAN GUALBERTO GOMEZ.
 GONZALO DE QUESADA.
 ENRIQUE VILLUENDAS.
 MANUEL R. SILVA, *Secretary.*

DENMARK.

PROTECTION OF DANISH INTERESTS IN SALVADOR BY UNITED STATES OFFICIALS.^a

Mr. Hay to Mr. Brun.

DEPARTMENT OF STATE,
Washington, October 18, 1901.

MY DEAR MR. BRUN: In reply to your inquiry the other day, I take pleasure in saying that, if you desire it, I will instruct our minister in San Salvador to use his good offices in behalf of any Danish subjects for whom they are desired, assuming, of course, that the Government of Salvador will make no objection.

Very sincerely, yours,

JOHN HAY.

Mr. Brun to Mr. Hay.

[Translation.]

LEGATION OF DENMARK,
Washington, October 19, 1901.

MR. SECRETARY OF STATE: Referring to the conversation that I had the honor to have with your excellency on the 17th instant and to the personal note that your excellency did me the honor to write to me yesterday, I hasten to inform you that the Government of the King would be very grateful if the Government of the United States would have the kindness to permit the Danish interests in the Republic of Salvador (Central America) and the Danish subjects residing in that Republic to be protected, in case of need, by the diplomatic and consular officers of the United States.

As I had the honor to tell your excellency verbally, Denmark has no diplomatic representative nor consular agent in the Republic of Salvador. Neither the Danish interests nor Danish subjects are numerous in that country.

Among the latter is Mr. Andreas Bang, pharmacist, residing in the city of Salvador, who, by a petition to my Government, has occasioned this proposition. Mr. Bang has had no disagreement with the authorities of Salvador; but, at the head of a trade of certain importance, he greatly desires to obtain the protection of the consul of the United States with a view to the possibility of troubles similar to those which exist in other countries of Central America.

Your excellency does me the honor to write me that you will be kind enough to give the necessary orders to this effect if the Government of Salvador does not oppose it.

^a See also under Nicaragua, Costa Rica, and Salvador, page 836.

The Government of the King would be equally obliged to your excellency if you would undertake to secure the necessary steps for obtaining the consent of the Government of Salvador.

Accept, etc.,

C. BRUN.

Mr. Hay to Mr. Brun.

No. 351.]

DEPARTMENT OF STATE,
Washington, October 25, 1901.

SIR: I have the honor, in reply, to your note of the 19th instant, to inform you that I have to-day instructed the minister of the United States to Salvador to afford his protection to Danish subjects and interests in the Republic named.

Mr. Merry's protection will consist of the exercise of his good offices with the assent of the Government of Salvador, and will, of course, involve no assumption of representative functions on behalf of the Government of Denmark.

Accept, etc.,

JOHN HAY.

Mr. Brun to Mr. Hay.

[Translation.]

LEGATION OF DENMARK,
Washington, December 2, 1901.

MR. SECRETARY OF STATE: Referring to the note which I had the honor to address to your excellency dated October 19 last, relative to the protection of Danish subjects and interests in the Republic of Salvador (Central America) by the diplomatic and consular representatives of the United States in that country, I hasten to inform you that my Government has most gratefully received the communication on this subject contained in your excellency's note of the 25th of October last.

My Government ventures to hope to receive a further communication from your excellency as soon as the necessary consent on the part of the Government of Salvador has been obtained, and will afterwards make it known to the Danish subjects residing in the said Republic.

Accept, etc.,

C. BRUN.

Mr. Hay to Mr. Brun.

No. 356.]

DEPARTMENT OF STATE,
Washington, December 10, 1901.

SIR: I have the honor to acknowledge the receipt of your note of the 2d instant, stating that the Danish Government will issue a notice to Danish subjects in Salvador that they have been placed under the protection of the United States, as soon as it is informed that the Salvadorean Government assents to such protection.

In reply I have the honor to inform you that no reply to the Department's instruction of October 25 to the United States minister to Salvador having yet reached the Department, the minister's attention has been recalled to the matter in an instruction addressed to him this day.

Accept, etc.,

JOHN HAY.

Mr. Hay to Mr. Brun.

No. 391.]

DEPARTMENT OF STATE,
Washington, March 7, 1902.

SIR: Referring to your note of October 19 last and to subsequent correspondence on the subject, I have now the honor to inform you that the minister of the United States accredited to Nicaragua, Costa Rica, and Salvador advises the Department, under date of February 20, 1902, that the Government of Salvador gives its consent to the exercise of good offices by United States officers in that country on behalf of Danish subjects residing therein, with the same restrictions and in the same form as their exercise is permitted respecting Chinese subjects.

In the case of Chinese subjects, it was understood that good offices by the minister and consular officers were to be extended without assumption of any representative function as agents of China, their efforts being confined to merely intervening in case of need for the protection of Chinese subjects in their persons or property from unjust or harsh treatment, and that consequently United States officers so acting could not originally certify to the fact of Chinese citizenship for a passport, or other documentary attestation to that end, which could only be issued by a responsible agent of the Chinese Government. A form of certificate to be used by the minister and the consul at San Salvador was prepared, after consultation with the minister for foreign affairs of Salvador, to correctly express the character of the protection afforded, in the following words:

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

The United States officers have been instructed to take the same course with regard to Danish subjects.

Accept, etc.,

JOHN HAY.

Mr. Brun to Mr. Hay.

[Translation.]

DANISH LEGATION,
Washington, May 5, 1902.

MR. SECRETARY OF STATE: I have the honor, by direction of his excellency the minister of foreign affairs of Denmark, to express to your excellency the sincere thanks of the Government of the King for the kindly reception given by the United States Government and by the minister of the United States to San Salvador, to the request of my Government touching the protection of Danish subjects and interests in the Republic of Salvador by the diplomatic and consular officers of the United States.

Be pleased to accept, etc.,

C. BRUN.

TREATY BETWEEN THE UNITED STATES AND THE KINGDOM OF DENMARK FOR THE EXTRADITION OF FUGITIVES FROM JUSTICE.

Signed at Washington, January 6, 1902.

Ratification advised by the Senate, January 30, 1902.

Ratified by the President, February 26, 1902.

Ratified by Denmark, March 8, 1902.

Ratifications exchanged at Washington, April 16, 1902.

Proclaimed, April 17, 1902.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Treaty between the United States of America and the Kingdom of Denmark providing for the extradition of criminals was concluded and signed by their respective Plenipotentiaries at Washington on the 6th day of January, one thousand nine hundred and two, the original of which Treaty, being in the English and Danish languages, is word for word as follows:

The United States of America and his Majesty the King of Denmark, being desirous to confirm their friendly relations and to promote the cause of justice, have resolved to conclude a treaty for the extradition of fugitives from justice, and have appointed for that purpose the following plenipotentiaries:

The President of the United States of America, John Hay, Secretary of State of the United States; and His Majesty the King of Denmark, Mr. Constantin Brun, Commander of the Order of Dannebrog and decorated with the Cross of Honor of the same Order, His Majesty's Chamberlain and Envoy Extraordinary and Minister Plenipotentiary at Washington; 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 Denmark mutually agree to deliver up persons who, having been charged 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 or offense had been there committed.

ARTICLE II.

Extradition shall be granted for the following crimes and offenses:

1. Murder, comprehending assassination, parricide, infanticide, and poisoning; attempt to commit murder; the killing of a human being, when such act is punishable in the United States as voluntary manslaughter, and in Denmark as manslaughter.

2. Arson.

3. 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; burglary, also housebreaking or shopbreaking.

4. Forgery, or the utterance of forged papers; the forgery or falsification of official acts of government, of public authorities, or of courts of justice, or the utterance of the thing forged or falsified.

5. The counterfeiting, falsifying or altering 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 banknotes, or the utterance or circulation of the same; or the counterfeiting, falsifying or altering of seals of state.

6. Embezzlement by public officers; embezzlement by persons hired or salaried, to the detriment of their employers; larceny; obtaining money, valuable securities or other property by false pretenses, or receiving money, valuable securities, or other property, knowing the same to have been embezzled, stolen or fraudulently obtained, 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 or received is not less than \$200. or Kroner 740.

7. Fraud, or breach of trust by a bailee, banker, agent, factor, trustee or other person acting in a fiduciary capacity, or director or member or officer of any company, when such act is made criminal by the laws of the countries, and the amount of money or the value of the property misappropriated is not less than \$200. or Kroner 740.

8. Perjury; subornation of perjury.

9. Rape; abduction; kidnapping.

10. Malicious destruction of, or attempt to destroy, railways, trains or cars, bridges, dwellings, public edifices, or other buildings, when the act endangers human life.

11. Crimes committed at sea:

(a) Piracy, by statute or by the law of nations.

(b) Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

(c) Wrongfully sinking or destroying a vessel at sea, or attempting to do so.

(d) Assault on board a ship on the high seas with intent to do grievous bodily harm.

12. Crimes and offenses against the laws of both countries for the suppression of slavery and slave-trading.

13. Procuring abortion.

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 Denmark by imprisonment at hard labor.

ARTICLE III.

Requisitions for the surrender of fugitives from justice shall be made by the diplomatic agents of the contracting parties, or in the absence of these from the country or its seat of government, may be made by the superior consular officers.

If the person whose extradition is requested shall have been convicted of a crime or offense, a duly authenticated copy of the sentence of the court in which he was convicted, or if the fugitive is merely

charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime has been committed, and of the depositions or other evidence upon which such warrant was issued, shall be produced.

The extradition of fugitives under the provisions of this Treaty shall be carried out in the United States and in Denmark respectively, in conformity with the laws regulating extradition for the time being in force in the state on which the demand for surrender is made.

ARTICLE IV.

When the arrest and detention of a fugitive in the United States are desired on telegraphic or other information in advance of the presentation of formal proofs, complaint on oath, as provided by the statutes of the United States, shall be made by an agent of the Danish Government before a judge or other magistrate authorized to issue warrants of arrest in extradition cases.

In the Kingdom of Denmark the diplomatic or consular officer of the United States shall apply to the Foreign Office, which will immediately cause the necessary steps to be taken in order 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 Convention, within two months from the date of his provisional arrest or detention.

ARTICLE V.

Neither of the contracting parties shall be bound to deliver up its own citizens, born or naturalized, under the stipulations of this Convention.

ARTICLE VI.

A fugitive criminal shall not be surrendered if the offense in respect of which his surrender is demanded be of a political character, or if he proves that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offense of a political character.

No person surrendered by either of the high contracting parties to the other shall be triable or tried, or be punished for any political crime or offense, or for any act connected therewith, committed previously to his extradition.

An attempt against the life of the head of either Government, 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 offense.

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 VII.

Extradition shall not be granted, in pursuance of the provisions of this Convention, if legal proceedings or the enforcement of the pen-

alty 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 VIII.

No person surrendered by either of the high contracting parties to the other shall without his consent, freely granted and publicly declared by him, be triable or tried, or be punished for any crime or offense committed prior to his extradition, other than that for which he was delivered up, until he shall have had an opportunity of returning to the country from which he was surrendered.

ARTICLE IX.

All articles seized which are in the possession of the person to be surrendered at the time of his apprehension, whether being the proceeds of the crime or offense charged, or being material as evidence in making proof of the crime or offense shall, so far as practicable and in conformity with the laws of the respective countries, be given up when the extradition takes place. Nevertheless, the rights of third parties with regard to such articles shall be duly respected.

ARTICLE X.

If the individual claimed by one of the high contracting parties, in pursuance of the present Treaty, shall also be claimed by one or several other powers on account of crimes or offenses committed within their respective jurisdictions, his extradition shall be granted to the State whose demand is first received: Provided, that the Government from which extradition is sought is not bound by treaty to give preference otherwise.

ARTICLE XI.

The expenses incurred in the arrest, detention, examination and delivery of fugitives under this Treaty shall be borne by the State in whose name the extradition is sought; Provided, that the demanding government shall not be compelled to bear any expense for the services of such public officers of the government from which extradition is sought as receive a fixed salary; and Provided that the charge for the services of such public officers as receive only fees or perquisites shall not exceed their customary fees for the acts or services performed by them had such acts or services been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

ARTICLE XII.

The present Treaty shall take effect on the thirtieth day after the date of the exchange of ratifications, and shall not operate retroactively.

The ratifications of the present Treaty shall be exchanged at Washington as soon as possible and it shall remain in force for a period of six months after either of the contracting governments shall have given notice of a purpose to terminate it.

In witness whereof, the respective plenipotentiaries have signed the

above articles, both in the English and the Danish languages and have hereunto affixed their seals.

Done in duplicate, at the City of Washington, this sixth day of January nineteen hundred and two.

JOHN HAY [SEAL.]
C. BRUN. [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 16th day of April, one thousand nine hundred and two;

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 of America to be affixed.

Done at the City of Washington, this seventeenth day of April in the year of Our Lord one thousand nine hundred and two,
[SEAL.] and of the Independence of the United States the one hundred and twenty-sixth.

THEODORE ROOSEVELT

By the President:

JOHN HAY
Secretary of State.

**LIABILITY OF NATURALIZED CITIZENS OF THE UNITED STATES
TO MILITARY SERVICE IN DENMARK.**

Mr. Swenson to Mr. Hay.

No. 254.]

LEGATION OF THE UNITED STATES,
Copenhagen, May 2, 1902.

SIR: I inclose herewith, for your information, a copy of a letter which I addressed to a Mr. Severin Jacobsen, under date of December 30, 1901, relative to the question of his liability to military duty in Denmark.

I have, etc.,

LAURITS S. SWENSON.

[Inclosure.]

Mr. Swenson to Mr. Jacobsen.

LEGATION OF THE UNITED STATES,
Copenhagen, December 30, 1901.

SIR: In reply to your interrogatories sent through the United States consul at this place, I beg to inform you that if it is your intention to return to the United States within a reasonable time with a purpose of residing and performing the duties of citizenship therein, you are not liable to military duty in Denmark.

It appears from the statement of your case that you emigrated to the United States before having attained the age fixed by Danish law for military service (22) or even for enrollment on the conscription lists (17); that the naturalization of your father as a citizen of the United States July 8, 1893, conferred American citizenship upon you,

being a minor at that time, and that you returned to your native country in July, 1899, where you have since resided. In view of these facts, the question of your exemption from military service must be determined by intention or nonintention to return to the United States, as stated above.

I would advise you to procure a United States passport as evidence that you wish to conserve your American citizenship.

Respectfully, yours,

LAURITS S. SWENSON

**PROTECTION OF CUBAN INTERESTS BY UNITED STATES
CONSULAR OFFICIALS.**

Mr. Swenson to Mr. Hay.

No. 261.]

LEGATION OF THE UNITED STATES,
Copenhagen, June 6, 1902.

SIR: I have to acknowledge the receipt of your cablegram^a of the 24th ultimo.

In reply to a request which I addressed to the foreign office, under date of the 26th ultimo, the minister of foreign affairs informs me, in a note of the 3d instant, that the Danish Government grants the desired permission.

I have so notified our consular officers in Denmark proper and in the Danish West Indies.

I have, etc.,

LAURITS S. SWENSON.

ACCIDENT TO PRESIDENT ROOSEVELT.

Mr. Swenson to Mr. Hay.

No. 275.]

LEGATION OF THE UNITED STATES,
Copenhagen, September 6, 1902.

SIR: The news of the accident which befell President Roosevelt and party near Pittsfield, Mass., the 3d instant, caused much solicitude here, until it was known with certainty that the President had not sustained any serious injuries.

Many officials and private persons called at the legation to express their congratulations on the President's escape from death.

Be good enough to convey to the President my personal congratulations on his providential escape.

I have, etc.,

LAURITS S. SWENSON.

COURTESIES TO U. S. S. CHICAGO AND ALBANY.

Mr. Swenson to Mr. Hay.

No. 279.]

LEGATION OF THE UNITED STATES,
Copenhagen, September 30, 1902.

SIR: The U. S. S. *Albany* and *Chicago*, Captains Craig and Dayton commanding, arrived at the port of Copenhagen the 20th ultimo, on a visit of courtesy. The *Chicago* put out to sea again the 23d, on telegraphic orders, while the *Albany* remained in the roadstead until the

4th instant. The ships had been at Christiania, Stockholm, and Cronstadt, coming here from the latter place, thus completing their cruise of the Baltic. Part of this squadron, which was under command of Rear-Admiral Crowninshield, and which originally comprised two more vessels, the flagship *Illinois* and the *San Francisco*, had been sent to English waters to participate in the naval review held at Spithead in connection with the ceremonies attending the coronation of Edward VII. The entire squadron was to have visited Copenhagen, but injuries sustained by the *Illinois* while entering the harbor of Christiania made this impracticable, necessitating a change in the plans. Much regret was expressed here on that account.

Shortly after the arrival of the *Albany* and the *Chicago* the commanders called at the legation. A time was appointed for my return visit, as well as for the different calls to be made on the Danish officials. I presented Commanders Craig and Dayton to the minister of foreign affairs and to the minister of marine, and assisted them in making other customary calls.

I secured an audience with the King and the Crown Prince for Captain Craig and Lieutenant-Commander Rush, of the *Albany*. Prince Valdemar, the minister of marine, Vice-Admiral Uldall, and other Danish marine officers paid visits on board the ships, which they inspected with great interest. They complimented the officers on the fine appearance of their ships and crews. Private Americans and Danes were also given an opportunity to go on board, and they spoke in high praise of what they saw. The press contained many complimentary notices of the officers and ships.

I gave a dinner at the legation, which was attended by Captain Craig and six of his officers, the minister of marine, the commanding admiral, and many other high Danish navy officers—in all, 21 persons.

The usual toasts were drunk, beginning with the health of the King, which was proposed by me. The minister of marine, in return, showed a like honor to President Roosevelt; after which, Captain Craig raised his glass to the Danish Navy, and Vice-Admiral Uldall to the American.

The minister of marine invited some of the officers of the *Albany* and myself to a dinner at the hotel Phoenix, and Vice-Admiral Uldall entertained a few of these officers at a luncheon at his home, to which my wife and I were also asked. Many Danish officers were present on both occasions.

Our officers expressed themselves as being delighted with their visit here. Every courtesy was extended to them. The minister of marine, Vice-Admiral Uldall, and others made special efforts to render the stay as pleasant and interesting as possible. An officer was detailed to act as honorary attaché to Captains Craig and Dayton while they remained here. The American officers were received most cordially everywhere, and made to feel that they were welcome on their own account as well as on account of the country they represented.

I have, etc.,

LAURITS S. SWENSON.

MILITARY SERVICE CASE OF JAMES NELSON.*Mr. Swenson to Mr. Hay.*

No. 284.]

LEGATION OF THE UNITED STATES,
Copenhagen, December 13, 1902.

SIR: I have the honor to inclose herewith copies of my notes to the foreign office in the military service case of James Nelson, which has not previously been reported to the Department.

Under date of March 22, 1902, the minister of foreign affairs advised me that, in accordance with my request, Mr. Nelson's sentence had been commuted to a fine.

This was satisfactory to Mr. Nelson, and permitted him to proceed on his homeward journey without further interruption.

I have, etc.,

LAURITS S. SWENSON.

[Inclosure 1.]

Mr. Swenson to Dr. Deuntzer.

No. 139.]

LEGATION OF THE UNITED STATES,
Copenhagen, January 28, 1902.

EXCELLENCY: I have the honor to invite your excellency's attention to the following military service case:

James Nelson was born at Eged, Horreby Sogn, Falster, Denmark, May 20, 1862. Conformably to the Danish conscription laws, he performed military service from January 30, 1883, to October 3, 1884, and from September 2 to October 3, 1885. He would have been called in again for duty in September, 1886, but meanwhile emigrated to the United States, in March of that year, without having applied for or procured the required official permission. He was naturalized as a citizen of the United States before the district court of the second judicial district of Ramsey County, at St. Paul, Minn., November 24, 1897. His home is at St. Anthony Park, Minn., where he is engaged in the dairy business. In December, 1901, he returned to his native country for the purpose of visiting his mother and other relatives, as well as benefiting his health. He is accompanied by his wife and two of the minor children. Two of his children, one 7 years of age and one 8, were left behind at the home in Minnesota.

He intends to return to the United States as soon as his little son, who was taken sick with gastric fever shortly before the holidays, regains sufficient strength to undertake the journey. On the 17th of this month Mr. Nelson was summoned before the authorities at Falster's Vestre Herred Kontor, Nykøbing, Falster, and fined 6 kroner for having emigrated without the required permission, as stated above.

On the 26th instant he received notice from the recruiting officer of Fourth Regiment of Dragoons, Second Squadron, at Nestved, to report forthwith for military duty. The following day he called at this legation and made a full statement of his case, as set forth above. He exhibited his certificate of naturalization and a passport, No. 48684, issued to him by the Secretary of State November 1, 1901.

He appealed for my intercession in his behalf; I advised him to appear at the Nestved office and to explain the situation to the officer in charge, who, on learning the facts would, in my opinion, press the matter no further. This morning I received a letter from Mr. Nelson, as follows:

NESTVED, *January 27, 1902.*

SIR: In spite of strong protest on my part, the authorities of the Fourth Regiment of Dragoons, Nestved, compelled me to enter upon military duty. I respectfully request you to do everything in your power, at the earliest possible moment, to secure my release.

Respectfully yours,

JAMES NELSON.

Under the above circumstances, I feel confident that the necessary orders for Mr. Nelson's exemption from military duty will be given as soon as his case is brought to

the knowledge of the proper appellate authority. I will thank your excellency to communicate the contents of my note to the competent official; and I would earnestly request that the matter be expedited as much as possible, in order that Mr. Nelson may be released without delay.

He is subjected to great inconvenience by being detained at Nestved.

Be pleased to accept, etc.,

Laurits S. Swenson.

[Inclosure 2.]

Mr. Swenson to Dr. Deuntzer.

No. 140.]

LEGATION OF THE UNITED STATES,
Copenhagen, February 7, 1902.

EXCELLENCY: In my No. 139 dated the 28th ultimo, I invited your excellency's attention to the military service case of James Nelson, a naturalized citizen of the United States. Mr. Nelson informs me by letter, under date of the 6th instant, that after three days' service he has been released from further duty.

The fine of 6 kroner which he had paid for failure to comply with the Danish military regulations before emigration has been refunded to him. He has been informed, however, that he will be adjudged to pay a heavier fine and to serve a few days in prison. He desires to know if this penalty can not be reduced to a mere fine. I am not sufficiently familiar with the laws governing the case to know why Mr. Nelson's exemption from service on the ground of his American citizenship should in any way affect the question of penalty for violation of military regulations before his naturalization; but I take it that the authorities may exercise discretion in passing on the case in question; and in view of the facts set forth in my former note to your excellency, I would respectfully request that leniency be exercised in dealing with Mr. Nelson, and that he be saved from the humiliation involved in imprisonment. Could not the original fine be allowed to stand, and the case thus considered closed? I wish to express my appreciation of the dispatch with which my intercession in behalf of Mr. Nelson was acted upon, and to thank your excellency in advance for your further good offices in the matter.

Be pleased, etc.,

Laurits S. Swenson.

[Inclosure 3.]

Mr. Swenson to Dr. Deuntzer.

No. 142.]

LEGATION OF THE UNITED STATES,
Copenhagen, February 21, 1902.

EXCELLENCY: Referring to my Nos. 139 and 140 of January 28 and February 7, respectively, in the military service case of James Nelson, I have the honor to inclose herewith a notice,^a a petition,^a and a transcript of the court records,^a which Mr. Nelson has forwarded to me through his attorney, C. B. Olivarius, of Nykøbing, Falster, with the request that I submit the same to the proper authorities. Mr. Nelson's delicate health suffers from the nervous strain caused by the sense of imprisonment, and I would earnestly repeat my request of the 7th instant that his sentence be commuted.

Be pleased, etc.,

Laurits S. Swenson.

[Inclosure 4.]

Mr. Swenson to Dr. Deuntzer.

No. 145.]

LEGATION OF THE UNITED STATES,
Copenhagen, March 12, 1902.

EXCELLENCY: Referring to the military service case of James C. Nelson, concerning which I last addressed your excellency in my No. 142, of the 21st ultimo, I beg to bring to your attention a letter which Mr. Nelson's wife has written to me, under date of the 11th instant. She says, among other things:

"We are now ready to return to America, and would have started by this time if he (Mr. Nelson) could but get his American citizenship papers, but they are still in

the possession of the authorities at Nyköbing, Falster, who refuse to surrender them before the case is settled. This seems to take a long time, and as my husband's health is failing instead of improving, we were in hopes that you could hurry the case a little if we asked you. It is three weeks since the papers were sent to Copenhagen. We are so anxious to get home now as soon as possible."

Your excellency is familiar with all the circumstances in the case, and I am sure you quite agree with me that early action ought to be taken by the proper authorities, in order that Mr. Nelson may be left free to proceed on his homeward journey, in accordance with his wish. To this end I again appeal to your good offices.

I avail, etc.,

LAURITS S. SWENSON.

EFFECT OF THE CONTINUED RESIDENCE OF NATURALIZED UNITED STATES CITIZENS IN THE COUNTRY OF ORIGIN.

Mr. Swenson to Mr. Hay.

No. 286.]

LEGATION OF THE UNITED STATES,
Copenhagen, December 16, 1902.

SIR: I beg to inclose herewith, for your information, copies of a letter from C. Ravn and of mine in reply, respecting the status of his citizenship.

I have, etc.,

LAURITS S. SWENSON.

[Inclosure 1.]

Mr. Ravn to Mr. Swenson.

"SOLHJEM", PR. GENTOFTE, *February 12, 1902.*

SIR: I most respectfully beg of you to excuse the liberty taken in writing to you, but I should like your opinion in the following case:

I emigrated to the United States of America twenty years ago and five years after was duly naturalized as an American citizen. During my stay there I held the position of state inspector of immigration (New York State) and later as United States inspector of immigration, which place I held for eight years; but was removed during the last Cleveland Administration, as I had always been a loyal Republican.

As you learn from my address, I am at present in Denmark. Should I decide to remain here, am I still a United States citizen and will I always remain such provided I do not declare my intentions to become a Danish subject? I consulted a lawyer who said that inasmuch as I had been baptized and confirmed here I have not lost my rights as a Danish subject. My contention is, that when I became a United States citizen I swore allegiance to the States and forfeited thereby my Danish citizenship, which, I claim, I can not reobtain unless I remain here the same length of time required of bona fide foreigners. Should you be pleased to decide in this matter I shall feel it as a great esteem.

I beg, etc.,

C. RAVN.

[Inclosure 2.]

Mr. Swenson to Mr. Ravn.

LEGATION OF THE UNITED STATES,
Copenhagen, February 17, 1902.

SIR: I have to acknowledge the receipt of your letter of the 12th instant, requesting me to enlighten you as to the status of your citizenship. It appears from your statement that you emigrated to the United States twenty years ago, where you were duly naturalized as an American citizen; and that you have returned to Denmark, the country of your nationality, and taken up your residence there.

You ask, "Should I decide to remain here, am I still a United States citizen; and will I always remain such, provided I do not declare my intention to become a Danish subject?"

Further on you say: "My contention is, that when I became a United States citizen I swore allegiance to the States and forfeited thereby my Danish citizenship, which, I claim I can not reobtain unless I remain here the same length of time required of bona fide foreigners."

In reply to your interrogatory, I beg to inform you that your removal from the United States and your taking up a permanent domicile in Denmark would be considered by the executive authorities of the former country as an act of expatriation; that is, you would be looked upon as having voluntarily surrendered your claim to American citizenship and, in consequence, to the protection of the United States Government.

If, on the other hand, your residence abroad is only temporary, and if it is your bona fide intention to return to the United States and continue your residence there permanently, your acquired citizenship would not be forfeited by your absence from the country of your adoption, even for a comparatively long period of years. You will thus see that the question of your American citizenship depends upon your intention regarding future domicile. No mode of expatriation is provided by the Constitution or the statutes of the United States; hence the question as to what constitutes such an act must be determined largely by the circumstances surrounding the case. It is not within the province of diplomatic representatives of the United States to pass upon the civil status of its inhabitants, except in so far as their duty to extend the protection of their Government to citizens of the country makes it necessary for them to determine who are to be considered citizens. Beyond this point the question is one for the judicial, not the executive, branch of the Government to settle. The executive officers, of course, aim to harmonize their decisions with those of the courts; hence it may reasonably be inferred from their opinions what the courts would hold in a given case.

With reference to your contention regarding the Danish laws on naturalization and expatriation, I beg to say that it is not pertinent for me to give an opinion on that subject.

Very respectfully,

Laurits S. Swenson.

Mr. Hay to Mr. Swenson.

No. 163.]

DEPARTMENT OF STATE,
Washington, January 5, 1903.

SIR: I have to acknowledge the receipt of your No. 286, of the 16th ultimo, inclosing copies of correspondence with Mr. C. Ravn respecting the status of his citizenship.

Your views on the subject, as expressed in your letter of February 17, 1902, to that gentleman, are commended by the Department.

I am, etc.

JOHN HAY.

MILITARY-SERVICE CASES OF JAMES JOHN HANSEN AND ANTON MILLER.

Mr. Swenson to Mr. Hay.

No. 287.]

LEGATION OF THE UNITED STATES,
Copenhagen, December 17, 1902.

SIR: I have the honor to transmit herewith, for the Department's information, copies of correspondence bearing on the military-service cases of James John Hansen and Anton Miller, both of which, you will observe, were disposed of in a satisfactory manner.

I have, etc.,

Laurits S. Swenson.

[Inclosure 1.]

*Mr. Swenson to Dr. Deuntzer.*LEGATION OF THE UNITED STATES,
Copenhagen, August 26, 1902.

EXCELLENCY: James John Hansen (Jens Johannes Hansen), a naturalized citizen of the United States, applies to me for intercession with the Danish Government in his behalf. His case is as follows: He was born at Nasby, Denmark, February 17, 1873. In conformity with the conscription laws of Denmark, he performed military service from March 30 to December 17, 1892. Had he remained in this country he would have been liable to duty again in the fall of 1894 and 1896. Meanwhile, however, he emigrated to the United States, April 20, 1893, where he became naturalized as an American citizen, before the supreme court of the State of Washington, for the county of Chehalis, April 20, 1900. On the 2d of September, 1901, he returned to his native country for the purpose of marrying. It had been his intention to return to the United States after a short visit here; but he was prevailed upon by his mother-in-law to prolong his stay. He intends to conserve his American citizenship and to return to the United States within a reasonable time.

The recruiting officer in Sölvgade, this city, has sent him a notice to report for military duty September 10 next.

In view of the facts set forth in the above statement, I would respectfully request that your excellency bring the matter to the attention of the proper authorities, in order that Mr. Hansen may be declared exempt from military duty, to which he is not liable as a citizen of the United States.

I avail, etc.,

LAURITS S. SWENSON.

[Inclosure 2.—Translation.]

*Mr. Krag to Mr. Swenson.*MINISTRY FOR FOREIGN AFFAIRS,
Copenhagen, September 25, 1902.

MR. MINISTER: By a note dated the 26th ultimo you informed me that a Mr. James John Hansen, born in Denmark, February 17, 1873, and naturalized as a citizen of the United States in 1900, had, while temporarily sojourning in Denmark, received notice to report for military service, and you requested that the necessary orders be issued for his exemption from such duty.

I lost no time in submitting Mr. Hansen's case to the competent authority, and I have the honor to inform you that I have received a communication stating that on producing proof of his American citizenship Mr. Hansen has been exempted from military service in this country. I would add that he will be proceeded against for having failed to complete his service in 1894 and following years, up to the time of his naturalization in the United States

For the minister,

R. KRAG.

[Inclosure 3.]

*Mr. Swenson to Dr. Deuntzer.*LEGATION OF THE UNITED STATES,
Copenhagen, August 27, 1902.

EXCELLENCY: I have the honor to submit the following military-service case of Anton Miller (Anthon Marius Miller), a naturalized citizen of the United States. Mr. Miller was born in Denmark March 6, 1864. He performed six months' military service in 1886, and would have been called in again for the required one month's duty in 1888 and 1890. In March, 1887, however, he emigrated to the United States, where he became naturalized as an American citizen, before the district court, second judicial district, at St. Paul, Minn., January 5, 1898. The following year he returned to Denmark for the benefit of his wife's health. He resided two years in Copenhagen, and is now at Veile, Jutland. The condition of his wife's health, as well as his own, has protracted his stay in his native country. You will find inclosed herewith a certificate from Dr. G. Schleisner, Veile, regarding Mr. Miller's physical condition.

He intends to return to the United States as soon as his wife has regained sufficient strength to justify him in bringing her back to their home in St. Paul, Minn. In the spring of 1900 he was summoned before the competent authority in Copenhagen and adjudged to pay a fine of 20 kroner and to serve a two days' jail sentence for having neglected to obtain the required permit from the minister of justice at the time of his emigration. Having paid this penalty for an offense committed while yet under the jurisdiction of the Danish authorities, he was not further amenable to the military-service laws of Denmark, his American citizenship exempting him therefrom. He has, nevertheless, received notice from the recruiting office of Fredericia to report for military duty at that place September 12 next. Mr. Miller asks me to intercede for him. I will thank your excellency to bring his case to the attention of the proper authority, with a view to advising the office at Fredericia to make no demand on him for military service.

I avail, etc.,

LAURITS S. SWENSON.

[Inclosure 4.—Translation.]

Dr. Deutzer to Mr. Swenson.

MINISTRY FOR FOREIGN AFFAIRS,
Copenhagen, September 20, 1902.

MR. MINISTER: By a note dated the 27th ultimo you informed me that a Mr. Anthon Marius Möller (Miller), born in Denmark March 6, 1864, and naturalized as a citizen of the United States in 1898, had, while temporarily sojourning in Denmark, received notice to report for military service, and you requested that the necessary orders be issued for his exemption from such duty.

I lost no time in submitting Mr. Miller's case to the competent authority, and I have the honor to inform you that I have received a communication stating that on appearing before the court of revision he was excused from service on account of sickness. The case is, accordingly, closed.

Be pleased, etc.,

DEUTZER.

DOMINICAN REPUBLIC.

VISIT OF GEN. MAXIMO GOMEZ TO SANTO DOMINGO, DURING WHICH RELICS OF CHRISTOPHER COLUMBUS WERE EXHIBITED.

Mr. Powell to Mr. Hay.

No. 306, Santo Domingo series.]

LEGATION OF THE UNITED STATES,
Santo Domingo, February 24, 1902.

SIR: I have the honor to state to the Department the arrival of Gen. Maximo Gomez, Cuban general, in this city. The Government is extending to him its hospitality as a mark of honor and respect. As a testimonial of their regard, they have allowed him to view one of their sacred treasures, by exposing to him the casket containing the bones of Christopher Columbus and permitting him to handle the same. The casket containing the relics of the discoverer of America rests under a fine monument in the cathedral in this city. Your representative also had the honor to be invited to be present, and at the time was introduced to General Gomez.

For further information of the Department [I would say that], these relics are inclosed in a casket made of composite metal, the box being 18 inches by 10 inches, and about 12 inches deep. There are numbers of bones in the box. It also contains the ball that was said to be imbedded in the leg of Columbus, received in an engagement, and never extracted. They claim from this evidence presented that the present relics are the mortal remains of the early discoverer, and not those that were removed from Havana a few years ago; one of these relics your representative had the pleasure of holding for a few moments.

This metal box is inclosed in another having glass sides, and the two in a strong steel casket, protected by doors of the same metal, the whole resting, as I have stated, under a handsome marble monument inside of the main entrance of the cathedral which bears his name.

I am informed this was the fifth time that these relics have been exposed to public view. After a short time, to allow the general public to see them, they were returned to their resting place.

I have, etc.,

W. F. POWELL.

PROTECTION DENIED PORTO RICANS ENGAGED IN INSURRECTION AGAINST DOMINICAN GOVERNMENT.

Mr. Powell to Mr. Hay.

No. 349. Santo Domingo series.]

LEGATION OF THE UNITED STATES,
Santo Domingo City, April 12, 1902.

SIR: I have the honor to state a Porto Rican, named Maximo Mongé, engaged in business in Azua, one of the places where the recent disturbance occurred, was sent by the military governor of that district to the capital a prisoner, charged as being one of the participators in the recent troubles at that place. Upon his arrival the Government gave to him his liberty with order that he should report daily to the military authorities. He called upon the consul-general, Mr. C. L. Maxwell, stating that he had been illegally arrested, that he had not broken the laws of the Republic, and knew no reason why the authorities should take him from his home and business and send him here. Mr. Maxwell referred him to your representative. After hearing his statement I addressed a note to the minister of foreign relations requesting that he furnish me the cause that led to his arrest and upon what charge he was held. The minister immediately replied, stating that Mongé had been sent to the capital, as he was engaged in the recent disturbance there, and requesting that he be not allowed to return. I afterwards called upon the minister and learned from him that meetings of an insurrectionary character had been held at his (Mongé's) house, and that he had been an active agent between certain persons now in prison from that place who had been engaged in the attempt to overthrow the present government; that he had been cautioned by the military authorities in regard to these meetings, and that he had replied nothing could be done with him, as he was a Porto Rican and under the protection of our Government. Finding he would not discontinue his efforts in this direction he was arrested and sent here, and, as I have stated, released upon the promise that he would daily report to the military authorities. The minister also informed me that it was the intention of the Government to send him from the Republic. I am inclined to believe the statement made to me to be true.

As all trouble in that direction is about over, I have requested of the minister to allow him to return to his family. This he has agreed to do after affairs become more tranquil in that section. He will possibly be required to remain here a few weeks longer, and then be allowed to return. I was also informed at this interview that a number of Porto Ricans were engaged in this insurrection, some entering the ranks of the insurgents, and requested to know of me if my Government would protect them in such a case. I have informed him that my Government did not seek to protect those engaged in rebellion against his Government. I requested of him to ascertain before taking such measures if such reports concerning these persons were true; if so, my Government would not interpose any objection to them carrying into execution their proposed action.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

Mr. Powell to Dr. Henriquez.

No. 200.]

LEGATION OF THE UNITED STATES,
Santo Domingo City, April 7, 1902.

SIR: I have been informed that you have under arrest, by your Government, a Porto Rican citizen by the name of Maximo Mongé, in business at Azua, the place where he was arrested, and forwarded from there to the capital.

I would be glad if you would inform me what are the charges against him, what laws has he broken, or with what crime is he charged?

Accept, etc.,

W. F. POWELL.

[Inclosure 2.—Translation.]

Dr. Henriquez to Mr. Powell.

Book B, No. 622.]

DOMINICAN REPUBLIC, MINISTRY OF FOREIGN RELATIONS,
San Domingo, April 7, 1902.

MR. MINISTER: I have the honor to acknowledge to you the receipt of your attentive note of to-day's date.

The Mr. Maximo Mongé, native of Porto Rico, and a resident of Azua, is complicated in the grave disturbances that have occurred in Azua and Barahona.

The governor of Azua considers him exceedingly dangerous in said place, and has sent him from there because his presence is antagonistic to the governor, and the minister of the interior has communicated with this office and desires that the said culprit leave the territory of the Republic from the moment he violates the laws of hospitality, coming in contact with Dominicans who unhappily forget their obligations as citizens and pretend to plant anarchism in the soil of the country.

I salute, etc.,

HENRIQUEZ Y CARVAJAL.

Mr. Hay to Mr. Powell.

No. 146, San Domingo series.]

DEPARTMENT OF STATE,
Washington, May 1, 1902.

SIR: I have to acknowledge the receipt of your No. 349, San Domingo series, of the 12th ultimo, reporting that you had examined the case of Maximo Mongé, a citizen of Porto Rico, charged with aiding and abetting the insurrection, and threatened with expulsion from the country, and have advised the Dominican foreign office that this Government would not extend its protection to citizens of the United States or of Porto Rico engaged in insurrection against the Government of the Dominican Republic.

Your action is approved.

I am, etc.,

JOHN HAY.

**PROTECTION OF CUBAN INTERESTS BY UNITED STATES
CONSULAR OFFICIALS.***Mr. Powell to Mr. Hay.*

No. 389, San Domingo series.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, August 13, 1902.

SIR: I have the honor to state to the Department that the present mail from Santo Domingo has brought to this legation the consent of the Dominican Government to the request of the Cuban Government

that the United States consular officers in that Republic should represent Cuban commercial interests until such time as it can establish a Cuban consular service.

I have the honor to inclose the correspondence that has passed between that Government and this legation concerning this matter.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

Mr. Powell to Mr. Sanchez.

No. 217.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, July 9, 1902.

SIR: I have the honor to call your excellency's attention to a request that has been made to my Government by His Excellency Señor Don Tomás Estrada Palma, President of the Republic of Cuba, requesting that the United States consular officers in your Republic be charged with the protection of the citizens of that Republic resident in Santo Domingo, and also the commercial interests of the said Republic, until such time as Cuban consular officers can be appointed.

I would be glad to have you inform me if this request of His Excellency Señor Palma, meets with the approval of your excellency's Government, in order that the necessary instructions shall be transmitted from this office to the United States consular officers in your Republic. May I also request of your excellency your reply by cable, in order that I may communicate with our consuls at an early day.

Kindly accept, etc.,

W. F. POWELL.

[Inclosure 2.—Translation.]

Mr. Sanchez to Mr. Powell.

DOMINICAN REPUBLIC, DEPARTMENT OF FOREIGN RELATIONS,
Santo Domingo, August 1, 1902.

MR. CHARGÉ D'AFFAIRES: I have the honor to bring to your knowledge that I have given opportunely account to the Dominican Government of your kind note of the date of July 9, No. 217, informing us that a request has been made to your Government by His Excellency Mr. Tomás Estrada Palma, President of the Republic of Cuba, soliciting that the consular officials of the United States in the Dominican Republic might be charged with the protection of the citizens of that Republic residing in Santo Domingo, and also of the commercial interests of the said Republic, up to the time in which he can appoint Cuban consular officials.

The Dominican Government accepts at once and with the best good will the said representation of the Cuban interests and the protection of the citizens of that Republic by that of the United States, and desires that the formal notice be made to Mr. Tomás Estrada Palma, through your office, to consider complete the request to the purpose in the case of the representation and protection announced.

I salute you, etc.,

JUAN F. SANCHEZ.

ACCIDENT TO PRESIDENT ROOSEVELT.

Mr. Vasquez to Mr. Hay.

[Telegram.]

LEGATION OF THE DOMINICAN REPUBLIC,
New York, September 24, 1902.

Sincerely regret accident to President Roosevelt, and hope there is no danger for him.

F. L. VASQUEZ,
Chargé d'Affaires.

Mr. Adee to Señor Vasquez.

No. 19.]

DEPARTMENT OF STATE,
Washington, September 26, 1902.

SIR: I have the honor to acknowledge the receipt of your telegram of the 24th instant, expressing your regret to learn of the operation performed on the President as a result of the accident at Pittsfield.

I have the honor to express the Department's appreciation of your courteous telegram, and to assure you that the reports of the President's condition continue satisfactory.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

F R 1902, PT 1—25

ECUADOR.

PASSPORTS AND CITIZENSHIP—EXPLANATORY OF DEPARTMENT'S ATTITUDE IN REGARD TO, AND DEFINING LIMITS WITHIN WHICH NATURALIZATION CERTIFICATES ARE RECOGNIZED.

Mr. Sampson to Mr. Hay.

No. 269.]

LEGATION OF THE UNITED STATES,
Quito, December 20, 1901.

SIR: One of the most difficult experiences a representative of the United States has is to determine what are the rights of certain claimants to American citizenship. It is a well-known fact that there are many instances of persons claiming citizenship of the United States, both native and naturalized, who have been living abroad for many years, all the time claiming the protection of the United States, but discharging none of the duties of citizenship and, in many instances, of no honor to the nation, while all their scheming is to avoid all obligation to and claim all exemptions possible from duties to the country in which residing. (I know one case in which a naturalized subject has resided for over forty years in the land of his nativity, without even visiting the United States, and can not now speak a word of English.) Such persons make it a "religious duty" (?) to sign the Register of American Citizens in the United States legation or consulate each succeeding two years and profess great admiration for the "Stars and Stripes" and sigh for the day to speedily come when they can once more be "at home in the best country in the world" (always saying, "I hope in two or three years more"). Some such persons are engaged in merchandising. You may enter and inspect their large stock of goods and not find a dollar's worth that has been purchased in the United States. In many instances they have amassed fortunes, but not one dollar of it increases the wealth of the United States; and yet it seeks the protection of the same. In prominent letters over the front door are seen the words "American property." Thus, in every possible way and by repeated assertions they claim American citizenship, and if an official representative of the United States dare question it, the overzealous citizen becomes indignant and informs the said official that "—— Government" would not hesitate to protect her citizens when abroad. True, there are those who reside abroad for many years who are engaged in some business or enterprise that will advance the interests of American commerce or manufactures, and who fully intend to return to the United States to resume the duties of citizenship as soon as a certain result has been accomplished. Such persons are entitled to proper recognition. One not "on the ground" may be ready to say it is an easy matter to determine between these two classes. But after an "experience" he will be ready to acknowledge that it is almost impossible

to determine the one deserving recognition from the one who is a citizen solely for "what is in it." In view of these facts it is important that some more definite rules should be laid down so that uniformity of recognition of citizenship rights in all countries may be the same. Under present regulations the circular of State Department, "Passports for persons residing or sojourning abroad," March 27, 1899, is as explicit as can be. But would it not be better that Congress should so amend section 4075, Revised Statutes, as to provide that only the Secretary of State shall have power to issue passports, but providing that the other officials therein specified might have the power to verify a passport, once only, to hold good not to exceed two years? This would enable the holder to make an application to the State Department for a reissue. No person should leave the United States without a passport if he wants one. If he wants it renewed let the official who issued it be the judge as to whether he is entitled to it or not, except as above specified. It seems to me it would be well to require all such persons asking for a reissue to make proof of some property interests in the United States, or that they are abroad in the employ of some citizen or company of the United States owning property interests in the United States, or that they are abroad for health or pleasure and not located in business in any foreign country unless in the sale of American products, and that they intend to return to the United States within —— years to resume the duties of citizenship.

The results of the late Spanish-American war have developed another class of cases. A citizen of Porto Rico, for example (and a true case), was in Ecuador, holding a regularly issued Spanish passport, when Porto Rico became a part of the United States. He at once professed great admiration for the United States and declared he would be henceforth an American citizen. Next he applied for registration as such and asked for a passport.

Under diplomatic and consular regulations two forms are provided, one for native and the other for naturalized citizens, one of which must be filled and sworn to in duplicate by the applicant, one copy to be sent to the State Department. In such a case it will readily be seen it is impossible to fill out either form. He is not either native or naturalized, but a citizen (if at all) by national treaty. He can not swear he was born in the United States or that he emigrated to the United States, for he has never been there, not even in Porto Rico after it became a part of the United States. He can not swear he is or ever was domiciled in the United States, hence never left it, all of which the affidavit requires him to state. Suppose an effort is made to fill out either of the forms given in instructions. In such a case, when the copy for the State Department would arrive there it would be found such a nondescript that it would be refused a place among the records of that office.

First. In the case just given will the assertions of the man that he is a loyal citizen of the United States and that he protests against citizenship in Ecuador be sufficient to entitle him to a passport?

Second. Or will it be necessary for him to evidence his desire of citizenship first by returning to Porto Rico or going to the United States?

Third. Would it be well to give him a passport for two years, with the warning that it would not be renewed unless he should spend part of the time in the United States? In such a case what kind of duplicate declaration should he be required to make?

The foundation of nearly all our trouble in this matter, in case of naturalized citizens, is the failure of our courts to require proper proof of residence in the United States for five years before naturalization. Many of them seem to aim to make this proof as easy as possible—a mere form.

From what I have been told and what I have seen in my practice before the courts, I doubt not there are cases of naturalization in which the applicant never resided in the United States to exceed three to six months; cases in which the applicants went to the United States for the sole purpose of securing naturalization for the indemnity it would bring, as a mere mercenary investment, and returned to their native land. Then, at the end of five years, they again went to the United States and made proof (?) of five years continued residence there, when they were legally declared citizens of the United States.

It would be a wise thing for Congress to so amend subdivision 1 of section 2165, Revised Statutes, as to limit the jurisdiction to circuit or district courts of the United States or the supreme court of any State or Territory, and require that the final proof of residence, etc., shall be made before one of said courts *when in regular open session*. Only in this way can the common fraud on our naturalization laws be stopped. (I have nothing to say as to the perjury of applicants and witnesses and the incompetency or corruption of many of our inferior courts.)

If this matter can be brought to the notice of Congress as I have seen it in thirty years' practice as a lawyer before the courts of record, State and national, of the United States, and in my consular and diplomatic experience, there would be no trouble to secure such an amendment.

I have, etc.,

ARCHIBALD J. SAMPSON.

Mr. Hay to Mr. Sampson.

No. 192.]

DEPARTMENT OF STATE,
Washington, January 21, 1902.

SIR: The Department has received your No. 269 of December 20, 1901, in which you treat of the subject of citizenship, residence abroad, and the granting of passports.

The Department is not unmindful of the difficulty our diplomatic agents have in determining whether a person applying for a passport is residing abroad *animo manendi* or *animo revertendi*; but it is obvious that no inflexible rule fixing a permissible period for residence abroad can properly be laid down, since the intent to return may actually exist in one case for many years after leaving the United States, and in another case may be nonexistent as soon as a person leaves our shores. The circular instruction of March 27, 1899, on the subject of "Passports for persons residing or sojourning abroad," to which you allude, states the Department's attitude in terms as definite as the subject seems to permit of, and this circular and the Department's other pronouncements, especially the letter to the President of Mr. Secretary Hamilton Fish, dated August 25, 1873 (see *The American Passport*, pp. 129 et seq.), seem to leave little room for further observations which would not be repetitions of principles already enunciated.

The application of these principles to the individual cases as they arise is a duty of the diplomatic and consular officers, and it is thought that being on the spot they are better qualified than the Department to investigate the circumstances surrounding the sojourn or residence of those who apply for new passports and to judge of their right to the continued protection of this Government. For this reason, and for the additional reason that injustice might arise in meritorious cases because of the delay, the Department can not concur in your suggestion that new passports should be issued to persons who are abroad only upon application to the Department at Washington.

As for the naturalization laws to which you allude, they are of direct concern to this Department only so far as they affect the international status of those who become naturalized. As you are aware, the Department's regulations require every naturalized citizen when he applies for a passport to make a sworn statement concerning his own or his parents' emigration, residence, and naturalization; and whenever the naturalization appears to have been improperly or impropvidently granted, it is not recognized under the Department's rules. Further than this the Department does not feel privileged to go, and the question of restricting the issuance of naturalization certificates to Federal courts seems to lie without the Department's domain.

Your remarks about the status of Porto Ricans who apply for passports have been noted. Legislation, requested by the Department, is now, however, pending, having as its object the extension to Porto Ricans of the protection of our passports, and when Congress shall have acted, appropriate instructions will be issued by the Department. In the meantime, the instructions of the Department are to extend to all native Porto Ricans loyal to the United States who make application the same protection of person and property as is accorded to citizens of the United States, and while not at present issuing passports in their favor, to furnish them with such document not forbidden by the diplomatic and consular regulations for their protection as the foreign authorities may require.

I am, etc.,

JOHN HAY.

**PROTECTION OF CUBAN INTERESTS BY UNITED STATES
CONSULAR OFFICIALS.**

Mr. Sampson to Mr. Hay.

No. 300.]

LEGATION OF THE UNITED STATES,
Quito, May 28, 1902.

SIR: Your cable message^a was received on the 25th instant, directing me to request the Government of Ecuador to permit United States consular officers to continue to represent Cuban interests in said Republic until Cuban consuls shall have been appointed. I promptly made the request, and have President Plaza's answer that my request is granted. I have, as directed, notified United States consular officers in Ecuador.

I have, etc.,

ARCHIBALD J. SAMPSON.

ACCIDENT TO PRESIDENT ROOSEVELT.*Mr. Sampson to Mr. Hay.*

No. 311.]

LEGATION OF THE UNITED STATES.

Quito, September 7, 1902.

SIR: Please say to President Roosevelt that the President of Ecuador sent his minister of foreign relations to call on me personally and asked me to extend to the President of the United States most hearty congratulations at the narrow escape he made from death or great bodily harm in the accident of yesterday, in which, I am sure, the entire civilized world unites.

Please say to him, for me, that I could do no less than to offer a prayer of thanksgiving to the Supreme Ruler of nations for His providential deliverance of our most worthy President.

I have, etc.,

ARCHIBALD J. SAMPSON.

Mr. Hay to Mr. Sampson.

No. 214.]

DEPARTMENT OF STATE,

Washington, October 13, 1902.

SIR: I have to acknowledge the receipt of your No. 311 of the 7th ultimo, conveying the congratulations of the President of Ecuador on President Roosevelt's escape from serious injury, and adding your own.

The President wishes me in reply to convey his cordial thanks for the kind expressions concerning himself. His condition is satisfactory and improvement steady. You will convey, through the proper channel, his appreciation of the courtesy of the President of Ecuador.

I am, etc.,

JOHN HAY.

FRANCE.

COMPLAINTS OF ALLEGED VIOLATION AT PACIFIC COAST PORTS OF CONSULAR CONVENTION OF FEBRUARY 23, 1853, BETWEEN THE UNITED STATES AND FRANCE.

Mr. de Margerie to Mr. Hay.

[Translation.]

EMBASSY OF FRANCE,
Washington, November 7, 1901.

MR. SECRETARY OF STATE: The consul-general of France at San Francisco has just reported to me several incidents which tend to show that the stipulations of the Franco-American consular convention of February 23, 1853, are not strictly observed by the authorities of his residence. I deem it my duty to bring them to the favorable attention of the Department of State. The facts are as follows:

In connection with a lawsuit of an absolutely private character brought against Mr. Tamm, a clerk in the French consulate, by Mr. Escande (the consulate, however, being in no wise concerned in the suit), a deputy sheriff of San Francisco, concealing his official character, made his way into the office of Mr. D'Allemagne, the consul-general, and offered to hand him a summons. Although reminded by the consul-general of France that Article II, paragraph 3, and Article III of the Franco-American consular convention of February 23, 1853, went counter to his pretension, the said deputy sheriff nevertheless persisted in his attempt.

The summons was immediately taken back to the sheriff's office and, upon an oral complaint of Mr. D'Allemagne, that official was good enough to send him a letter, in which he expressed his deepest regrets for the act of his deputy in violation of the existing consular convention, and gave assurances that there would be no recurrence of such acts.

Shortly thereafter, however, two other deputy sheriffs again called at the consulate of France with similar intent and at short intervals of a few days.

Finding that the good intentions declared by the sheriff were not sufficient to insure proper respect for the privileges which guarantee the dignity of consular officers, Mr. D'Allemagne requested the district attorney of the county to take such measures as were necessary to protect him in the future against these repeated attempts to hand him judicial writs. This request did not seem to meet with all the success that could be desired, for, later on, a lawyer by the name of Shilling and Mr. Joseph Kelly, his secretary, twice attempted to hand the writ in question to Mr. D'Allemagne on the open street and by violent means.

The consul-general of France then turned to the honorable district attorney of the United States. By a letter which he caused to be handed to him on the 7th of September last by Mr. S. J. Brun, counsel of the consulate of France, he acquainted him with the foregoing incidents and begged him to take toward the persons who had approached him in such irregular way such measures as should seem apt to insure respect for our consular convention and to rebuke acts in violation thereof.

The district attorney of the Federal court of San Francisco replied that he could take no action in the matter except under formal instructions of the honorable Attorney-General of the United States.

Mr. D'Allemagne applied at the same time to the governor of the State of California who, while expressing regret at the annoyances he had been subjected to, and his desire to prevent their recurrence, stated that, under the laws of the State, he could but refer the matter to the mayor of San Francisco, who alone, said he, had authority to insure, in the city, respect for consular immunities.

Whatever measure may be taken in the future by the mayor, the fact remains that the sheriff of San Francisco, in spite of his having on one occasion admitted that the proceeding was illegal, himself ignored and permitted others to ignore the stipulations of the existing consular convention.

Mr. D'Allemagne has had to contend with other difficulties, of another nature, in the discharge of his official duties. It seems that the provisions of the convention of 1853 are not observed in San Francisco as it would be desirable.

I confine myself, for the present, to laying before you the difficulties connected with the Tamm case, and I should be very grateful, Mr. Secretary of State, if you would kindly communicate the foregoing remarks to the honorable Attorney-General of the United States with a request that he issue to the authorities under his orders such instructions as may be necessary to insure, hereafter, a strict observance of the convention of 1853, and to repress the irregular acts that have given to the consul-general of France occasion to complain of certain deputy sheriffs and lawyers of his residence.

Be pleased, etc.,

P. DE MARGERIE.

Mr. Hay to Mr. de Margerie.

No. 426.]

DEPARTMENT OF STATE,
Washington, November 15, 1901.

SIR: I have the honor to acknowledge the receipt of your note of the 7th instant, stating that the sheriff at San Francisco attempted to serve a writ upon the consul-general of France in that city in violation of the convention between the United States and the French Republic of February 23, 1853.

I have referred the matter to the Attorney-General, and also to the governor of California, for action, and will gladly communicate to you such information as I may receive from them regarding it.

Accept, etc.,

JOHN HAY.

Mr. de Margerie to Mr. Hay.

[Translation.]

EMBASSY OF FRANCE,
Washington, November 24, 1901.

MR. SECRETARY OF STATE: I had the honor on the 7th of November last to draw your attention, in connection with a lawsuit brought at San Francisco against one of the clerks of the consulate of France, to the laches shown by some of the judicial authorities of that city in the observance of the prescriptions of Articles II and III of the Franco-American consular convention of February 23, 1853.

I added that, in other respects, it seemed that the provisions of that convention were not observed at San Francisco and on the Pacific coast as it would be desirable that they should be.

I take the liberty while on this subject to draw the attention of the Department of State to the difficulties encountered by the consul-general of France at San Francisco and the consular agents under him in securing the cooperation of the local police in cases provided for in Articles VIII and IX of the said consular convention.

French shipping, notably sailing vessels, is rather numerous in the ports of San Francisco, Oakland, and at various other ports of the Pacific coast. Incidents unavoidably occur among the crews of those vessels, making it necessary for the consular officers to intervene and occasionally to pass sentences for the execution of which they are authorized under the convention of 1853 to request the assistance of the local police. The conditions are the same when it is a question of searching, arresting, detaining, and sending back to their ships or to France such seamen as may desert.

Now, the peculiarly grievous conditions of the city of San Francisco, of which the Department of State is certainly aware, would precisely require that the local police be particularly unremitting in its protection of crews and foreigners. Labor troubles are unfortunately frequent, and strikers cause almost with impunity many disturbances. The local police seems to give but too slight attention to keeping away from the purlieus of the harbor a whole class of persons whose only occupation seems to be to induce seamen to desert and who are not afraid surreptitiously to come on board foreign merchant vessels in order to invite desertion.

The consul-general of France has brought to the embassy's attention numerous instances in which the police authorities, though regularly called upon to do so, have failed to render him the required assistance.

Sometimes they will detain in jail a seaman sentenced by the consul beyond the term pronounced by the latter, and instead of bringing him back to the ship as agreed, purely and simply set him at liberty, thus facilitating desertion.

Sometimes they will, as they have done at Oakland and notably at Portland, answer the written and regular requisition of the consul with a statement that they are not acquainted with the requirements of the Franco-American consular convention.

Again, they will decline to keep over the wharves a sufficient watch to prevent the enticers from plying their stealthy trade to the detriment of foreign crews.

Many complaints, emanating either from the consul-general of France or from the masters of French merchant vessels themselves, have thus been laid before the embassy.

I am sure, Mr. Secretary of State, that I need not do more than to bring this condition of things to your knowledge in order to secure for the embassy your kindly cooperation in remedying it. It would be urgent, in the first place, that the port and police authorities in ports on the Pacific coast, and notably in San Francisco, be made acquainted with the obligations laid upon them by the consular convention of 1853, and in the second place, as regards the authorities which are acquainted with them, it would be expedient that they be instructed strictly to comply therewith hereafter.

I should be infinitely obliged if you would put me in a position to inform the consul-general of France at San Francisco that efficient measures have been taken to that effect both with the Federal authorities and the responsible local officials.

I am confident that the Department of State will kindly assist the embassy in maintaining order and good behavior among the crews of the French merchant vessels that come to the Pacific coast and take an active part in the transportation by sea of United States produce.

Be pleased, etc.,

P. DE MARGERIE.

Mr. Hay to Mr. de Margerie.

No. 429.]

DEPARTMENT OF STATE,

Washington, December 2, 1901.

SIR: I have the honor to acknowledge the receipt of your note of the 24th ultimo, complaining of the nonobservance by certain officials at San Francisco, Oakland, and Portland of the provisions of the consular convention of February 23, 1853, and to inform you in reply that I have brought the matter to the attention of the governors of California and Oregon and of the Secretary of the Treasury, asking them to take such steps as will avoid similar complaints for the future.

Accept, etc.,

JOHN HAY.

Mr. Hay to Mr. de Margerie.

DEPARTMENT OF STATE,

Washington, December 10, 1901.

SIR: Referring further to your note of the 24th ultimo, I have now the honor to inform you that the Secretary of the Treasury wrote, on the 4th instant, that the Bureau of Navigation of his Department had invited the attention of the authorities at Oakland, San Francisco, and Portland to the Franco-American convention of February 23, 1853, pointing out especially the provisions of that convention regarding deserters and those forbidding the boarding of vessels by unauthorized persons.

Mr. Gage hopes that that action will obviate further complaints on the part of French consular officers at the places named.

I have not yet received a reply to my letters to the governors of California and Oregon.

Accept, etc.,

JOHN HAY.

Mr. Hay to Mr. de Margerie.

No. 433.]

DEPARTMENT OF STATE,
Washington, December 21, 1901.

SIR: Referring further to your note of the 24th ultimo, I have now the honor to inform you that on the 12th instant the governor of California wrote that he had been unaware of any violation of the consular convention concluded February 23, 1853, between the United States and France; that he regretted exceedingly that there should have been the slightest cause for complaint on the part of the consul of the French Republic in the matter, and that he had brought the provisions of the convention to the attention of the judges, sheriffs, police officers, and peace officers generally, to the end that all future cause for similar complaints may be obviated.

Accept, etc.,

JOHN HAY.

Mr. Hay to Mr. de Margerie.

No. 434.]

DEPARTMENT OF STATE,
Washington, December 24, 1901.

SIR: Referring again to your note of the 24th ultimo, and to the Department's replies of the 2d, 10th, and 21st instant, I have now the honor to inform you that, under date of the 12th instant, the governor of Oregon writes that the law officers of the Portland district of that State have been served with notice of your complaint of the violation of the consular convention of February 25, 1853, and have been asked to take the necessary steps to bring about the observance of the provisions of that convention.

The governor hopes that the consul-general of the French Republic will have no further cause to complain of a dereliction of duty in the direction indicated.

Accept, etc.,

JOHN HAY.

Mr. de Margerie to Mr. Hay.

[Translation.]

EMBASSY OF FRANCE,
Washington, December 22 (27), 1901.

MR. SECRETARY OF STATE: I have the honor to acknowledge the receipt of your notes bearing date of the 10th, 21st, and 24th instant, Nos. 432, 433, and 434, whereby, in reply to my note of the 24th ultimo, you were pleased to inform me:

1. That the Bureau of Navigation of the Treasury Department had called the attention of the authorities at Oakland, San Francisco, and Portland to the stipulations of the consular convention between France and the United States, of February 23, 1853, especially to those having reference to deserters, and prohibiting unauthorized persons from going on board of foreign merchant vessels.

2. That on the 12th instant the governors of California and Oregon, with a view to preventing a repetition of the complaints made by the consulate of France, had instructed judges, sheriffs, police officers, and

those charged with the preservation of peace to observe the stipulations of the said convention.

I thank you for these three communications, and for using your good offices with the governors of the States of California and Oregon, and I trust that the measures adopted by those magistrates will have the desired effect. It is constantly becoming more urgent that the present situation of French sailing vessels on the Pacific coast should be modified. Since transmitting the note which I had the honor to address to you on the 24th ultimo I have received several communications from the consul-general of France at San Francisco, from which it appears that the authorities continue to neglect the observance of the consular convention. I will cite the case of the district and United States court for the district of Oregon, which consented to receive an application from a French seaman for the seizure of his captain's vessel. This led to the arrest of the *Amiral Cornulier* for two days, Captain Rio being obliged to furnish bail in the sum of \$150 before he was allowed to put to sea, the difficulty between the captain and the seaman having been a dispute relative to the latter's wages, which dispute, according to Article VIII (paragraph 1) of the consular convention between France and the United States, was a matter to be settled by the French consular authorities exclusively.

Of course the decision rendered by said courts in a case in which the consulate of France is alone competent to act would not be acceptable, and would necessarily have to be brought before the Federal courts in order to be set aside.

In addition to this special case, captains of French sailing vessels are daily obliged to complain of the way in which seamen are enticed to desert (no effort being made to prevent it by the authorities) by the keepers of seamen's boarding houses in the different ports of the Pacific, the seamen in question, owing to their inexperience, falling an easy prey to their machinations.

If I have taken the liberty again to bring up this question, the serious character of which you will not fail to perceive, it is with the confident hope, Mr. Secretary of State, that, thanks to your intervention, the Federal and State authorities will more fully realize in future the duty which is incumbent upon them to secure respect for the consular convention signed by France and the United States.

Be pleased, etc.,

P. DE MARGERIE.

Mr. Hay to Mr. Cambon.

No. 439.]

DEPARTMENT OF STATE,
Washington, January 3, 1902.

EXCELLENCY: I have the honor to acknowledge the receipt of Mr. de Margerie's note of the 22d ultimo, relating further to the violation of the consular convention of February 23, 1853, by officials of the United States and the States, in the ports on the Pacific coast, and to inform you in reply that I have sent copies of it to the Attorney-General, the Secretary of the Treasury, and the governors of California and Oregon for their information and consideration.

Accept, etc.,

JOHN HAY.

Mr. Hay to Mr. Cambon.

No. 440.]

DEPARTMENT OF STATE,
Washington, January 14, 1902.

EXCELLENCY: Referring again to Mr. de Margerie's notes of November 24 and December 22 last, I have now the honor to inform you that the Attorney-General has caused the provisions of Articles VIII and IX of the consular convention of 1853 with France to be brought to the attention of the officers of his Department on the Pacific coast, and has directed them to be guided by the terms of the convention.

He has further directed the United States district attorney for Oregon to report fully the facts in the case of the *Amiral Cornulier*, and will address me further upon its receipt.

I inclose, as showing the desire of the municipal officers in the State of California to comply with the provisions of the convention, copies of letters to the governor of that State, forwarded by him on the 3d instant.

Accept, etc.,

JOHN HAY.

[Inclosure 1.]

Chief of police of San Francisco to the governor of California.

SAN FRANCISCO, *December 16, 1901.*

SIR: Your communication of December 12, inclosing copy of a letter from the Hon. John Hay, Secretary of State, and translation of complaint from P. de Margerie stating that the authorities at this city and county were not observing the provisions of the consular convention entered into between the United States and the French Republic on February 23, 1853, I have the honor to inclose for your information a list^a of persons arrested at this port and held on the request of the French consul since October 7, 1901, to date.

I would further say that this department has done all it could to assist the masters of French vessels and the French consul in observing the aforesaid provisions, and have gone further, inasmuch as that on several occasions masters of French vessels have been given an order to the police to arrest anyone pointed out by them as deserters, and every courtesy has been extended them. On one occasion, when the ship *La Bruyere* left this port and was at Port Costa (outside the jurisdiction of this department), one August Briand was detained until the ship returned to this port; and as to detailing officers on wharves during strikes, at the request of captains of ships, this is a matter in which this department can only supply protection in accordance with its strength, and there is nothing in the consular provisions of the United States directing municipal authorities to go aboard any French ship for the purpose of preventing desertion or disturbance. We can assure you that this department is ever willing to assist in any manner the French consul in carrying out the aforesaid provisions.

Very respectfully,

GEO. W. WITTMAN, *Chief of Police.*

[Inclosure 2.]

District attorney of Alameda County, Cal., to the governor of California.

OAKLAND, CAL., *December 17, 1901.*

SIR: Your esteemed favor of December 12 has been received at this office. No violations of Articles VIII and IX of the consular convention of 1853 between the Governments of the United States of America and France have, before your communication, been called to the attention of this office since my incumbency of the same.

^a Not printed.

We will be pleased at any time to render such assistance as may rest in the power of this office to effect a compliance with the provisions of the consular convention mentioned in your esteemed favor.

Your excellency's most obedient servant,

JOHN J. ALLEN,
District Attorney of Alameda County.

[Inclosure 3.]

Judge of superior court of Alameda County to the governor of California.

OAKLAND, CAL., *December 21, 1901.*

SIR: — am in receipt of the communication of Mr. Foley of December 12 relative to violations of the consular convention between the Governments of the United States of America and France, and in respect thereto would say that if any such violations are called to my attention I will most willingly do everything in my power to insure the proper enforcement of the provisions of said convention.

I have, etc.,

HENRY A. MELVIN,
Judge of the Superior Court.

Mr. Hay to Mr. Cambon.

No. 441.]

DEPARTMENT OF STATE,
Washington, January 22, 1902.

EXCELLENCY: Referring again to Mr. de Margerie's note of the 22d ultimo, I have now the honor to inform you that the governor of Oregon wrote on the 13th instant that he had again urged upon the local authorities at Portland that they exercise diligence in observing the provisions of the Franco-American consular convention of February 23, 1853, in order that the French consular officers might have no further cause for complaint.

Accept, etc.,

JOHN HAY.

Mr. Hay to Mr. Cambon.

No. 443.]

DEPARTMENT OF STATE,
Washington, January 28, 1902.

EXCELLENCY: In further reply to Mr. de Margerie's note of the 22d ultimo, I have the honor to inclose a copy of a report of the United States district attorney for the district of Oregon, relative to the violations of the Franco-American consular convention of February 23, 1853, of which complaint was made in the note.

Hoping that the district attorney's report will be considered a satisfactory explanation of the matter, I avail myself, etc.,

JOHN HAY.

[Inclosure.]

United States attorney for the district of Oregon to the Attorney-General.

PORTLAND, OREG., *January 16, 1902.*

SIR: Your two communications, dated January 10 instant, with reference to the complaint made by the chargé d'affaires ad interim of the French Republic at Washington, that Articles VIII and IX of the Franco-American consular convention of

February 23, 1853, are frequently violated and ignored by the State and Federal officers at this port, are just at hand and contents noted. Permit me to say in reply that I have made a careful investigation of the cause of this complaint, and inquiry at the office of the United States marshal for this district discloses that the marshal and his deputies have at all times lent their willing assistance to the consular agent of the French Republic stationed at this port, Mr. Labbe, whenever requested, and have apprehended a great many French sailors in this port and delivered them to the said consul. There has been no application of any kind to my office, save and except by the said consular agent, for advice as to the manner of procedure to recapture deserting sailors. This I gave him, and have at all times held myself in readiness to aid and assist him in any manner.

I also investigated the case of the libeling and seizure of the French vessel *Amiral Cornulier* in this port, and find the facts to be as follows:

That a libel was filed in the district court of the United States by a seaman against said vessel for wages upon December 10, 1901. A warrant was issued by the court without any knowledge or notice to what country the ship belonged, or whether foreign or domestic. The vessel was discharged upon a bond being given in the sum of \$150. On the 27th of December exceptions to said libel were filed, and on the same date a protest by the French consul was also filed. The matter has not been called as yet to the attention of the court, but will be dismissed as soon as the court learns officially of the facts in the case. Judge Bellinger has at all times been careful and particular to carry out the rules of the various treaties with foreign countries in relation to their shipping interests, and his rulings in cases of this kind have so far always been favorable to the various consular officers who are representing the interests of their countries, and I feel assured that there is no cause for complaint at this port.

There is a very bad crimping system in vogue here. I am informed that French sailors have been enticed into the sailor boarding houses and then transported over into the State of Washington and secreted, pending the extortion of blood money from the masters or agents of the vessels. But these matters are difficult to prove, and the masters of vessels or agents are loath to make complaint for fear of greater loss and detention at the hands of the boarding house keepers. And I think that the cause of complaint arises from this source and not from the failure or refusal of Federal officials to perform their duties.

Very respectfully,

JOHN H. HALL, *United States Attorney.*

Mr. Hay to Mr. de Margerie.

No. 444.]

DEPARTMENT OF STATE,
Washington, February 4, 1902.

SIR: Referring again to your notes of November 24 and December 22 last, I have now the honor to inclose a copy of the report from the district attorney of the United States for the district of Washington, relative to the complaint of the violation of the consular convention of 1853 between the United States and France.

Accept, etc.,

JOHN HAY.

[Inclosure.]

United States attorney for the district of Washington to the Attorney-General.

JANUARY 20, 1902.

SIR: Replying to your letter in re complaint to the State Department regarding the violations of consular treaty with the French Republic, Articles VIII and IX, by State and Federal officers at ports on the Pacific coast, I will say that there has been no such complaint in this district. The Federal judges and United States commissioners have uniformly upheld the authority of foreign consuls and the captains of foreign ships over their crews in this district, where the crews were not citizens of the United States. There has never been but one case in this district that excited any comment or complaint to my knowledge, and that was a case under the German

treaty, entitled in re Otto Jens, recently decided in this district, and in that case all of the hardship and justifiable complaint would come from the sailors. It developed on the trial that the petitioner, Otto Jens, and three of his companions belonging to the crew of the German ship, left the ship at Port Ludlow September 5 and went to Port Townsend. The master of the ship telephoned or telegraphed the ship's agent at Port Townsend, and the ship's agent, without any attempt to comply with the provisions of the treaty or sections 4080 and 4081, Revised Statutes, pointed the men out to the sheriff of Jefferson County and requested their arrest. They were taken into custody by the sheriff about the 5th day of October without any process of any kind. These are the facts in brief of that case, and upon its trial United States district judge Handford of this district promptly released Otto Jens et al., upon a hearing upon habeas corpus.

I have had considerable experience with ships' captains and the consuls in this district regarding the enforcement of this and similar provisions in the consular treaties. My experience is that the ship captains proceed in these matters in a very high-handed manner, and there is no careful effort on their part to comply with the provisions of these treaties regarding the manner in which the applications provided for shall be made to the magistrates and authorities. I have yet to see an application in one of these cases where anything like an official extract from the shipping articles of the ship was presented; and in my opinion the friction, if any exists in these matters, has grown out of the failure of the ship captains and consuls to comply with the plain provisions of the treaty and the statutes.

Very respectfully,

WILSON R. GAY, *United States Attorney.*

Mr. Hay to Mr. de Margerie.

No. 445.]

DEPARTMENT OF STATE,
Washington, February 5, 1902.

SIR: Referring once more to your note of the 22d of last December, I have now the honor to inform you that the governor of California has written me that he has again called the attention of the local authorities at San Francisco to the violations of the Franco-American consular convention of 1853, with a view that no future causes for such complaints as were contained in your note may arise.

Accept, etc.,

JOHN HAY.

Mr. Hay to Mr. Cambon.

No. 450.]

DEPARTMENT OF STATE,
Washington, March 1, 1902.

EXCELLENCY: I have the honor now to reply to the note which Mr. de Margerie wrote me on November 7 last, relative to the violation of the Franco-American consular convention.

The French consul-general at San Francisco complained that in a suit against Mr. Tamm, an employee of the consulate-general, a persistent endeavor was made by a deputy sheriff of San Francisco to serve a citation upon Mr. D'Allemagne, the consul-general, in a garnishment proceeding against Mr. Tamm. Mr. D'Allemagne caused this citation to be returned to the sheriff's office. Shortly afterwards, on two separate occasions, two other deputies endeavored to serve papers upon Mr. D'Allemagne in the same proceeding. And finally a Mr. Kelly endeavored, with annoying persistency, to serve these papers upon the consul.

I have received a letter of the 3d of last December from the governor of California, with inclosures, in answer to these complaints. He sends letters from the mayor of San Francisco and from the sheriff of that city, explanatory of the matter, and also copies of letters from the consul to the mayor, to the sheriff, and to the governor himself, together with the replies of these officials.

From this correspondence it appears that the first deputy sheriff who entered the consulate-general was a new man, who, unaware of the rights of the consul-general under the treaty, ignored Mr. D'Allemagne's protests. He was, however, upon the receipt of Mr. D'Allemagne's complaint, instructed in the matter by the sheriff. Moreover, the sheriff apologized to the consul-general for the act of the deputy.

On the second and third occasion, of which Mr. Allemagne complains of annoyance, the sheriff, Mr. Lackmann, explains that papers had been put into his hands for service on the consul-general; that the law makes it the duty of the sheriff to endeavor by all reasonable means to serve the documents placed in his hands for that purpose; that the two deputies did not annoyingly persist in serving the consul-general with the papers, but that they sent the consul-general word in each case what their purpose was; that the consul-general declined to receive the papers, and thereupon the deputies withdrew.

Mr. Lackmann points out, and very properly, that such a proceeding is not prohibited by the convention. It is the opinion of this Department that such conduct can not be held to be in violation of the treaty. It was merely a polite notification to the consul-general of the deputies' business, in which it was left entirely to the consul-general to accept service of the papers or to decline it. The convention does not prohibit a consular officer from accepting service, as Mr. Lackmann very justly observes. It is merely provided that they shall not "be compelled to appear," etc.

With reference to the importunities of Mr. Kelly, it is stated that he is a private process server, not an officer, and that the sheriff has no control over his action. If Mr. Kelly annoyed the consul-general, it is a matter of regret to the Department; but there appears to be no authority to control such conduct, except perhaps the municipal police. Neither the sheriff nor the mayor can be held responsible for the unauthorized acts of any private individual. If, in the future, similar attempts should be made by Kelly or any other private individual, it is suggested that Mr. D'Allemagne seek the protection of the police.

The Attorney-General gave instructions to investigate the matter to the district attorney for the northern district of California, and on the 25th ultimo favored me with a report from that officer, which corroborates in all particulars the facts as stated by Mr. Lackmann.

Trusting that this explanation of the occurrences will be deemed satisfactory, I avail, etc.,

JOHN HAY.

Mr. Cambon to Mr. Hay.

[Translation.]

EMBASSY OF FRANCE,
Washington, March 10, 1902.

MR. SECRETARY OF STATE: I have the honor to acknowledge the reception of the note No. 450 and dated the 1st instant, relative to the

complaint of violation of the Franco-American consular convention made by the consul-general of France at San Francisco, and transmitted to the Department of State by Mr. de Margerie on the 1st of November last.

The results of the investigation which the Department of State was pleased to conduct prove that the facts justly complained of by Mr. D'Allemagne have been acknowledged by the authorities of San Francisco as perfectly true. While taking note of the remarks made by the sheriff to his deputy and of the apologies to the consul-general of France, I am fain to hope that there will be no recurrence of attempts of this nature.

The embassy was all the more justified in making representations, as two other deputies twice renewed the attempt, in spite of the regret expressed by the sheriff.

The ground taken by him in defense of his action does not appear to be sound. Article 2, paragraph 3, of the convention of 1853, states in effect that consuls "shall never be compelled to appear."

In the face of Mr. D'Allemagne's representations and of his original refusal to receive the citation that was presented to him, the insistence of the deputy sheriffs to make him receive it constitutes a well-defined "constraint" that is in nowise mitigated by Mr. Lackmann's explanations.

As to Mr. Joseph Kelly's attitude, it is not amiss to observe that it was unquestionably encouraged by that of the sheriff himself, and that the latter was in a large measure responsible therefor. Moreover Mr. D'Allemagne had not failed to apply at the time to the authorities, as suggested by the Department of State, in order to put an end to the vexations to which he was subjected. The embassy's note of November 7 last also brought this point out clearly and called attention to the fact that the said authorities had declined to take the requisite measures.

It was thus necessary that representations should be made in San Francisco so as to insure proper observance of the Franco-American consular convention in the future.

Be pleased to accept, etc.,

JULES CAMBON.

Mr. Cambon to Mr. Hay.

[Translation.]

EMBASSY OF FRANCE,
Washington, May 12, 1902.

MR. SECRETARY OF STATE: In a series of notes, of which the last bears date February 5 and No. 445, you were good enough to acquaint me with the measures taken and the instructions issued by the Department of State, with a view of causing the Federal authorities and the officials of the States of Oregon and California to observe the Franco-American consular convention in cases giving to the French consular officers occasion to request the arrest and detention of deserters from French merchant sailing vessels.

The assurances which you had been pleased repeatedly to give me had led me to believe that there would be no recurrence of the incidents brought to your attention by the embassy in its notes of November 24 and December 22 (27), 1901.

I am sorry to say that the orders, the issuance of which you announce to me, seem to have failed in impressing upon the authorities the necessity of observing the consular convention of 1853.

Once before Mr. de Margerie had to inform the Department—on December 22 (27) last—that the measures announced in notes Nos. 432, 433, and 434, of December 10, 21, and 24, produced no effect. He called attention on the one hand to fresh instances of disregard of the consular convention by the judicial authorities, and on the other to the actual business of desertion in which the “boarding masters” of the several ports on the Pacific were engaged with the seamen belonging to the crews of the French sailing vessels, without any hindrance whatever on the part of the authorities.

I am again constrained to remark that the assurances repeatedly given me in the notes of January 3, 14, 22, and 28, February 4 and 5, Nos. 439, 440, 441, 443, 444, and 445, have not produced the effect which I had occasion to expect.

The consul-general of France at San Francisco reports two new cases in which the authorities in San Francisco have clearly contravened articles 8 and 9 of the consular convention of 1853.

On the 3d of April last Mr. D’Allemagne requested the chief of police to cause to be put on board a French vessel about to sail for France one Joseph Verne, a seaman of the French ship *La Reine Blanche*, who had been arrested on the requisition of the consulate, and whom the consul had decided, under the authority conferred upon him by the French law, to send back to France for trial. Instead of replying to the request regularly preferred by the consul of France, the chief of police confined himself to advising him, on the 4th of April, that the man had been released by the judge of the supreme court without a request to that effect from the consulate, as required by article 8 of the consular convention. Mr. D’Allemagne made a second requisition for the man’s arrest as a deserter, and again the seaman was released without a request from the consul.

Still more recently, on the 18th of April, disturbances took place on board the *St. Rogatien*, and the master of that sailing vessel called upon the local police to arrest four of his men. Three of them were sent to jail. One of them managed to escape. On the following day the consul of France requested the chief of police to hold the three men and to imprison the fourth one. Subsequently deciding to have the offenders tried in France, he requested the same official to have two of them taken on board a French sailing vessel. The police complied with this request, but failed to arrest the fourth delinquent and released the third one on its own authority.

I should be greatly obliged to you, Mr. Secretary of State, if you would kindly regard these recent violations of the consular convention as justifying my complaints, all the more as the authorities had already been instructed to observe the stipulations of the treaty of 1853. I am fain to believe that the Department of State will this time take effective action toward the Federal and State authorities with a view of putting, once for all times, an end to the assumption of the officials in ignoring the consular convention and to the obnoxious practices of the “boarding masters” which are continuously connived at.

Be pleased to accept, etc.,

JULES CAMBON.

Mr. Hay to Mr. Cambon.

No. 469.]

DEPARTMENT OF STATE,
Washington, May 21, 1902.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 12th instant, relating to alleged violations of the Franco-American consular convention of February 23, 1853, by the police authorities at San Francisco, and to inform you that I have brought the matter to the attention of the governor of California, and have requested him to have an investigation made into the charges of the French consul-general.

Accept, etc.,

JOHN HAY.

Mr. de Margerie to Mr. Hay.

[Translation.]

FRENCH EMBASSY,
Washington, August 3, 1902.

MR. SECRETARY OF STATE: I have the honor, referring to the preceding communications from the embassy on the same subject, to bring the two following facts to your notice, which have just been reported to me by the consul-general of France at San Francisco.

The police of San Francisco, with a warrant of arrest issued by Judge E. P. Morgan of the police court, went, on the 24th ultimo, on board the French three-master *Jane Guillon*, and undertook, on complaint of Auguste Le Pierre, a seaman who was then ashore without permission, to arrest Pierre Hammaux, the mate, for the purpose of bringing him to trial the next day.

For the sake of avoiding a conflict the captain of the vessel thought it best not to oppose the arrest of the mate, who was released on furnishing bail in the sum of \$10.

Le Pierre, the seaman, had complained to the judge of the police court of having been struck, on board, by the mate. Without inquiring whether this statement is true, I shall confine myself to remarking that neither the police nor the local judicial authorities had any right to interfere in a case of this kind. They consequently acted in violation of the stipulations of Article VIII of the consular convention of 1853 between France and the United States, which provides:

The respective consuls-general, consuls, vice-consuls, or consular agents shall have exclusive charge of the internal order of the merchant vessels of their nation, and shall alone take cognizance of differences which may arise, either at sea or in port, between the captain, officers, and crew, without exception, particularly in reference to the adjustment of wages and the execution of contracts. The local authorities shall not, on any pretext, interfere in these differences.

II. Basing his action on the provisions of the aforesaid Article VIII, the consul-general of France addressed, on the 16th ultimo, a letter to the chief of police of San Francisco, asking for the arrest and imprisonment for forty-eight hours of a seaman belonging to the crew of the three-master *Marguerite Mirabaud*, who had been guilty of a serious breach of discipline; on the 25th, that seaman not yet having been arrested, Mr. D'Allemagne addressed another letter to the chief of police. On the 26th ultimo, in the morning, on which day the consul-general of France reported this case to me, the seaman was still at liberty on board.

I take the liberty to bring these two additional facts to your notice, since they show the difficulties which the enforcement of our consular convention still meets with on the Pacific coast.

Be pleased to accept, etc.,

P. DE MARGERIE.

Mr. Adee to Mr. de Margerie.

No. 497.]

DEPARTMENT OF STATE,
Washington, August 11, 1902.

SIR: I have the honor to acknowledge the receipt of your note of the 3d instant and to inform you that I have brought the complaint of the French consul-general at San Francisco of two further violations of the Franco-American consular convention of 1853 to the attention of the governor of California and the Attorney-General.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. de Margerie to Mr. Hay.

[Translation.]

EMBASSY OF FRANCE,
Washington, August 28, 1902.

MR. SECRETARY OF STATE: The Evening Star of the 26th instant published the herewith inclosed item, dated in San Francisco, to which I have the honor of drawing your attention.

As you will see from its perusal, the Federal courts in that city have, on the occasion of the enforcement of Articles VIII and IX of the Franco-American consular convention of 1853, for which the consul-general of France deemed it his duty to solicit the cooperation of the authorities, been applied to with a view of securing from them a judgment declaring the said consular convention to be unconstitutional.

I need not recall at this time, Mr. Secretary of State, the many letters in which the embassy recited the difficulties encountered by the consul-general of France at San Francisco and other points on the Pacific coast visited by French sailing vessels, in obtaining the enforcement of the provisions of the said consular convention or in preventing their violation.

The incident now reported by the press affords additional proof that no great improvement in the situation has taken place since the time when I had the honor of bringing the matter to your knowledge, and since the Department, more than a year ago, was good enough to promise to the embassy its full cooperation for the observance of the treaty under consideration, I am fain to hope that it will see to it that the perfect validity of a consular convention, of nearly half a century's standing, be vindicated in the courts by the proper person, and would be infinitely thankful if you would acquaint me with the steps you will have been pleased to direct in the matter.

Be pleased to accept, etc.,

P. DE MARGERIE.

[Inclosure.]

Clipping from the Evening Star, Washington, August 26, 1902.

SAN FRANCISCO, August 26.

The United States courts have been called upon to determine the constitutionality of certain provisions of the treaty between this country and France, proclaimed August 12, 1853. The issue has arisen out of the imprisonment of Francois Leberne, a French sailor, by Chief of Police Wittman, in compliance with the request of French Consul-General Henry D'Allemagne, who invoked as authority a clause of the treaty named, which confers exclusive jurisdiction over French merchant vessels on French consular officers.

Ex Governor James H. Budd, at the request of the Sailors' Union, applied to Judge De Haven in the United States district court for a writ of habeas corpus for Leberne, on the main issue that the treaty under which he has been arrested and is now confined is contrary to the Constitution of the United States. The writ was granted and made returnable to-morrow morning.

Mr. Adee to Mr. de Margerie.

No. 500.]

DEPARTMENT OF STATE,
Washington, September 4, 1902.

SIR: I have the honor to acknowledge the receipt of your note of the 28th ultimo regarding the efforts which it is alleged are being made at San Francisco to have the Franco-American consular convention declared unconstitutional.

I have sent a translation of your note to the Attorney-General.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Mr. de Margerie.

No. 506.]

DEPARTMENT OF STATE,
Washington, September 17, 1902.

SIR: Referring to your note of the 28th ultimo, I have now the honor to inform you that I have received a letter of the 13th instant from the Department of Justice regarding the efforts which it was stated were being made to have the Franco-American consular convention of 1853 declared unconstitutional.

The Acting Attorney-General says that your note will be placed on file and will receive careful consideration in the event that the constitutionality of the convention is brought in question in any proceeding where the Department of Justice is represented, or where it will be proper for that Department to be represented.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

**PASSPORTS: ATTITUDE OF DEPARTMENT ON QUESTION OF
DECLARATION OF INTENTION TO RETURN TO THE UNITED
STATES WITHIN A STIPULATED PERIOD.**

Mr. Porter to Mr. Hay.

No. 945.]

EMBASSY OF THE UNITED STATES,
Paris, January 2, 1902.

SIR: At the request of the American Chamber of Commerce I send herewith a petition addressed to you representing that in many instances American citizens residing in Paris have been unable to obtain a passport, and asking that the regulation may be made less stringent in this respect.

I have, etc.,

HORACE PORTER.

[Inclosure.]

PARIS, *November 6, 1901.*

Petition of the American Chamber of Commerce of Paris to the Hon. John Hay, Secretary of State, Washington, D. C.

Whereas in recent years the number of citizens of the United States of America coming to France and residing in that country has considerably increased and very many are compelled to remain there either on account of the business conducted by them, or for family reasons, for protracted periods of time;

Whereas many of said citizens find that it is absolutely indispensable for them in traveling in some countries of Europe to carry with them a passport;

Whereas the application for such passport, when the same has been made to the ambassador of the United States at Paris, has in many instances been refused on the ground that the said citizens have been absent for a more or less protracted period from the United States, and at the time of such application have no actual residence there, and are furthermore not able to indicate when they intend to return to America;

Whereas such refusal of a passport deprive the said citizens of the United States of the protection of their Government, to which they claim they are justly entitled, and they in consequence suffer great hardship, and they and their families are subjected to grave and serious inconveniences and distress,

Whereas in some cases when it has been absolutely essential for such citizens in traveling in some countries of Europe and other continents to have some protection they have been compelled to apply to the French authorities for a French passport;

Whereas it is highly desirable that some remedy should be found and some relief obtained for such citizens from a condition which can not but be viewed with concern and regret by their own Government;

Now, therefore, the American Chamber of Commerce of Paris presents this humble petition to the Hon. John Hay, Secretary of State, and prays him to take the case of the aforesaid citizens into consideration and to adopt such measures and institute such steps as may afford them relief, and that regulations may be made in order that the citizens aforesaid may not be deprived of the protection of their Government.

FRANCIS KIMBEL,
President.

HENRY PEARTREE,
Chairman of the Committee on Legal and Governmental Relations.

Mr. Hay to Mr. Porter.

No. 969.]

DEPARTMENT OF STATE,
Washington, January 17, 1902.

SIR: Your No. 945, of the 2d instant, forwarding a memorial of the American Chamber of Commerce at Paris, requesting a modification of

the rules followed by your embassy relative to the issue of passports to American citizens, has been received.

The complaint of the chamber of commerce that a strict rule requiring an applicant for a passport to state when he intends to return to the United States is unjust and works hardship is reasonable. It was not intended that that general suggestion should be interpreted in accordance with the letter. This Government lays down no inflexible rule regarding the limit of time which an American citizen residing abroad must not overstay if he wants the continued protection of the United States, nor does it demand as a condition *sine qua non* that he should state when he intends to return. The chamber of commerce misunderstands this Government's position. The Government holds that every citizen sojourning or traveling abroad in pursuit of his lawful affairs is entitled to a passport; and the duration of such sojourn the Department does not arrogate to itself the right to limit or prescribe. Permanent residence in a foreign land, however, and severance of all tie and relations with the United States has always been held to be tantamount to expatriation from the United States, and a consequent dissolution of the reciprocal relation of this Government and its citizens.

The general rules laid down in the Department's circulars of March 27 and September 26, 1899, must be interpreted and applied to the circumstances of each individual case with a sound discretion.

Two copies of each of these circulars are inclosed.^a You will send one copy of each to the chamber of commerce with your reply, as explaining the Department's attitude.

I am, etc.,

JOHN HAY.

AGREEMENT BETWEEN RUSSIA AND CHINA RELATIVE TO MANCHURIA.^b

Mr. Porter to Mr. Hay.

No. 969.]

EMBASSY OF THE UNITED STATES,
Paris, February 20, 1902.

SIR: I duly received your dispatch^c of February 3, inclosing a copy of a memorandum which had been telegraphed to our representatives at Peking and St. Petersburg, regarding Russian negotiations with China to secure extensive concessions in Manchuria.

I gave a copy, as directed, to Mr. Delcassé, who appeared not to have received information of any steps on the part of Russia looking to a departure from the principle of the open door and equal treatment in China to all commercial nations. He said in all his talks and communications with officials of the Russian Government there had been repeated declarations made regarding that country's determination to maintain the policy of the open door and to adhere to the previously expressed intention to withdraw from Manchuria as soon as it could safely be done. I do not give his exact words, but it is evident that he believes in the good faith of Russia regarding these matters. He did not say whether he knew any of the details regarding negotiations looking to exclusive concessions.

I have, etc.,

HORACE PORTER.

^a Printed pages 1-4.

^b Completely covered under China, page 271, and Russia, page 926, this volume.

^c Printed page 275.

**DEDICATION OF MONUMENT TO MARSHAL DE ROCHAMBEAU, AT
WASHINGTON.**

Mr. Hay to Mr. Porter.

No. 1000.]

DEPARTMENT OF STATE,
Washington, March 27, 1902.

SIR: I inclose herewith an autograph letter from the President to President Loubet, with an office copy thereof, tendering an invitation to the Government and people of France to unite with the Government and people of the United States in a fit and appropriate dedication of the monument of Marshal de Rochambeau to be unveiled in the city of Washington on May 24, 1902.

I inclose also, with copies for your files, letters addressed to Comte René de Rochambeau and Mr. Gaston de Sahune de Lafayette, through whom, as prominent representatives of the Rochambeau and Lafayette families, a like invitation is extended to those families.

These invitations are extended in pursuance of a joint resolution of Congress of March 21, 1902, copies of which I transmit herewith.

You will deliver the President's letter to the President of the French Republic, and will ask for an audience for that purpose. In communicating the invitations to the President of France and to the Rochambeau and Lafayette families, you will appropriately express the grateful feelings which prompted this action, and will express the President's hope that the invitations will be accepted.

The visitors who may represent the French Republic on the occasion referred to, as well as the members of the Rochambeau and Lafayette families who may come as private citizens, will be entertained as the guests of the American Government and people.

If the invitations be accepted, I shall be pleased to have you telegraph the fact and date of acceptance.

I am, etc.,

JOHN HAY.

[Inclosure 1.]

The President of the United States to the President of France.

GREAT AND GOOD FRIEND: I have the honor to inform you that the Congress of the United States has adopted a joint resolution authorizing and requesting me to extend to the Government and people of France a cordial invitation to unite with the Government and people of the United States in a fit and appropriate dedication of the monument of Marshal de Rochambeau, to be unveiled in the city of Washington on the 24th day of May, 1902. It becomes, therefore, my agreeable duty to tender, in the name of the Government and people of the United States, this invitation to the Government and people of France.

I trust that Your Excellency will see in this action another proof of the lasting gratitude of the American Government and people for the inestimable services rendered by France during the war of our revolution, and that the occasion will serve to join together still more firmly the ties which since that time have united the two countries.

I avail myself of this opportunity to assure Your Excellency of my fervent desire for the prosperity and happiness of yourself and of the Government and people of France.

Written at Washington this 27th day of March, 1902.

Your good friend,

THEODORE ROOSEVELT.

By the President:

JOHN HAY,

Secretary of State.

[Inclosure 2.]

Mr. Hay to Mr. de Lafayette, and, with appropriate changes, to Count de Rochambeau.

DEPARTMENT OF STATE,
Washington, March 27, 1902.

SIR: Animated by a sense of profound gratitude for the inestimable services rendered to the United States during their war of revolution by your renowned ancestor, the Congress of the United States, by a joint resolution of March 21, 1902, authorized and requested the President to extend to the family of the Marquis de Lafayette a cordial invitation to unite with the Government and people of the United States in a fit and appropriate dedication of the monument of Marshal de Rochambeau to be unveiled in the city of Washington on May 24, 1902.

It is with more than ordinary pleasure that I fulfill the duty of transmitting this invitation to you and through you to the family of the Marquis de Lafayette.

I have instructed the ambassador of the United States at Paris to convey this to you in a fitting manner, and to say that the members of this illustrious family who may do us the honor to visit the United States upon this occasion will be welcomed as guests of the nation.

I have, etc.,

JOHN HAY.

(Inclosure 3.—Public Resolution—No. 11.)

JOINT RESOLUTION authorizing and requesting the President to extend to the Government and people of France and to the families of Marshal de Rochambeau and Marquis de Lafayette an invitation to join the Government and people of the United States in the dedication of the monument of Marshal de Rochambeau to be unveiled in the city of Washington.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and is hereby, authorized and requested to extend to the Government and people of France and the family of Marshal de Rochambeau, commander in chief of the French forces in America during the war of independence, and to the family of Marquis de Lafayette, a cordial invitation to unite with the Government and people of the United States in a fit and appropriate dedication of the monument of Marshal de Rochambeau to be unveiled in the city of Washington on the twenty-fourth day of May, nineteen hundred and two; and for the purpose of carrying out the provisions of this resolution the sum of ten thousand dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the same, or so much thereof as may be necessary, to be expended under the direction of the Secretary of State.

Approved, March 21, 1902.

Mr. Porter to Mr. Hay.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Paris, April 16, 1902.

France decides to send to Washington a general and admiral with couple aids each, two officers from foreign office who speak English, and a war ship. Count Rochambeau and Mr. de Sahune de Lafayette and wives will attend, arriving New York 18th.

PORTER.

Mr. Porter to Mr. Hay.

No. 1006.]

EMBASSY OF THE UNITED STATES,
Paris, April 18, 1902.

SIR: I have the honor to acknowledge the receipt of your No. 1000, of March 27, instructing me to deliver to President Loubet an autograph letter from the President inviting the Government and people of France to unite with the Government and people of the United States in a fitting dedication of the statue of Marshal Rochambeau, to

be unveiled at Washington on May 24, and also to transmit to Count René de Rochambeau and to Mr. Gaston de Sahune de Lafayette, prominent members of the families bearing these names, letters extending to them and to those families a like invitation.

After having conferred with the minister of foreign affairs, I had an audience with President Loubet, to whom I handed the letter of the President. He read it with very great pleasure, expressed in warm terms his appreciation of the action of our Government, and said that his Government would reply to it in a fitting manner. The necessity of bringing the matter before a Cabinet meeting delayed somewhat the formal action of the Government, which I made known to you by my cable of the 16th.

I transmitted to Count de Rochambeau and to Mr. de Sahune de Lafayette the letters addressed to them. As I stated in my cable, Count and Countess de Rochambeau accept the invitation. With regard to the Lafayette family there is a change. Mr. Gaston de Sahune de Lafayette and his wife, not being able to proceed to the United States, the invitation is accepted for Mr. Paul de Sahune de Lafayette, who has been living in the United States for the last two years and who speaks English. He is the brother of Mr. Gaston de Sahune de Lafayette.

I inclose herewith copy of my letter to Mr. Delcassé, informing him of the action taken by my Government and applying for an audience with the President, and copy of my letter to Mr. de Sahune de Lafayette, transmitting the invitation extended to him. A similar letter, with a few verbal changes, was addressed to Count de Rochambeau.

I have, etc.,

HORACE PORTER.

[Inclosure 1.]

Mr. Porter to Mr. Delcassé.

EMBASSY OF THE UNITED STATES,
Paris, April 10, 1902.

MR. MINISTER: There will take place on May 24 next, at Washington, the inauguration of a statue of Marshal de Rochambeau, who commanded the French forces during the American war of independence.

The President of the United States, having been authorized by an act of Congress to extend to the French Government and people a cordial invitation to take part with the American Government and people in the inauguration of this statue, I pray your excellency to be so good as to obtain for me an audience from the President of the Republic, when I may have the honor of delivering to him the autograph letter by which the President of the United States tenders him this invitation. Inclosed is a copy of this letter.

My Government trusts that this invitation will be accepted as cordially as it is made, and instructs me to say that the persons who will represent the Republic on this occasion will be the guests of the American Government and people.

Accept, etc.,

HORACE PORTER.

[Inclosure 2.]

Mr. Porter to Mr. de Lafayette.

EMBASSY OF THE UNITED STATES,
Paris, April 11, 1902.

SIR: On May 24 next the inauguration of the statue of Marshal de Rochambeau, the companion in arms of your glorious grandfather, will take place at Washington.

The American Government, which will take part in this ceremony, has desired me to associate in it the families of the two soldiers who have acquired so many claims to our gratitude, and an act of Congress has placed it in a position to do so.

I am therefore directed, sir, to transmit to you the inclosed letter, by which the Secretary of State, Mr. John Hay, invites you, in the name of the President of the United States, to join yourself to all the Americans who will on this occasion give a new proof of the sentiments of gratitude that they cherish for the great nation that came to their succor at a critical hour.

I trust, sir, that this cordial invitation will be accepted, and that the American nation will have the honor and the pleasure of having you as their guest.

Accept, etc.,

HORACE PORTER.

ASSISTANCE RENDERED BY THE UNITED STATES TO THE SUFFERERS FROM THE VOLCANIC ERUPTION AT MARTINIQUE.

President Roosevelt to President Loubet.

[Telegram.]

EXECUTIVE MANSION,
Washington, May 10, 1902.

I pray Your Excellency to accept the profound sympathy of the American people in the appalling calamity which has come upon the people of Martinique.

THEODORE ROOSEVELT.

President Loubet to President Roosevelt.

[Telegram.—Translation.]

PARIS, May 11, 1902.

I thank Your Excellency for the expression of profound sympathy you have sent me in the name of the American people on the occasion of the awful catastrophe in Martinique. The French people will certainly join me in thanks to the American people.

EMILE LOUBET.

The French minister for foreign affairs to Mr. Cambon.

[Telegram presented by the French ambassador to the President, May 12, 1902.]

PARIS, May 11, 1902.

Thank the Government of the United States for the sympathy evidenced by the American people. It will never be forgotten in France.

The whole of the island of Martinique and Fort de France are threatened. In order to enable us to save the population you will please ask, as a national service, of the American Government that it may see fit to send means of transportation to Martinique (Fort de France) as soon as possible.

DELCASSÉ.

Mr. Cambon to President Roosevelt.

[Translation.]

EMBASSY OF FRANCE,
Washington, May 15, 1902.

MR. PRESIDENT: I have received from my Government the following telegram:

The President and the Government of the French Republic, being deeply touched by the sympathy manifested by the President, the Government, the Congress, and the nation of the United States for the victims of the catastrophe in Martinique, beg you to be to them the interpreter of the gratitude which is felt by the entire French nation for this generous assistance, the remembrance of which will be imperishable.

In conveying to you the expression of the thanks of the President of the Republic and of the French Government, I can not sufficiently tell you, Mr. President, how deeply sensible I am of the honor of being their interpreter near you.

The traditional sentiments of friendship which bind the United States to France have never been more brilliantly manifested, but by showing that bonds of humanity and compassion exist between nations as they do between individuals you have set an example to the civilized world that will remain in the memory of men.

Accept, etc.,

JULES CAMBON.

President Loubet to President Roosevelt.

[Telegram.]

MAY 22, 1902.

At a time when the people of the United States, in presence of the delegates from France, are celebrating dear and glorious memories, I desire once more to convey to Your Excellency an expression of the deep gratitude of my country for the generous aid which the President of the Republic, both Houses of Congress, and the American nation have so lavishly extended to the sorely afflicted inhabitants of Martinique.

France will never forget this proof of fraternal amity which has been given it by the great Republic of the United States.

EMILE LOUBET.

President Roosevelt to President Loubet.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 23, 1902.

I have received Your Excellency's message dated the 22d of May, and beg once more to assure you of the sentiments of esteem and regard for the French nation which have prompted the Congress and the people of this country to do what lay in their power to assuage the sufferings of the inhabitants of Martinique.

THEODORE ROOSEVELT.

Mr. Hill to Mr. Vignaud.

No. 1039.]

DEPARTMENT OF STATE,
Washington, June 26, 1902.

SIR: I inclose a copy of a letter from the Secretary of War forwarding a report from the officer in charge of the supplies donated to the sufferers in the Martinique disaster.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

[Inclosure 1.]

Mr. Root to Mr. Hay.

WAR DEPARTMENT,
Washington, June 17, 1902.

SIR: I have the honor to inclose, for the information of your Department, copy of the report of Capt. H. J. Gallagher, commissary, United States Army, the officer who was sent by the Department to Martinique in charge of the supplies donated by the Government and people of the United States in aid of the sufferers from the disaster of May 8 last.

Very respectfully,

ELIHU ROOT,
Secretary of War.

[Subinclosure 1.]

Captain Gallagher to the Adjutant-General.

WAR DEPARTMENT,
OFFICE COMMISSARY-GENERAL OF SUBSISTENCE,
Washington, June 13, 1902.

SIR: I have the honor to submit the following report in connection with the Martinique expedition:

In obedience to paragraph 18, Special Orders 112, Adjutant-General's Office, current series, I proceeded on May 12 to New York City, and on the 14th proceeded aboard the U. S. S. *Dixie*, with \$5,000 in cash and the subsistence stores. The *Dixie* sailed about 9 o'clock p. m., May 14, and reached Martinique on the morning of May 21. In company with Captain Berry, of the *Dixie*, an official call was made by Captain Sewell, Dr. Clayton, and myself upon the governor, during which tenders of assistance were made and gratefully accepted by the governor. One-half of the stores aboard the ship were put ashore at Martinique. On behalf of the Government I offered to employ a gang of laborers to handle the stores, with the object of hastening the unloading and to put money in the hands of refugees who might need it. The offer was declined with thanks. The stores were placed in lighters by the sailors of the *Dixie* and *Cincinnati* and then taken charge of by a French naval officer detailed for that purpose. Receipts for the stores were signed by the governor, M. L'Heurre, who likewise sends a letter of thanks, which is hereto attached.

On May 22 the *Dixie* proceeded to St. Vincent, and on the 23d an official call was made on the governor and assistance offered, as at Martinique, and gratefully accepted. The remainder of the stores were unloaded here and receipts therefor given by the governor, Sir Robert Llewellyn.

There was some delay in unloading at St. Vincent, due to rain and a shortage of lighters. I offered, as at Martinique, to employ a gang of laborers, and the offer was accepted in a letter sent by the governor, which is hereto attached. I employed a gang of 118 men for two days. These men were refugees, and the money was very acceptable. The total amount expended for labor, transportation, and telegrams was \$527.29.

On May 29 the *Dixie* proceeded to San Lucia to take on coal, and on the 30th to Fort de France, sailing therefrom on the 31st for home. She reached New York on the evening of June 6.

I wish to invite special attention to the willing and energetic manner in which the sailors aboard the *Dixie* labored in loading and unloading the stores on this expedition. They labored unceasingly when there was anything to do, without a murmur,

and the rapidity with which the stores were handled was due to their energy and willingness. Their hearts seemed to be in their work, and, encouraged by their splendid officers, nothing seemed to tire them.

The stores were well selected, and met the needs of the people. By the destruction of St. Pierre, Martinique, the great storehouse and source of supplies of the island was lost; consequently many of the necessaries of life were not available for the people, and nothing could have been more opportune than the arrival of the *Dixie*. The wants of the needy people were promptly and sufficiently relieved, and on all sides I heard the people murmur their blessings on the American Government for sending assistance to them in this emergency. The same can be said of St. Vincent, where, perhaps, there were more people thrown upon the public because many in the area of devastation escaped with their lives, while but few escaped at St. Pierre.

From its conception to its conclusion, the expedition was one of which the American people may feel a pardonable pride; it was a noble and generous thought that conceived it; it was timely in reaching its destination; it was most gratefully received by officials and people, and I hope I will be pardoned when I say that the officers appointed to carry out the will of the Government on this occasion, while performing their duty as ordered, could not help being filled with an extraordinary pride in the fact that they had been chosen to perform duty in connection with this completely successful and most humane expedition.

Very respectfully,

HUGH J. GALLAGHER,
Captain, Commissary, U. S. Army.

[Subinclosure 2.]

The governor of Martinique to Captain Gallagher.

FORT DE FRANCE, May 22, 1902.

CAPTAIN: You have been so good as to turn over to us the stores which the United States Government so generously offered to the sufferers of the colony of Martinique.

Permit me on this occasion to beg you to present to your Government, through the Secretary of War, my personal thanks and the expression of the sincere gratitude of the entire population of the colony which suffered so greatly by the disaster of May 8 last.

Please accept, etc.

G. L'HEURRE.

[Subinclosure 3.]

The colonial secretary to Captain Gallagher.

GOVERNMENT OFFICE,
St. Vincent, May 26, 1902.

SIR: I am directed by his excellency the governor to convey to you his cordial thanks and acceptance of the kind offer made by you this morning in person on behalf of the United States Government to defray the expense of the employment of some 100 to 200 of the eruption refugees, with a view to affording them employment and expediting the landing of the cargo now being put on shore from the U. S. S. *Dixie*.

I have, etc.

EDWARD J. CAMERON,
Colonial Secretary.

Mr. de Margerie to Mr. Hay.

[Translation.]

EMBASSY OF FRANCE,
Washington, July 24, 1902.

MR. SECRETARY OF STATE: The French minister for foreign affairs has been advised that important supplies of provisions have been brought to the sufferers in Martinique by the *Sterling*, Captain McDonald, on board of which was Commander Mentz, of the U. S.

Navy, and Captain Crobs, of the Federal infantry; by the steamer *Loubenback*, Captain Betts, on board of which were embarked Mr. McLeary, supreme judge of Porto Rico; Mr. Harlan, attorney-general, and Mr. Geltz, correspondent of the New York Herald, as well as by the sloop *Dauntless*.

In conformity with the wish expressed to me by Mr. Delcassé, I should be very much obliged to you if you would be so kind as to kindly convey to all those generous donors the thanks of the Government of the Republic.

In thanking you in advance, I beg you, Mr. Secretary, to accept, etc.,

P. DE MARGERIE.

Mr. Hill to Mr. de Margerie.

No. 492.]

DEPARTMENT OF STATE,
Washington, July 31, 1902.

SIR: In compliance with the request contained in your note of the 24th instant, it has given me pleasure to make known to the persons named in your note that the Government of the French Republic thanks them for such assistance as they rendered to the sufferers from the recent volcanic eruption in Martinique.

Accept, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. de Margerie to Mr. Hay.

[Translation.]

EMBASSY OF FRANCE,
Washington, September 25, 1902.

MR. SECRETARY OF STATE: The minister of foreign affairs, after perusing Captain Gallagher's report, who was requested to carry to Martinique the assistance which the Government and people of the United States granted for the victims of the catastrophe of May 8, has directed me to renew the expression of thanks from the Government of the Republic for the generous initiative displayed by the Government of the United States toward the afflicted people of our colony.

I esteem myself particularly happy, Mr. Secretary of State, to be directed to perform that agreeable duty, and I beg you to accept the renewed assurance of my high consideration.

P. DE MARGERIE.

Mr. Adee to Mr. de Margerie.

No. 509.]

DEPARTMENT OF STATE,
Washington, September 30, 1902.

SIR: I have the honor to acknowledge the receipt of your note of the 25th instant, expressing anew the thanks of the Government of

the French Republic for the aid extended by the United States to the sufferers in the recent volcanic eruption of Mont Pélée.

It was with gratification that I made this known to the Secretary of the Navy.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Vignaud to Mr. Hay.

No. 1035.]

EMBASSY OF THE UNITED STATES,
Paris, June 3, 1902.

SIR: I have to acknowledge the receipt of your cable^a of the 24th ultimo, instructing the embassy to ascertain whether the French Government would have any objection to our consuls using temporarily their good offices in representation of the interests of Cuba and of its citizens, and to notify the consuls if permission is granted.

The French Government having promptly acquiesced in our desire, I have notified Consuls-General Gowdy and Skinner and asked them to advise the consuls in their respective districts.

I have, etc.,

HENRY VIGNAUD.

PROTECTION OF FRENCH CABLE IN HAITI BY UNITED STATES OFFICIALS.

Mr. de Margerie to Mr. Adee.

[Telegram.—Translation.]

EMBASSY OF FRANCE,
Manchester, Mass., August 7, 1902.

I receive from the manager of the French Cable Company at New York a telegram saying that the Haitian vessel *Crête à Pierrot* intends to cut the cables of the company. The superintendent of the station of the French Cable Company at Port au Prince has informed the commander of the American cruiser *Machias* of this danger.

Commander McCrea seems to be disposed to protect the cable which lands in Haiti, but he would be glad to receive instructions from the Navy Department at Washington on the subject. I should be very grateful to you, if you see no objection, if you would request the Navy Department to send at once, by cable, to the commander of the *Machias* the necessary instructions to protect the French cable in Haiti from any attempt at destruction, all nations being equally interested in the working of this cable.

PIERRE DE MARGERIE,
Chargé d'Affaires.

^aPrinted, page 6.

Mr. Adee to Mr. de Margerie.

No. 496.]

DEPARTMENT OF STATE,
Washington, August 11, 1902.

SIR: I have the honor to inform you that your telegram of the 7th instant was at once sent to the Navy Department, and that that Department has instructed the commanding officer of the *Machias* to act in his discretion to prevent any destructive or injurious act against foreign interests or property in Haiti not in the line of hostilities.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

AMENDATORY AND ADDITIONAL AGREEMENT TO THE COMMERCIAL AGREEMENT OF MAY 28, 1898.

Signed at Washington, August 20, 1902.
Proclaimed, August 22, 1902.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas the United States and the French Republic have concluded, on August 20, 1902, an Amendatory and Additional Agreement to the Commercial Agreement of May 28, 1898, between the same contracting parties, entered into in accordance with the provisions of Section 3 of the Tariff Act of the United States approved July 24, 1897, which Amendatory and Additional Agreement is, in the English and French texts, word for word as follows:

The United States of America and the French Republic, finding it expedient to amend the Commercial Agreement between the two countries, signed at Washington on the 28th day of May, 1898, have named for this purpose their respective Plenipotentiaries, to wit:—

The President of the United States of America, the Honorable Alvey A. Adee, Acting Secretary of State of the United States of America; and

The President of the French Republic, Mr. Pierre de Margerie, Chargé d'Affaires of France at Washington;

Who, after having communicated each to the other their respective full powers, found to be in good and due form, have agreed to the following additional and amendatory articles to be taken as part of said Agreement:

ARTICLE I.

The High Contracting Parties mutually agree that the provisions of the said Agreement shall apply also to Algeria and the Island of Porto Rico. It is further agreed on the part of the French Republic that coffee, the product of Porto Rico, shall enjoy until the 23rd day of February, 1903, the benefit of the minimum customs tariff of France on that article.

ARTICLE II.

This Amendatory and Additional 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 during the continuance in force of the said Commercial Agreement, signed May 28th, 1898.

Done in duplicate in English and French texts at Washington this twentieth day of August, one thousand nine hundred and two.

[SEAL]
[SEAL]

ALVEY A. ADEE
PIERRE DE MARGERIE

Now 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, have caused the said Amendatory and Additional 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 twenty-second day of August, in the year of our Lord one thousand nine hundred and two, and of the Independence of the United States the one hundred and twenty-seventh.

THEODORE ROOSEVELT

By the President:

ALVEY A. ADEE
Acting Secretary of State.

ACCIDENT TO PRESIDENT ROOSEVELT.

President Loubet to President Roosevelt.

[Telegram.—Translation.]

SEPTEMBER 4, 1902.

The report of the awful accident to which you came near falling a victim has just reached me, and I hear that you have happily escaped. I wish to express to you my very sincere felicitations and to renew to you the assurance of my constant friendship.

EMILÉ LOUBET.

President Roosevelt to President Loubet.

[Telegram.]

OYSTER BAY, *September 4, 1902.*

I cordially appreciate your friendly congratulations upon my providential escape.

THEODORE ROOSEVELT.

JEWES IN ROUMANIA—DISCRIMINATIONS AGAINST, CONDITION OF HELPLESSNESS TO WHICH THEY ARE REDUCED, AND OBJECTION OF UNITED STATES GOVERNMENT TO IMMIGRATION OF SUCH PERSONS.

Mr. Porter to Mr. Hay.

No. 1090.]

EMBASSY OF THE UNITED STATES,
Paris, September 26, 1902.

SIR: Your printed circular^a relative to the Jews of Roumania was duly received and, availing myself of the authorization given me by your unnumbered instruction of August 12, I left a copy of it with Mr. Delcassé.

The next time I saw him he spoke of the circular, said he had read it with interest, and asked several questions about the condition of the emigrants of the class referred to coming to the United States.

He did not give any expression of his views, the subject not having yet been officially considered.

I have, etc.

HORACE PORTER.

PASSPORT ERRONEOUSLY ISSUED TO G. L. ROSENBAUM WITHOUT PROOF OF HIS FATHER'S NATURALIZATION.—SPECIAL PASSPORTS NOT TO BE ISSUED BY DIPLOMATIC REPRESENTATIVES ABROAD.

Mr. Hay to Mr. Porter.

No. 1071.]

DEPARTMENT OF STATE,
Washington, October 14, 1902.

SIR: Your No. 1095, of the 1st instant, forwarding returns of passports issued by your embassy during the quarter ending on the preceding day, has been received.

Passport No. 1377 was issued by the embassy on August 2, 1902, to Gaston Leon Rosenbaum, upon an application showing that he was born at Wiesbaden, Germany, his father having been naturalized previous to his birth. No proof was exacted of his father's naturalization.

Cases of the category to which this one belongs are of frequent occurrence and the Department's rules with reference to them are well settled. The applicant must establish his father's naturalization by the exhibition of the certificate of naturalization. The proof submitted by the applicant must be "equivalent to that which would be required of him (the father) if he were in the United States applying for a passport for himself." (See *The American Passport*, p. 101.) As the Department frequently rejects applications where this proof is not submitted, it is of great importance that our embassies abroad should not act favorably upon such applications. You are instructed, therefore, to communicate with Mr. Rosenbaum, if you can possibly do so, and secure from him the proof which should have been exacted before the passport was issued, and if he can not produce such proof his passport should be withdrawn.

On September 1, 1902, your embassy issued passport No. — to Philip M. Brown, second secretary of the legation of the United States at Constantinople, and charged no fee.

^a Printed under Austria, page 42.

Upon this matter you are instructed that the embassy has no power to issue special passports. They must always emanate from this Department, and under the ruling of Mr. Sherman, Secretary of State (see *The American Passport*, pp. 31 et seq.), the Department exacts for special, as for ordinary, passports the fee of \$1, as the law requires it to do.

The Department's agents abroad can not exercise a privilege which the Department itself does not exercise.

As the application of Mr. Brown was not included in the statement of passports issued, it is herewith returned, and you are instructed to withdraw the passport now in Mr. Brown's hands and substitute for it a regular passport bearing a serial number, for which you will exact the fee required by the law and the Department's instructions. If Mr. Brown desires a special passport describing his official rank he may obtain one by communicating with this Department.

I am, etc.,

JOHN HAY.

GERMANY.

VISIT OF PRINCE HENRY OF PRUSSIA TO THE UNITED STATES.

Emperor William to President Roosevelt.

[Telegram.]

BERLIN, *January 10, 1902.*

Most gratified at your kind permission for Miss Roosevelt's performing christening ceremony at launch of my yacht. It gives me great pleasure to announce to you that I have ordered my yacht *Hohenzollern* to cross over and to be present at the ceremony. My brother, Admiral Prince Henry of Prussia, will appear as my representative, rejoin the yacht, and will be able to express to you once more my sincere feelings of friendship for the United States and their illustrious head.

WILLIAM II.

President Roosevelt to Emperor of Germany.

[Telegram.]

EXECUTIVE MANSION,
Washington, January 10, 1902.

I am much gratified at Your Majesty's purpose to send your yacht *Hohenzollern* to be present at the christening of your new yacht by my daughter, and I assure you of a hearty welcome for your brother, Admiral Prince Henry, to whom I can personally express my cordial feelings of esteem for Your Majesty and my earnest wishes for the prosperity of the German people.

THEODORE ROOSEVELT.

Mr. White to Mr. Hay.

No. 1837.]

EMBASSY OF THE UNITED STATES,
Berlin, January 28, 1902.

SIR: I have the honor to report that, yesterday being the Emperor's birthday, I then, with the diplomatic corps, made the usual visit of congratulation to the palace, attended the religious service, and was afterwards received by His Majesty. Our conversation related entirely to the approaching visit of Prince Henry to the United States, with which the Emperor seemed especially pleased.

I may add that, during the past week, I have had several conversations with the Prince on the subject of his journey, one being at the house of the secretary of state for foreign affairs and two at my

own hotel, and in each of these he spoke of his visit with evident satisfaction.

During his dinner with me on Friday I received three long telegrams from organizations in the United States desirous of offering hospitality to him, and since that there have come several more; but I have referred the senders to His Majesty's ambassador at Washington, and have in no case sought to influence the Prince as to the routes he should take or the things he should see, save in answering to the best of my ability requests made by him or by members of his suite for information.

I have also had conversations with the chancellor, Count von Bülow, and the secretary of state for foreign affairs, Baron von Richthofen, upon the same general subject, and especially regarding a reception proposed by the press of the United States at New York. There seemed for a time some doubts regarding its acceptance here, the doubt apparently arising from the fact that the initiative in the matter was taken by a German journal at New York; but in answer to questions from the chancellor and the secretary for foreign affairs I expressed the opinion that this fact did not really militate against the character of the invitation as American, this answer to them being, in my opinion, authorized by telegrams received at this embassy from leading persons connected with the American press in no way devoted to German interests.

I remain, etc.,

AND. D. WHITE.

Mr. Jackson to Mr. Hay.

No. 1886.]

EMBASSY OF THE UNITED STATES,
Berlin, March 12, 1902.

SIR: I have the honor to append hereto a clipping from last night's issue of the North German Gazette, containing a semiofficial statement with regard to the visit of Prince Henry of Prussia to the United States, as well as a translation of the article in question. Last night a telegram (for Ambassador White) was received from Prince Henry, reading as follows:

Though glad to be homeward bound, can not tell you how thankful I am for reception met with in your country.

Yesterday, in conversation at the foreign office, Baron Richthofen spoke most cordially of the welcome which had been extended to Prince Henry, and of the satisfaction felt that everything had passed off so smoothly.

* * * The German papers have printed long telegrams during the whole course of the visit and longer mail reports are now beginning to appear. Comment has generally been favorable and much satisfaction is expressed at the reception given to a German prince. * * *

I think that one of the results of the visit will be that Americans traveling or doing business throughout Germany will receive more friendly treatment generally, and that our fellow-citizens of German origin will be less liable to be molested while sojourning at their former homes.

I have, etc.,

JOHN B. JACKSON.

[Inclosure.]

BERLIN, *March 11.*

The semiofficial North-German Gazette says:

“His Royal Highness Prince Henry of Prussia leaves to-day the hospitable shores of the United States of America and enters upon his homeward journey on board the steamship *Deutschland*. His voyage to New York to take part in the launch of His Imperial Majesty's yacht *Meteor*, his visit to the Federal capital, Washington, and to many other places of importance in American history and civilization, as was fully understood on either side without the necessity of admonition from any third party, had no political object in view. In the consolidation of the traditional friendly feeling between two great nations, the future of which is full of hope and which are full of energy, in the renewal of ancient confidence, in the testimony borne to the lively appreciation which the genius of the Americans for valuable work in the service of civilization finds precisely in that European country which has supplied the great Republic with so many valiant citizens—in all this we recognize the significance of Prince Henry's mission. The successful fulfillment of this mission enables both the German and the American nations to look back with unalloyed satisfaction upon these days of festival, which now belong to history.

“For this achievement in the service of the peace of nations our thanks are due to His Majesty the Emperor, who caused the journey to be undertaken, and to His Royal Highness Prince Henry, who has accomplished it with such happy success. In no less degree have we to thank the President, the Government, and the people of the United States for the hospitable, chivalrous, and splendid reception which they have accorded to the brother of the German Emperor. And side by side with the official honors which have been so lavishly paid to the representative of our ruler, our land, and our people, we remember with full measure of gratitude the unnumbered thousands of American men and women who have everywhere bidden a joyous and unfeigned welcome to the German prince. It is precisely from such wholly spontaneous demonstrations of friendship from all classes of a proud people that we gather the assurance that the good spirit which has been manifested both in Germany and in America by the visit of our Hohenzollern Prince to the land of George Washington will continue to work to the advantage of both peoples in the politically unclouded relations between the German Empire and the United States.”

Mr. Jackson to Mr. Hay.

No. 1899.]

EMBASSY OF THE UNITED STATES,
Berlin, March 19, 1902.

SIR: Referring to my dispatch No. 1886, of the 12th instant, I have the honor to report that Prince Henry of Prussia arrived in Germany safely yesterday afternoon; that he was met at Cuxhaven by the German Emperor, and that he at once started for his home at Kiel. Captain Beehler, of the embassy, went to Cuxhaven to greet the Prince on his return, and I sent a congratulatory telegram to him to the same place, as response to the telegram sent by him to Mr. White just before he left New York.

In conversation at the foreign office yesterday, Baron Richthofen again referred to the Prince's visit to the United States, and expressed his thanks for the hospitality and courtesies extended; and other people of all classes have spoken to me in similar terms. As already stated, in no responsible quarter is it anticipated that Prince Henry's visit will have any definite political or commercial result, but confidence is felt that “it will bear beautiful flowers, if not fruit;” that the efforts of those opposed to our having closer relations with Germany will be less liable to do harm; that the transmission of news may be more direct, and the efforts to exaggerate the importance of every irresponsible, unfriendly statement may be discontinued; and that the consideration of international questions—political and economic—will be approached with mutual feelings of friendliness. Prince Henry's visit has been described as the “rediscovery of

America," and one of its results has been to open the eyes of Germany generally to the growth and importance of the United States. Increased acquaintance with the United States is warmly advocated in important educational and industrial circles as being of reciprocal advantage, and it is probable that in the future many more Germans of "the better classes" will visit America as tourists than heretofore. A more intimate acquaintance with the United States and a better knowledge of our people, our institutions, and resources can not fail to be of advantage to Germany and the rest of Europe, and it is hard to see wherein it can be otherwise than beneficial to us as well.

I have, etc.,

JOHN B. JACKSON.

P. S.—March 20, 1902. The following telegram was received by me from Prince Henry to-day from Kiel:

Pray accept for yourself and members of embassy my best thanks for the welcome on my return from the United States. Shall never forget the cordial and splendid hospitality I met with in your country and the kindness shown to me by the American people.

J. B. J.

FOREIGN POLICY OF GERMANY—RÉSUMÉ OF SPEECHES OF CHANCELLOR COUNT BÜLOW RELATIVE TO CHINA, VISIT OF PRINCE HENRY OF PRUSSIA TO THE UNITED STATES, WAR IN SOUTH AFRICA, ETC.

Mr. White to Mr. Hay.

No. 1876.]

EMBASSY OF THE UNITED STATES,
Berlin, March 5, 1902.

SIR: I have the honor to report that on Monday, the 3d instant, several important statements were made by the chancellor, Count Bülow, in the Reichstag, in connection with the second reading of the appropriation bills for the China expedition and for the foreign office. Count Bülow spoke twice during the session.

The first speech related entirely to China and the recent Anglo-Japanese convention. To this convention, Count Bülow said, no exception could be taken by Germany, as it did not in any way interfere with the Anglo-German agreement of October 16, 1900, with regard to the Yangtze Valley, or with the declarations exchanged by the several powers with regard to the "open door." He stated positively that Germany did not cooperate in the negotiation of this convention, and had not been officially communicated with in regard to it until after it had been signed. The chancellor then went on to refer to certain reports (sent from Peking by the correspondent of the London Times), to the effect that Germany was endeavoring to obtain certain exclusive rights in Shantung. These reports he characterized as a "canard" whose neck could not be wrung quickly enough. He said that in Shantung Germany demands the open door; that is, "the same liberty of economic activity to which we do not object in the case of other nations in Shantung and all other parts of China." With reference to the withdrawal of German troops he said that these troops would not be left in China any longer than was considered politically necessary, and that negotiations were now going on between the powers on this subject. He again referred to the fact that of the interested powers Germany had no *point d'appui* near China, while England, Japan, Russia, and France were more favorably situated

and were, in case of trouble in the future, in a position to put troops into China in a much shorter time than would be necessary to bring them from Germany. With regard to the Shanghai garrison, he stated that at the time the garrison was established "England had declared herself in accord," and that the garrison was there to act with the other foreign garrisons in maintaining peace and order and protecting German interests.

Count Bülow's second speech referred generally to Germany's foreign relations and began with a reference to the visit of Prince Henry of Prussia to the United States, which, he said, had been undertaken without any definite political object, but with a view to maintaining the traditional good relations between "Prussia-Germany and America which have existed since the days of the great Frederick and the great Washington." He stated that "both nations have every reason to mutually respect each other," and that, even in the most distant future, he saw no point where German and American political interests crossed. Count Bülow again referred to the fact that he had made a similar statement about three years ago.

He also referred to the Boer war, called attention to the fact that no other power had made any protest with regard to the war itself or to the methods of warfare employed, and said that there was no reason for Germany to assume a leading rôle in the matter or to take action the natural sequence of which would be the resort to coercive measures.

I am, etc.,

AND. D. WHITE.

FOREIGN DEBT OF GUATEMALA—THE UNITED STATES DECLINES TO JOIN WITH OTHER POWERS IN COERCIVE ACTION, BUT WILL RESERVE FOR UNITED STATES CITIZENS ALL RIGHTS SECURED BY SUCH ACTION.^a

Pro memoriâ.

The council of foreign bondholders in London, which is seeking to make a new arrangement with the Government of Guatemala respecting the foreign debt of that country, has suggested that the proposed arrangement ought to be acknowledged by the most interested powers, Germany, United States, and England, in order to induce the Government of Guatemala to stick to the new arrangement.

The Imperial German embassy would be much obliged if it could be informed whether the United States Government would be inclined to join in a proceeding of the above-mentioned kind should it be adopted by the German and English Governments.

WASHINGTON, *April 3, 1902.*

Mr. Hay to Mr. von Holleben.

DEPARTMENT OF STATE,
Washington, April 5, 1902.

MY DEAR MR. AMBASSADOR: I take pleasure in communicating to you the inclosed memorandum in reply to the pro memoriâ you left with me on the 3d instant.

I am, etc.,

JOHN HAY.

^a See also under Guatemala.

[Inclosure.]

Memorandum.

With respect to the pro memoriâ of the Imperial German embassy, dated April 3, 1902, stating that the council of foreign bondholders in London, which is seeking to make a new arrangement with the Government of Guatemala respecting the foreign debt of that country, has suggested that the proposed arrangement ought to be acknowledged by the most interested powers, the United States, England, and Germany, in order to induce the Government of Guatemala to stick to the new arrangement, and inquiring whether the United States Government would be inclined to join in a proceeding of the above-mentioned kind, should it be adopted by the German and English Governments, the Department of State has the honor to reply as follows:

While the Government of the United States is indisposed to join in any collective act which might bear the aspect of coercive pressure upon Guatemala, this Government would reserve for its citizens equal benefits with those which might be obtained for creditors of any other nationality in the adjustment of the Guatemalan foreign debt, and the United States minister to Guatemala will be instructed to advise the Guatemalan Government of this attitude on the part of the United States.

DEPARTMENT OF STATE,
Washington, April 5, 1902.

**PROTECTION OF GERMAN INTERESTS AT BOCAS DEL TORO BY
UNITED STATES NAVAL OFFICIALS.**

Memorandum.

According to reports received by the Imperial German Government from the Imperial consulate at Colon (Colombia), the consular agent at Bocas del Toro has urgently requested that protection may be granted to German firms established at Bocas del Toro, the Colombian authorities having declared to be unable to guarantee safety against rebels.

According to another telegram received from the German consulate at Colon, the U. S. S. *Machias* sailed from Colon for Bocas del Toro on the 16th instant.

The Imperial German embassy, acting under instructions from the Imperial German Government, begs to ask whether the United States Government would be kindly inclined to have the U. S. S. *Machias* protect German interests at Bocas del Toro in case the German consul in Colon should address such a request to the representatives of the United States Government at Colon or Bocas del Toro. In case the demand of the Imperial German Government is kindly granted, the German embassy would greatly appreciate if the necessary instructions would be issued to the respective representatives of the United States Government.

WASHINGTON, D. C., *May 20, 1902.*

Mr. Hay to Dr. von Holleben.

DEPARTMENT OF STATE,
Washington, May 20, 1902.

DEAR EXCELLENCY: I have pleasure in saying that, at my request, the Secretary of the Navy has instructed the commander of the *Machias* to render such protection as he may find in his power to German interests at Bocas del Toro, in case the German consul in Colon should address such a request to the representatives of the United States at Colon and Bocas del Toro.

Very sincerely, yours,

JOHN HAY.

Memorandum.

DEPARTMENT OF STATE,
Washington, May 31, 1902.

With regard to the request of the German embassy of the 20th instant, that the U. S. S. *Machias* be ordered to protect German interests in Bocas del Toro, the Navy Department, on the 23d instant, wrote that Commander McCrea, of the *Machias*, had been telegraphically instructed on the preceding day to afford such protection if requested to do so by the German consular officer.

Count von Quadt to Mr. Hay.

IMPERIAL GERMAN EMBASSY,
Manchester, Mass., August 20, 1902.

MR. SECRETARY OF STATE: The Imperial consulate in Colon has reported to the chancellor of the Empire that Captain McCrea, commanding the United States war ship *Machias*, has complied in every way with the wishes of the consulate and has most obligingly interested himself in the defense of the interests of German citizens at Bocas del Toro, which were menaced.

I have now received instruction from the Imperial Government to express to the United States Government its warmest thanks for Captain McCrea's prompt and efficient action in behalf of German citizens whose interests were at stake.

I take special pleasure in bringing this to your excellency's notice, and I avail myself, etc.,

A. QUADT.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.^a

Mr. White to Mr. Hay.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Berlin, May 30, 1902.

German Government has not the slightest objection to having Cuban interests represented for the present as heretofore.

WHITE.

^a See page 6.

Mr. White to Mr. Hay.

No. 1961.]

EMBASSY OF THE UNITED STATES,
Berlin, May 30, 1902.

SIR: I have the honor to confirm the telegram sent you this date.

This morning a representative of the foreign office called at the embassy and stated verbally that the German authorities had not the slightest objection to having American consular officers continue to represent Cuban interests, as they have done for several years, but that, owing to the fact that the Imperial Government had as yet no official formal information as to the existence of the Republic of Cuba, the foreign office preferred for the present to make no written communication in this matter.

I am, etc.,

AND. D. WHITE.

DEATH OF KING ALBERT OF SAXONY.

Mr. White to Mr. Hay.

[Telegram.—Paraphrase.]

EMBASSY OF THE UNITED STATES,
Berlin, June 20, 1902.

(Mr. White reports the death on June 19 of King Albert of Saxony. He states that the United States was represented at the King's jubilee, and inquires whether he shall attend the funeral, to be held at Dresden on June 23.)

Mr. Hay to Mr. White

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 20, 1902.

(Mr. Hay states that Mr. White may attend the funeral of the late King of Saxony, to be held at Dresden, representing the President of the United States.)

Mr. White to Mr. Hay.

No. 1981.]

EMBASSY OF THE UNITED STATES,
Berlin, June 26, 1902.

SIR: I have the honor to report that, pursuant to your cabled dispatch of the 20th instant, I attended the funeral of the late King Albert of Saxony, at Dresden, on Monday evening, June 23; also the "vigils" on Tuesday afternoon, June 24, and the requiem on Wednesday morning, June 25, Mr. Jackson, the first secretary of the embassy, accompanying me. The services were imposing and the attendance remarkable, among those who were present being the German Emperor, the Emperor of Austria-Hungary, with various other rulers in person or by their representatives. The most impressive feature was the evident regret of the people at large, represented by immense crowds of men and women in mourning in the streets of Dresden. The late King, though by no means a genius, or even a man of remarkable ability, was an excellent soldier during the Franco-

Prussian war, a wise, conscientious, and careful administrator, and a **German patriot**. Under his constitutional rule his country has grown in **wealth and prosperity**, and his beautiful capital of Dresden has been **greatly enriched** with additions to its provision for education, collections in science and art, galleries and public buildings of various sorts, and works of utility. He also rendered very remarkable services to the peace of Europe as the main agent in reconciling Germany and Austria, also in bringing about a better understanding between Prussia and Denmark, and fairly satisfactory relations between the present German Emperor and the late Prince Bismarck. One point of interest to our Government is that he was always especially kind and courteous to the representatives of the very large and respectable American colony at Dresden.

On Tuesday morning I was received by the present King George in special audience and expressed to him the sympathy of the President for him and for the Saxon people, as also the President's best wishes for himself and his Kingdom. He was very courteous and returned friendly wishes and assurances to the President and to the American people. The present King is a brother of the late King and, so far as can now be seen, is likely to continue in the course marked out by his predecessor, whom, in a general way, he seems to resemble.

I remain, etc.,

AND. D. WHITE.

Count von Quadt to Mr. Hay.

IMPERIAL GERMAN EMBASSY,
Washington, July 21, 1902.

MR. SECRETARY OF STATE: As your excellency is doubtless aware, the President of the United States caused the expression of his sympathy on account of the death of His Majesty King Albert to be conveyed to His Majesty the King of Saxony by Dr. Andrew D. White, United States ambassador extraordinary and plenipotentiary at Berlin, together with his congratulations on His Majesty's accession to the throne.

I have the honor, in accordance with His Majesty's wishes, most respectfully to request your excellency to convey His Majesty's warmest thanks to the President for this manifestation of his friendship, whereby His Majesty was deeply touched.

Accept, etc.,

A. QUADT.

DEFILEMENT OF UNITED STATES COAT OF ARMS AT BAMBERG.

Mr. Hay to Mr. White.

No. 1368.]

DEPARTMENT OF STATE,
Washington, July 15, 1902.

SIR: I inclose copies of two dispatches from the consul-general at Frankfort-on-the-Main, relative to the defilement of the coat of arms of the United States at the United States consulate at Bamberg.

A new coat of arms will be sent for the use of the consulate at Bamberg, and you will ask for its admission free of duty.

The Department's opinion is that this incident will be given sufficient prominence if, when asking for the free entry of the emblem, you explain to the foreign office the circumstances which render a new coat of arms for Bamberg necessary. It is believed that the German Government can hardly avoid expressing regret of its own volition over this occurrence.

You might look up the reported insult to the German consulate in Russian Poland, to which reference is made in Mr. Guenther's dispatch, and which was probably noticed in the papers, and if you find the circumstances to offer a fair parallel to the case under consideration, you may say to Baron von Richthofen informally that you deem it unnecessary to ask the German Government to do for the United States what, it seems, Germany obtained from Russia in a similar case.

I am, etc.,

JOHN HAY.

[Inclosure 1.]

Mr. Guenther to the Department of State.

CONSULATE-GENERAL OF THE UNITED STATES,
Frankfort-on-the-Main, June 23, 1902.

SIR: In confirming the following telegram, which I addressed to you on the 19th instant, "Consular arms Bamberg grossly defiled with fæces night June 17. Stone thrown through window," I have now the honor to report more fully in the matter.

On the morning of the 19th instant I received from Consul Bardel a letter reporting that during the night of June 17-18 the coat of arms hanging above the street entrance to the consulate was completely covered with human excrement and that one of the windows was shattered with a stone. The following morning Consul Bardel called upon the mayor of Bamberg and brought the matter to his attention. The mayor suggested that the consul had better submit to him a written statement of the facts, which was done. The mayor further stated that the matter would be placed in the hands of the Bavarian state's attorney.

Consul Bardel is of opinion that the identity of the culprits will not be discovered and declares that he knows of no one who could have done the vile deed out of personal ill will toward himself or any member of his family.

I at once reported the outrage by telegraph to the Department and also to the embassy. Mr. Bardel suggested the offering by the consulate of a reward of 100 marks for information establishing the identity of the culprits, but by my advice he has refrained from doing so. I have taken the ground that the defiling of our arms was a vile insult to the Government and people of the United States and that the wrong is one which must be righted by the German Government. By my advice Consul Bardel has removed the defiled national emblem and will do without one until a new coat of arms is furnished to his office either by the German Government or the Department of State.

The course which I have taken in the matter has been approved by the embassy in a letter dated the 20th instant; but the embassy holds that, as I have reported the incident to the Department of State, instructions from you must be awaited before any formal demand for apology can be made.

Consul Bardel is very much discouraged by the occurrence, as he has done his best to regain for the consulate the respect of the community. * * *

The throwing of a stone or other missile might have been the work of a vandal or drunken person, but the deliberate choice and use of a vile material is evidence of premeditation and of malicious intent. As the coat of arms hangs over the door probably 12 or 15 feet above the sidewalk, and as Consul Bardel reports that it was smeared all over with the material, it seems probable that more than one person took part in the outrage, and that the police and night watchmen of Bamberg were perhaps negligent in the performance of their duty.

When a similar insult was recently offered to a German consulate in Poland the indignation of the Germans was great, and was pacified only by the action promptly taken by the Russian Government to atone for the wrong.

I have, etc.,

RICHARD GUENTHER, *Consul-General.*

[Inclosure 2.]

*Mr. Guenther to the Secretary of State.*CONSULATE-GENERAL OF THE UNITED STATES,
Frankfort-on-the-Main, June 26, 1902.

SIR: Referring to my dispatch No. 184, of the 23d instant, reporting the defilement of the consular arms at Bamberg and the breaking of a window in the consulate, I have now the honor to inclose for your information copy of a letter from Consul Bardel relative to an oral apology offered to him at the consulate in the name of the municipal government by the acting mayor of Bamberg, and transmitting copy of a written communication from the same expressing regret, promising that an effort will be made to discover and punish the culprit, and stating that a closer watch will be kept by the police in future with a view to preventing the perpetration of similar outrages.

The stand which Consul Bardel has taken in the matter seems to me correct and dignified, and I trust will meet with your approval. If the Department decides not to demand that the German Government must supply and publicly place above the entrance of the consulate a new coat of arms, I respectfully suggest that a new one be forwarded to Consul Bardel from Washington, and I trust that the German Government will at least, as a matter of courtesy, waive the collection of any duty thereon.

Such an attack upon a German consulate would undoubtedly arouse a degree of indignation which would not be pacified by an apology from a municipal government or by a mere promise by it that an attempt would be made to discover and punish the guilty parties.

The action taken by the mayor of Bamberg seems to me very good as far as it goes, but unless some public atonement is made which will properly impress the people of Bamberg, I fear that some of the disgrace will continue to cling to the consulate. This would apparently be unfair to Mr. Bardel, who has done nothing to deserve the reproach. * * *

I have, etc.,

RICHARD GUENTHER, *Consul-General.*

[Subinclosure 1.]

*Mr. Bardel to Mr. Guenther.*CONSULAR SERVICE, UNITED STATES OF AMERICA,
Bamberg, June 25, 1902.

SIR: I have the honor to report to you that the acting mayor of this city, Rechtsrat Lutz, visited this consulate officially to-day to deliver to me, and through me to the United States of America, in his name as well as the name of the city of Bamberg, the deepest regret in, and abhorrence of, the villianous misdeed to which the emblem of the United States of America had been exposed on the night of June 17 instant. To the evidently sincere apologies he added the assurance that the city of Bamberg would leave nothing undone to bring about the punishment of the culprits, and that the magistrate would offer a suitable reward for the discovery of the same. He expressed the hope that, on account of the city of Bamberg being so extremely sorry for what had happened, and on account of their being so solicitous to see the crime punished, the authorities of the United States of America would accept their apologies, and would, in return, allow the coat of arms to be replaced where it was before the assault.

I answered that I received the regrets of the city of Bamberg with due appreciation, and that I would transmit the same willingly to my superiors, the same as I had to report on the affront offered the United States of America within the city last week. I added that on account of this serious matter being now before my Government and entirely out of my hands, I could not, in any shape or manner, commit myself as to the ready acceptance of their apologies; that, however, a quick discovery and subsequent punishment of the villains would help materially to pacify the just indignation of the United States at this outrage. The coat of arms, having been defiled in such a vile manner, would probably not be allowed to be replaced, and that it would have to be determined whether the Bavarian authorities or the Government of the United States of America would have to furnish a new one, if any coat of arms will ever be allowed to appear again in public in this city.

A few minutes after the mayor had left my office, I received by special carrier a letter from the magistrate in reply to my letter of June 18. I inclose a copy of this

letter herewith. I have not done a thing yet in regard to reporting to the embassy and to the Department, and I await your kind directions in this matter.

I have, etc.,

W. BARDEL, *Commercial Agent.*

[Subinclosure 2.]

The municipal government of Bamberg to Mr. Bardel.

BAMBERG, *June 23, 1902.*

We have learned with deepest regret of the infraction of the sovereign rights of the United States of America at the hands of an infamous ruffian. In order to bring about the punishment, deserved and severe, of this disgraceful act, which was, however, no doubt caused by youthful ignorance, we have at once made use of every means in our power to discover the culprit, on the one hand by referring the matter to the royal state's attorney for prosecution, and on the other by issuing to our police the strictest instructions for the discovery of the culprit.

Furthermore, in order to prevent the recurrence of similar acts, we have ordered for the future an increase in the number of patrols and watchmen in the immediate vicinity of your dwelling.

We beg you to bring the above to the knowledge of your superiors, with the additional remark that we will offer a reward for the discovery of the culprit.

LUTZ.
LOCHNER.

Mr. Hill to Mr. White.

No. 1377.]

DEPARTMENT OF STATE,
Washington, July 29, 1902.

SIR: Referring to the Department's No. 1368, of the 15th instant, I inclose for your information a copy of a dispatch from the United States commercial agent at Bamberg, relating further to the defilement of the coat of arms of the United States and to the night assault on the consulate.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

[Inclosure.]

Mr. Bardel to the Department of State.

COMMERCIAL AGENCY OF THE UNITED STATES,
Bamberg, July 7, 1902.

SIR: I have the honor to report to you that on the night of June 17 a very unpleasant occurrence happened at this consulate.

If I deferred until to-day to acquaint the Department directly with this, it was only for the reason that I was in hopes to be able to report at the same time that the perpetrators of an outrage on this post had been brought to justice. I did keep my superior officer, Hon. Richard Guenther, consul-general at Frankfort, posted on everything as it came along, and his advice and encouragement in this, to me, very disagreeable affair helped me very materially in maintaining the dignity of my office. Mr. Guenther, in turn, reported to the embassy at Berlin and to the Department on the principal points of this case. Although I have not quite succeeded yet in seeing a great wrong righted, I consider it my duty to report to the Department and the embassy in full to-day of what happened.

On the morning of June 18, a rock was found lying on one of the chairs in our dining room, after having crashed through one of the windows during the night. Neither myself nor any of my family had heard the noise the breaking of the pane of glass must have made. Later in the day I was told, to my great mortification, that the coat of arms of the United States which was adjusted about 10 feet above the sidewalk, on the large front door of our house, was completely covered by human

excrement. Since there was no other sign of similar vile excesses visible in any other part of our vicinity, the conviction reluctantly settled on my mind that this was a contemplated assault on either the consulate or on my person as the incumbent of the office. I was entirely at a loss to know then why this should be done, and I am nearly as much in the dark about it to-day.

The first step I took was to call on the first mayor of the city and to express to him my just indignation at the dastardly deed and to request him to use all his energy to have this dirty mystery solved and to bring the miscreants to justice. The mayor showed himself no less indignant about it than I was myself, and he at once asked me to make a written complaint of the matter so that he could lay it before the district attorney, and he also promised to submit it to the board of aldermen, which was to have a session on the following Tuesday. I sent, or rather took, a letter to that effect to the mayor, a copy of which I send herewith.

The mayor also turned the matter over to the chief of police with strict instructions for a rigid investigation. On the following Tuesday, June 24, the second mayor of the city drove up to this consulate in the state coach and in full official dress, and verbally expressed the deep regret, in the name of the city, for the occurrence; he also volunteered the information that the city would issue a suitable reward for the capture of the culprits and that a written communication of the magistrate seconding all he said would soon be in my hands. He hoped that on the strength of all these sincere regrets extended by the city, and the promised rigid action which would be taken, this disagreeable incident would be considered closed by the United States of America, and that our coat of arms would be placed in position again, under the firm conviction that a similar vile treatment of the same would forever hereafter be impossible.

I replied that I was pleased to see how very sorry the authorities were for the occurrence, and that I hoped the reward promised to be issued would have the desired effect of catching the miscreants; that I would submit their apologies to my superiors, and that I would also let the Department decide on the replacing of the coat of arms.

Soon after the second mayor had left my office I received by special carrier a letter ^a sent by the magistrate, a copy of which I inclose.

On June 27 the magistrate had a session in which they voted to assign 100 marks for the capture of the miscreants. Since I could presume that a reward would only do good if properly published, I watched anxiously for the publication of the offer, and after waiting nearly a week in vain, I called up the second mayor on the telephone and asked him why this matter was not pushed to a finish.

He answered that as far as the authorities here were concerned they deemed it advisable not to publish the reward allowed, but to utilize the money so assigned in a more private way. I replied that while I had no rules to lay down to the city authorities in regard to the form of using the reward, I could not help but express my fears that a reward without publication would do no good, and that where I came from such a mode of utilizing a reward was unknown. He protested that advertising would make the matter too public, to which protest I replied that, inasmuch as the emblem of office of the United States had been defiled publicly, so that everybody could and did see it, it would make little difference how publicly the reward was issued, as long as it promised thereby to bring about the desired results. The second mayor seemed to be unwilling to agree with me, and I told him very politely that the city could do as it saw fit in the matter, but that I would report my version of the case to my Government, thinking that I would be fully backed by the same in this respect. After this conversation over the telephone I directed a lengthy letter to my superior officer, Consul-General Guenther, reporting the status of the case, and when I was nearly done with it, the chief of police called, sent expressly by the mayor, to consult my wishes in regard to the wording of the publication. The mayor had, after our discussion, concluded to consult the district attorney, and I have been privately informed since that a publication of the reward would be made in the name of the district attorney. This may appear in the papers in the course of a few days now, and I hope we will still be able to punish the depraved originator of the dastardly plot.

I can not but praise the sincerity with which the authorities act in the case, if they are quite slow, and much as I feel discouraged about the insult offered my office or my person, or both, my humble opinion is that the mayor and magistrate, as the representatives of the city, are entitled to full exoneration.

* * * * *

Beyond the supposition that the outrage may have originated with one or the other of the poor people who were robbed by Stern in his unofficial business, I have no

suspicion whatever. Owing to the nature of the queer position I have been in ever since I arrived here, I did not have intercourse enough with the people here to make friends or enemies, and were I in a position to be on closer terms with the citizens of this town I hope the Department would know enough about my character to realize that under no circumstances could any action of mine cause such a villainous assault on my person.

I shall report again as soon as I discover new developments. Meanwhile I await the Department's instructions as to my further actions.

Upon consultation and advice of Hon. Richard Guenther, consul-general at Frankfurt, the coat of arms was taken down, and I have been flying one of my flags day and night ever since as emblem of office. If the Department decides that the coat of arms should be replaced, I would respectfully suggest that a new one should be sent to me immediately. A requisition to that effect I make in a separate dispatch.

I have, etc.,

W. BARDEL, *Commercial Agent.*

[Subinclosure.]

Mr. Bardel to the mayor of Bamberg.

COMMERCIAL AGENCY OF THE UNITED STATES,
Bamberg, June 18, 1902.

In the course of last night the coat of arms of the United States of America was defiled in a dastardly manner by being completely covered with human excrement. Besides that infamy, one of the windows in my consulate was smashed by a stone being thrown through it.

I herewith take the liberty of submitting the report of these contemptible acts to your serious attention, being fully convinced that you will leave nothing undone to see this outrage committed against a friendly nation avenged by severe punishment of the perpetrators. At any rate, I must insist on a vigorous investigation of this, to me, very painful occurrence.

Yours, very respectfully,

WM. BARDEL,
United States Commercial Agent.

Mr. Adee to Mr. White.

No. 1381.]

DEPARTMENT OF STATE,
Washington, August 2, 1902.

SIR: Referring to the Department's No. 1377, of the 29th ultimo, I now inclose a copy of a dispatch from the commercial agent at Bamberg relating further to the insult offered to the consulate during the night of June 17 last.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

Mr. Bardel to the Department of State.

COMMERCIAL AGENCY OF THE UNITED STATES,
Bamberg, July 14, 1902.

SIR: Referring to my dispatch of July 7, 1902, I have the honor to report to-day that the official organ, The Tagblatt, of July 12, 1902, contained a publication of a reward of 100 marks offered by the city government for the capture and legal punishment of the perpetrators of the outrage committed on this post during the night of June 17-18, 1902, as reported in the above-named dispatch.

I inclose a clipping of the newspaper, with translation.

I also send herewith a translation of a communication on the same subject received by me on July 11, 1902. I answered the communication by acknowledging proper receipt of the same in writing and informing the city government that a full report on the unfortunate occurrence had been made by me to the Department of State

and that I now await instructions from the Government in the case. I added my best thanks to the city authorities for the sincerity with which they took up this disagreeable matter and expressed the hope that the city would be successful in discovering and punishing the evil doers.

I have, etc.,

WM. BARDEL, *Commercial Agent.*

[Subinclosure 1.]

Resolution passed June 27, 1902.

The coat of arms affixed at the residence of the American consul in this city was defiled a few weeks ago, and thereupon, after the consul reported the incident to his superiors, the emblem of the office has been, for the time being, taken down.

Proper report has been made. The person who will be able to cause the punishment of the miscreants will be entitled to a reward of 100 marks; thus the board of aldermen to-day have resolved unanimously.

If the punishment of the evil doers is caused by more than one person, then the reward shall be divided respectively.

CITY GOVERNMENT,
LUTZ.

The mayor of Bamberg to Mr. Bardel.

I send the above for your knowledge, and wish to add that the royal Bavarian district attorney will make public the reward so offered.

Bamberg, July 2, 1902.

BRANDT, *First Mayor,*
LOCHNER, *Secretary.*

[Subinclosure 2.]

Announcement.

During the night of June 17-18, 1902, the coat of arms of the consulate of the United States of America, affixed at the house 130 Franz-Ludwig street, this city, was intentionally defiled. The perpetrators have not as yet been discovered.

All persons who are in position to give information as to the person of the miscreant or miscreants, or who may have made observations which might lead to the discovery of the same, are hereby requested to inform the undersigned authority or the inspector of police as to their knowledge. The city government offers herewith a reward of 100 marks to whoever will cause the legal punishment of the perpetrator or perpetrators.

Bamberg, July 11, 1902.

ROYAL FIRST DISTRICT ATTORNEY,
PER FRAUEN KNECHT.

Mr. Jackson to Mr. Hay.

No. 2024.]

EMBASSY OF THE UNITED STATES,
Berlin, August 5, 1902.

SIR: I have the honor to acknowledge the due receipt of your instruction No. 1368, of the 15th ultimo, relating to the defilement of the coat of arms of the United States at our commercial agency at Bamberg, Bavaria. The embassy made no report of this incident at the time it occurred, because it was aware that Consul-General Guenther had reported fully, and because there was no evidence to show that the outrage had been committed by responsible persons.

In accordance with your instructions, a formal request was made at the foreign office to-day that the new shield may be admitted duty free.

Until this request was made no information with regard to the incident had been received at that office. In talking the matter over informally, His Excellency Dr. Von Mühlberg, the under secretary of state for foreign affairs, who is at present in charge, expressed sincere regret and added a statement to the effect that he would at once communicate with the Bavarian authorities, to the end that the perpetrators of the outrage might be severely punished if they were apprehended. In speaking of the recent Russo-German incident he called attention to the fact that the demonstration before the German consulate at Warsaw was due to national feeling on the part of the Poles; that it took place publicly, and that the people concerned were students and other persons of presumed respectability (in other words, that it was not the act of a mob or of other disorderly persons), and that consequently the two incidents could not be considered as of a similar character. With regard to a suggestion that the affixing of the new shield might have a ceremonial character of some kind, Dr. Von Mühlberg said that he would confer with the Bavarian authorities.

The commercial agent at Bamberg has been notified of the fact that a request has been made for the free admission of the new coat of arms, and he has been told to inform the embassy of its arrival. He has also been told to await instructions from the embassy, or from the Department direct, before taking any steps to put the same in place.

I have, etc.,

JOHN B. JACKSON.

P. S.—August 6, 1902. A representative of the foreign office (Mr. Jank) called at the embassy this morning to say that the new coat of arms in question would gladly be admitted duty free, and to ask that that office be informed of the time and manner in which the same is to be sent, so that appropriate instructions can be given to the customs authorities. He also volunteered the remark that the new shield would be put in place in a "feierlich" manner, in order to produce an effect upon people of Bamberg.

J. B. J.

Mr. Jackson to Mr. Hay.

No. 2031.]

EMBASSY OF THE UNITED STATES,
Berlin, August 12, 1902.

SIR: Referring to the embassy's dispatch No. 2024, of the 5th instant, I have the honor to report that the new coat of arms (shield) for the American commercial agency at Bamberg was received by the embassy on August 9. As it had been forwarded by the dispatch agent in New York in a closed leather pouch, it was delivered at the embassy in the usual manner and no question of duty was raised.

This information has been communicated to the German foreign office, and Dr. Von Mühlberg has been told that the shield will be retained at the embassy for the present—until he has heard from the Bavarian authorities, and an agreement has been made as to the manner in which the new shield is to be put in place.

I have, etc.,

JOHN B. JACKSON.

Mr. Adee to Mr. White.

No. 1391.]

DEPARTMENT OF STATE,
Washington, August 22, 1902.

SIR: Your No. 2024, of the 5th instant, relating to the defilement of the coat of arms of the United States at the consulate in Bamberg, has been received.

The Department is gratified at the friendly spirit shown by the Government of Germany in regretting the incident and in bringing it about that the new coat of arms will be put in place in a solemn manner.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Bardel to the Department of State.

No. 27.]

COMMERCIAL AGENCY OF THE UNITED STATES,
Bamberg, October 16, 1902.

SIR: I have the honor to report to-day that the new coat of arms for this office, sent by the Department of State on July 23, 1902, via the embassy of the United States of America at Berlin, was put in place in solemn fashion yesterday, October 15, 1902.

To accomplish this end I followed the embassy's instructions rigidly, and, in giving a short account of the proceedings, I trust the Department will approve of my actions.

After the Bavarian Government, through the proper channel, had expressed its deep regret for the occurrence during the night of the 17-18 June, 1902, at this office, to the embassy of the United States of America at Berlin, the embassy forwarded the new coat of arms, which had been detained at Berlin since its arrival, to me, with strict instructions to arrange for a suitable ceremony with the municipal authorities of Bamberg before allowing the new emblem to be put in place. After several meetings with the mayor of the city and his assistants, the following programme was agreed on and carried out yesterday, October 15, 1902.

The first mayor of the city, Ritter von Brandt, and his assistant, Rechtsrat Waechter, both in official dress, ordered to appear at the city hall at 11 o'clock a. m. five members of the magistrat, also the president of the board of trade, and the secretary of the magistrat, all in full dress; these nine gentlemen, in solemn procession, walked from the rathaus to the United States commercial agency. When the procession reached a point within about 50 feet of the house, a police officer in gala uniform carried the new coat of arms up a ladder to its new resting place, and everything having been properly prepared beforehand, had the shield in position so that it could be and was saluted by every gentleman in the cortege lifting his hat.

After the saluting of the new shield the nine gentlemen proceeded to the consular rooms, up one flight, where they were received by the undersigned and vice-commercial agent, Al. Kiessling. The mayor then in a few well-chosen sentences again expressed his regrets for the disagreeable occurrence and promised faithfully to leave nothing undone to bring to justice the miscreants, and to do his very best that such insults should not be repeated.

I replied, thanking the mayor and his assistants for participating in the dedication of the new emblem, and promised to faithfully report to the Department of State, and the embassy, the very solemn manner and friendly spirit in which the ceremony was undertaken and executed by them.

After this the protocol ordered by the royal Bavarian court and ministry was read by the secretary and signed by all present.

The city authorities ordered a copy of this protocol to be delivered to the undersigned, and also copies of the same were given for publication to the daily press of the city. I inclose an exact copy of said protocol, cut out of one of the papers, with proper translation.

After a friendly conversation with each one of the delegates, they left this office expressing their best wishes for the speedy recovery of our President, and with apparently sincere feelings toward the United States of America.

I have, etc.,

W. BARDEL, *Commercial Agent.*

[Inclosure—Translation.]

Protocol.

Concerning the defilement of the coat of arms of the United States at the commercial agency.

During the night of the 17th–18th of June, 1902, the coat of arms of the United States commercial agency was defiled in the most detestable manner. By the authorities of the city of Bamberg, all necessary steps within their power for the detection of the evil doers were taken, such as increased police control, and admonition for special surveillance, the offer of a reward, etc., but notwithstanding all the energetic steps taken by the authorities, the much desired results could not be reached, and thus the very lamentable, but apparently only personal motive of the miscreants remains, so far, unsolved. The emblem of office, which was taken down soon after its defilement, was to-day replaced by a new one. On the occasion of the putting in place of the new shield, the undersigned commission, by order of the royal ministry of state of the royal house and the exterior, given on September 21, 1902, and delivered on September 23, 1902, through the royal president of Upper Franconia, proceeded to the commercial agency of the United States. Upon arrival at the same, the mayor of the city of Bamberg, Ritter August von Brandt, after a brief recount of the occurrence, again expressed the deepest regret for the same, and dwelt on the good and friendly relations between the United States of America and the German Empire, which would seem to make it improbable that an insult to the United States of America was intended by the culprits, and that only personal spite could have been at the bottom of this very common action.

In the presence of the undersigned commission the new shield was put in place by an officer of police, in gala uniform, which act ended the solemn ceremony.

The undersigned subscribed their names for record.

[Signatures of the commission.]

Mr. Jackson to Mr. Hay.

No. 2115.]

EMBASSY OF THE UNITED STATES,
Berlin, October 18, 1902.

SIR: I have the honor to report that I have been notified by Mr. Bardel to-day that the new shield was put in place at the American commercial agency at Bamberg on the 16th instant in the manner described by him in his dispatch to the Department of that date, and that I have advised him that the incident may now be considered closed.

After consultation with the foreign office and the Bavarian legation here, both of which showed the utmost readiness to comply with my wishes in this matter, the new shield was sent to Bamberg, and Mr. Bardel was instructed to notify the local authorities of its arrival and to arrange with them for its being put in place. The local authorities had in the meantime received instructions from Munich. Mr. Bardel was informed that it was wished that "the new shield should be put in place with enough ceremony to indicate clearly to the Bamberg public that the authorities are not in any way in sympathy with those who defiled the coat of arms of the United States, but, as the defilement was undoubtedly the act of some irresponsible (possibly drunken) person, nothing more than this is to be demanded." He was told "to see that the incident was properly noticed in the local papers and to report as soon as the shield was placed." He had already shown so much tact in the matter that it was felt that the determination of details could be left to him with safety, and although he submitted the programme in advance, no change in it was suggested. It seems to me that the ceremony was dignified and appropriate, and that the effect will be for good. Mr. Bardel's predecessor in office was not highly thought of in Bamberg, and it is possible, even probable, that the defilement of the coat of arms may have been done by some one who had a personal grievance against him. In any case, there is not the slightest ground for belief that the defilement was caused through political feeling.

I shall take early occasion to express to the foreign office and the Bavarian legation the gratification felt at this satisfactory closing of the incident.

I have, etc.,

JOHN B. JACKSON.

Mr. Hill to Mr. White.

No. 1423.]

DEPARTMENT OF STATE,
Washington, November 3, 1902.

SIR: The Department is gratified at the satisfactory closing of the coat-of-arms incident at the consulate at Bamberg, as reported in Mr. Jackson's No. 2115, of the 18th ultimo, and approves Mr. Jackson's proposed course of expressing this gratification to the foreign office and the Bavarian legation at Berlin.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

**RESTRICTIONS ON SOJOURN IN THEIR COUNTRY OF ORIGIN OF
GERMANS NATURALIZED IN THE UNITED STATES.**

Mr. Jackson to Mr. Hay.

No. 2033.]

EMBASSY OF THE UNITED STATES,
Berlin, August 12, 1902.

SIR: I have the honor to report that, in view of the fact that the number of cases of the expulsion of American citizens of German origin has considerably increased during the current summer, and of the announcement in the newspapers that the Prussian minister of the

interior had again (see dispatch No. 1624,^a of May 4, 1901) called the attention of provincial officials to the desirability of curtailing the sojourn in Prussia of native Germans who had not performed military service before their emigration, the general subject of the treatment of naturalized American citizens was brought up in conversation at the foreign office with Dr. von Mühlberg this afternoon.

Statements were made on the part of the embassy as follows:

No sympathy whatever is felt with the person who deliberately emigrates and avails himself of the American naturalization laws for the mere purpose of escaping military service in Germany, and there is no wish on the part of the American authorities to enable such persons to make a convenience of their American naturalization. The embassy has also consistently declined to intervene in behalf of persons whose wish was to make their permanent residence in Germany.

It is thought, however, that where German emigrants have fulfilled the conditions necessary to entitle them to "be treated as American citizens" they should actually be so treated, and when they have emigrated in good faith they should be permitted to sojourn in Germany, for their business or pleasure, to visit at their former homes, or to enjoy the benefits afforded by German watering places, etc., in accordance with the terms of the treaty with Prussia of 1828.

The sovereign right of Prussia to expel persons whose presence is not considered desirable is not contested, but it is thought that the American Government has the right to know why the presence of any American citizen is so considered.

Dr. Von Mühlberg's attention was called to a number of cases now pending, where naturalized American citizens have received orders to leave the country after a stay of a few weeks. He said that he would take the matter up personally and would communicate with the Prussian minister of the interior in regard to it at once.

I have, etc.,

JOHN B. JACKSON.

Mr. Adee to Mr. White

No. 1394.]

DEPARTMENT OF STATE,
Washington, August 30, 1902.

SIR: Your No. 2033, of the 12th instant, regarding the question of the expulsion from Germany of naturalized American citizens of German origin, has been received.

Your action in again bringing the matter to the attention of the German foreign office has the Department's approval. You should lose no suitable opportunity to press and to emphasize the considerations which you advanced in your interview with Dr. Von Mühlberg. The essence of the right of expulsion which the German States claim is that it should be reasonably and justly applied in cases obviously calling for so extreme a measure. Expulsion should not be invoked indiscriminately, so as to operate as a deterrent to the exercise of the rights of expatriation and acquisition of new allegiance granted under the naturalization treaties, or so as to neutralize, by indirection, treatment stipulated thereafter regarding the recognition of the new national character.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

JEWS IN ROUMANIA.—DISCRIMINATIONS AGAINST, CONDITION OF HELPLESSNESS TO WHICH THEY ARE REDUCED, AND OBJECTION OF UNITED STATES GOVERNMENT TO IMMIGRATION OF SUCH PERSONS.

Mr. White to Mr. Hay.

No. 2045.]

EMBASSY OF THE UNITED STATES,
Berlin, August 26, 1902.

SIR: I have the honor to acknowledge the due receipt of your printed instruction^a of the 11th instant, relative to the treatment of Jews in the Kingdom of Roumania, and to inform you that in compliance therewith the contents of the same were communicated to Baron von Richthofen, the imperial secretary of state for foreign affairs (who had just returned to Berlin and resumed charge at the foreign office), and a copy of the same left with him this afternoon. Baron Richthofen said that he would "give the matter such consideration as its importance deserves."

I have, etc.,

For Ambassador White:

JOHN B. JACKSON,
Secretary of Embassy.

ACCIDENT TO PRESIDENT ROOSEVELT.

The German Emperor to President Roosevelt.

[Telegram.]

POSEN, *September 4, 1902.*

With all Americans I praise Providence that saved your life from the terrible accident.

WILLIAM I. R.

President Roosevelt to the German Emperor.

[Telegram.]

WHITE HOUSE,
Washington, September 4, 1902.

I warmly appreciate Your Majesty's sympathetic message.

THEODORE ROOSEVELT.

RELATIONS OF GERMANY WITH HAITI.^b

Mr. Jackson to Mr. Hay.

No. 2070.]

EMBASSY OF THE UNITED STATES,
Berlin, September 10, 1902.

SIR: I have the honor to report that, at the foreign office yesterday, on the occasion of the usual Tuesday afternoon reception, no reference was made by Baron Richthofen or myself to the recent German-Haitian

^a Printed under Austria, page 42.

^b See also under Haiti.

incident—the seizure of arms, etc., on board the German merchant steamer *Markomannia*, and the subsequent sinking of the Haitian insurgent (Firminist) gunboat *Crête-à-Pierrot* by the German cruiser *Panther*. Several colleagues in the diplomatic corps, however, were inquisitive as to the attitude which would be taken by the United States in the matter.

The German press generally has reviewed the incident quietly, and has expressed considerable satisfaction at the manner in which it has been commented upon in the American press. The opinion is general that the summary punishment given by the German vessel will be to the advantage of all nations having commercial interests in South and Central America and the West Indies, and that the incident shows that the Monroe doctrine does not mean that the United States will object to the proper protection of its commercial interests by a European power.

It was announced yesterday that the Haitian minister here had given notice that the provisional government had closed the ports of Gonaives, St. Marc, and Port de Paix to foreign shipping, and that in consequence no bills of lading, manifests, and other documents for these ports will be issued at Hamburg for the present.

I have, etc.,

JOHN B. JACKSON.

Mr. Adee to Mr. White.

No. 1410.]

DEPARTMENT OF STATE,
Washington, September 27, 1902.

SIR: I have to acknowledge the receipt of Mr. Jackson's No. 2070, of the 10th instant, reporting regarding the relations between Germany and Haiti and referring to the closure to commerce by the decree of the provisional government of the ports of Gonaives, St. Marc, and Port de Paix.

The United States minister at Port au Prince was instructed by this Department, on its receiving the information of the closure of those ports, that this Government could not recognize such an order, unless supported by an effective blockade of which due notice should be given, as having any international effect, or as binding on foreign commerce.

He was, however, directed at the same time to inform the provisional government that this Government would cheerfully recognize an effective blockade of those ports, due notice thereof having been given.

The provisional government has since proclaimed a blockade of the ports mentioned. The United States minister was then instructed to report what measures, if any, had been taken in the direction of an effective blockade. He telegraphed that two chartered vessels had been sent to enforce the proclamation of blockade. This information was then communicated to the Secretary of the Navy with the request that the commander of the U. S. S. *Montgomery*, now in those waters, be instructed to report whether an effective blockade is now maintained. If found ineffective, the Navy Department will be requested to protect neutral vessels in their international law rights in the premises, precisely as was done in the case of the ineffective blockade

of Cape Haitien, which was declared by the revolutionary government of Mr. Firmin, and attempted to be enforced by his steamer, the *Crête-à-Pierrot*.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

CLAIMS ON ACCOUNT OF MILITARY OPERATIONS CONDUCTED IN SAMOA IN 1899—PRELIMINARY DECISION OF THE KING OF SWEDEN AND NORWAY AS ARBITRATOR.^a

Mr. Thomas to Mr. Hay.

No. 278.]

LEGATION OF THE UNITED STATES,
Stockholm, October 18, 1902.

SIR: I have the honor to inform you that at 4 o'clock this afternoon, at the foreign office, the minister for foreign affairs handed to my colleagues, the British and German ministers, and to me the preliminary decision given by His Majesty the King of Sweden and Norway, arbitrator in the Samoan claims arbitration.

I forward you herewith a triplicate original of the decision, consisting of four pages, printed in the English language, signed by King Oscar, with his royal seal affixed thereto, and bound in red morocco.

I also inclose two printed copies of the decision.

The advisors of the King in this arbitration are three well-known gentlemen—two Swedes and one Norwegian—as follows:

P. S. L. Annerstedt, of Stockholm, member of the first chamber of the Swedish Riksdag, formerly minister of justice of Sweden, judge of the Swedish supreme court, and professor of jurisprudence at the University of Upsala.

C. F. Hagerup, of Christiania, Norway, professor of jurisprudence at the University of Christiania, member of the Norwegian Storting, member of the Institut du Droit International, formerly minister of state and president of the council of ministers of Norway.

O. C. W. Cedercrantz, of Visby, governor of the province of Gotland, formerly member of the mixed tribunal in Egypt, and chief justice of Samoa.

His excellency Mr. Lagerheim, in delivering the decision, remarked that these three advisors agreed unanimously in every point of law and fact contained in the decision.

I have, etc.,

W. W. THOMAS.

[Inclosure.]

Decision given by His Majesty Oscar II, King of Sweden and Norway, as arbitrator under the convention signed at Washington the 7th of November, 1899, between the German Empire, the United Kingdom of Great Britain and Ireland, and the United States of America, relating to the settlement of certain claims on account of military operations conducted in Samoa in the year 1899. Given at Stockholm the 14th of October, 1902.

We, Oscar, by the grace of God King of Sweden and Norway,
Having been requested by His Majesty the German Emperor, King of Prussia, in the name of the German Empire, by Her Majesty, the late Queen of the United King-

^a For convention providing for arbitration see Foreign Relations, 1899, page 671; acceptance by King of Sweden and Norway of joint invitation to act as arbitrator, Foreign Relations, 1900, page 896. See also "Samoa Affairs," Foreign Relations, 1899, page 604, et seq.

dom of Great Britain and Ireland, and by the President of the United States of America to act as arbitrator in the differences existing between them with regard to certain claims of residents in the Samoan Islands on account of military operations conducted there in the year 1899, and having accepted the office of arbitrator;

Having received from the Imperial German Government, His Britannic Majesty's Government, and the Government of the United States of America their respective cases, accompanied by the documents, the official correspondence, and other evidence on which each Government relies, as well as, after due communication hereof, their respective counter cases and additional documents, correspondence, and other evidence, and having thereupon received from the Imperial German Government their reply to the counter cases, and additional documents, correspondence, and other evidence presented by the two other Governments;

Having since fully taken into our consideration the convention concluded and signed at Washington the 7th of November, 1899, for the settlement of the aforesaid claims by means of arbitration, and also the cases, counter cases, reply, and evidence presented by the respective parties to the said convention up to the 2d of April, 1902, and having impartially and carefully examined the same;

Whereas by Art. I of the said convention of the 7th of November, 1899, His Majesty the German Emperor, Her Britannic Majesty, and the President of the United States of America have agreed that all claims put forward by Germans, or British subjects, or American citizens, respectively, for compensation on account of losses which they allege having suffered in consequence of unwarranted military action, if this be shown to have occurred on the part of German, British, or American officers between the 1st of January, 1899, and the 13th of May following, date of the arrival in Samoa of the joint commission of the powers, should be decided by the present arbitration in conformity with the principles of international law or considerations of equity; and

Whereas by Art. III of the said convention it is provided that either of the three governments may, with the consent of the others, previously obtained in every case, submit to the arbitrator similar claims of persons, not being natives, who are under the protection of that government, and who are not included in the above-mentioned categories; and

Whereas, by a subsequent arrangement made by the signatory powers, with our sanction, the provisions of the arbitration convention have been extended to claims presented by other powers on behalf of their subjects or citizens; and

Whereas the German Government contend that the military action undertaken by British and American officers at the time aforesaid was wholly unwarranted, and that therefore the British and United States Governments are responsible for losses caused by said military action to Germans and to persons under German protection; and

Whereas, on the other hand, the British Government and the United States Government argue that the military action in question was not unwarranted, but, on the contrary, was in every respect necessary and justifiable, and that therefore no claims are entitled to consideration by the arbitrator, and no further proceedings under the aforesaid convention necessary or admissible, while reserving to themselves the right to examine in detail the particular claims, should it later on become necessary to do so; and

Whereas under Art. I of the said convention no other claims are to be decided by the present arbitration than those for losses suffered in consequence of unwarranted military action, and thus the primary question to be determined by us is whether the military action undertaken in Samoa at the time aforesaid by British and American officers was or was not unwarranted; and

Whereas it is proper to settle this preliminary point at the present stage, and thus determine generally whether or not the British and United States Governments ought to be considered responsible for losses caused by that action, before ordering any proceedings with respect to the particular claims presented;

Have resolved to confine our attention for the present to those considerations only which have a distinct bearing on the said issue, and on that question have arrived at the following decision:

Whereas, with respect to the military action complained of, it results from the declarations of the parties and from all the documents of the case that on the 15th of March, 1899, the U. S. ship *Philadelphia* and H. B. M. ships *Porpoise* and *Royalist* opened fire across the town of Apia and on the land situate in the rear of said town, the fire being directed against the forces of the High Chief Mataafa; that the greater part of the adherents of the newly appointed King of Samoa, Malietoa Tanumafili, having in those days been brought to Apia from different parts of the Samoan Islands by the British and American naval commanders, landed at Mulinu'u and supplied by them with arms and ammunition, active hostilities thereupon ensued between the Malietoans and the Mataafa party; that from the said 15th of March up to the 25th

of April following the said ships, in support of the Malietoa party, frequently proceeded to bombard the rear of Apia as well as various other localities on the island of Upolu and to destroy villages by landing parties, assisted therein from the 24th of March by H. B. M. ship *Tauranga*; that from the said 15th of March up to the said 25th of April frequent expeditions into the interior took place by combined forces of sailors and marines from the ships of war and natives of the Malietoa party, commanded by officers from the ships, for the purpose of fighting the Mataafans, or in order to procure food; and that in Apia a severe control of the street traffic was established by the British and American military authorities through the posting of sentries with orders to allow only bearers of passports issued by said authorities to pass;

Whereas—with respect to the contention of the British and United States Governments that, under the terms of the general act signed at Berlin the 14th of June, 1889, any one of the signatory powers was fully authorized to enforce by every means the decision of the 31st of December, 1898, of the chief justice of Samoa, declaring Malietoa Tanumafili King of Samoa, which decision had been rejected by the Mataafa party, and that therefore the military action, if taken for that purpose, was not unwarranted—we have found nothing in the said general act, or any subsequent agreement, which authorizes one of the signatory powers, or a majority of them, to take action to enforce the provisions of the act or the decisions of the chief justice binding on the powers.

Whereas, on the contrary, by Art. I of the general act it is expressly provided that “neither of the powers shall exercise any separate control over the islands or the government thereof,” and, taking into consideration the nature and extent of the operations at the time aforesaid conducted in Samoa by the British and American military authorities, the military action in question undoubtedly had the character of a serious control over the Samoan Islands and the government thereof; and

Whereas, moreover, the protocols of the Berlin conference clearly show that in framing the general act the plenipotentiaries of the powers wished to establish the principle that in their dealings with Samoa the powers only could proceed by common accord, and as this very principle has been sanctioned by the powers not only in subsequent agreements supplementary to the general act made between them in 1892 and 1896, by which it was agreed that under certain circumstances their ships of war might be used to support the supreme court of Samoa and ammunition served out to the Samoan government, though in both cases only with the unanimous consent of the representatives of the powers, but also in the instructions issued for the joint commission sent to Samoa in 1899, the actions of which should be valid only if acceded to by all three commissioners;

Whereas, furthermore, by proclamation issued on the 4th of January, 1899, the consular representatives of the treaty powers in Samoa, owing to the then disturbed state of affairs and to the urgent necessity to establish a strong provisional government, recognized the Mataafa party, represented by the High Chief Mataafa and thirteen of his chiefs, to be the provisional government of Samoa pending instructions from the three treaty powers, and thus those powers were bound upon principles of international good faith to maintain the situation thereby created until by common accord they had otherwise decided; and

Whereas, that being so, the military action in question undertaken by the British and American military authorities before the arrival of the instructions mentioned in the proclamation, and tending to overthrow the provisional government thereby established, was contrary to the aforesaid obligation and can not be justified on the plea neither of the invalidity *ab initio* of the said provisional government nor of its establishment under a species of *force majeure*;

Whereas with respect to the objection of the British and United States Governments to the refusal of the German consul to sign the proclamation proposed by the other consuls to be issued immediately after the chief justice had given his decision on the 31st of December, 1898, and their contention that, in determining the responsibility for the subsequent events, it should be taken into consideration that the attitude of the German consul was a direct violation of the provisions of the Berlin general act, it can not be considered to have been the duty of the German consul to take part in the issuing of said proclamation, and it has not been proved that with regard to said decision any steps were taken by him contrary to the general act, and therefore no responsibility attaches for the attitude taken up by him in this respect;

Whereas with respect to the contention of the British and United States Governments that, whether or not there was authority to insist by force on the acceptance of the provisions of the Berlin general act, the military action was not unwarranted, because it was necessary for the protection of lives and property which it was the

duty of the British and American officers to safeguard, and because the opening of fire on the 15th of March was necessitated by the Mataafan warriors making a rush on the British and the United States consulates and by a threatened attack by several war canoes on Mulinuu, where a detachment from the British and American ships was stationed, we have found nothing in the evidence before us to show that the general condition of affairs was such as to render the military action necessary for the protection of lives and property, and as to the said two attacks alleged to have taken place on the 15th of March it results from all the facts relative thereto that the rush was not, and never was meant to be, an attack on the consulates, but simply was directed against some fleeing women of the Malietoas party, that no attack was intended on Mulinuu by the canoes, which by the garrison there were seen putting out from the opposite shore of the Vaiusu bay and which were ordered by Mataafa to go along the coast to the west and, in fact, were going in that direction and not towards Mulinuu when the firing began, and that, on account of the state of the tide it was not even possible at the time to pass the bay in canoes; and

Whereas it is established not only that on the arrival of the *Philadelphia* on the 6th of March the Malietoans were completely defeated, and deported to distant places and deprived of their arms, and unable to offer any resistance whatever to the victorious Mataafans, but also in the last days before the beginning of the bombardment Mataafa was ordered away from Mulinuu by the United States admiral, and that the Malietoans were brought back there by the British and United States military authorities, that a considerable quantity of arms was returned to the Malietoans, which arms in the beginning of January, 1899, had been surrendered by them to the commander of the *Porpoise*, when, defeated by the Mataafans, they had taken refuge under the guns of that ship, that ammunition was distributed to the Malietoans from the reserve stock which, according to the arrangement in 1896 between the treaty powers, was to be kept for the use of the Samoan Government and served out to the natives only by the unanimous request of the three consuls, and that such distribution was made by the British and American authorities without the consent of the German consul; and

Whereas it ought to have been foreseen that the said actions on the part of the British and American authorities, which can not be considered to have been justified by any threatening attitude of the Mataafans, should exasperate these latter and greatly endanger the peace of the country and the situation created by the surrender of the Malietoans on the 2nd of January and by the establishment of the provisional government, and therefore the British and United States authorities ought to have abstained from such proceedings;

Whereas with respect to the stopping of the street traffic, the measures relative thereto were in themselves contrary, as far as Germans were concerned, to the provisions of the Berlin general act guaranteeing them the same rights of residence, trade, and personal protection as subjects and citizens of the two other powers, and as, at all events, those measures constituting only a detail of the military operations at the time, the question whether or not they were unwarranted under the circumstances depends on the same considerations as those which concern the military action in general;

Whereas the above considerations apply equally to all the claims before us, whether presented under the arbitration convention itself or under the subsequent arrangement;

For these reasons,

We are of opinion—

That the military action in question, viz, the bringing back of the Malietoans and the distribution to them of arms and ammunition, the bombardment, the military operations on shore, and the stopping of the street traffic can not be considered as having been warranted;

And that, therefore, His Britannic Majesty's Government and the United States Government are responsible, under the convention of the 7th of November, 1899, for losses caused by said military action.

While reserving for a future decision the question as to the extent to which the two Governments, or each of them, may be considered responsible for such losses.

In testimony whereof we have signed this present decision and have ordered our royal seal to be affixed hereunto. Done in triplicate at our royal palace at Stockholm on the fourteenth day of October, in the year of our Lord one thousand nine hundred and two.

OSCAR. [L. s.]

PASSPORT APPLICATION OF SCHABSEL REIF.*Mr. White to Mr. Hay.*

No. 1836.]

EMBASSY OF THE UNITED STATES,
Berlin, January 27, 1902.

SIR: I have the honor to inform you that I refused to issue a new passport to one Schabsel Reif on the 23d instant. The applicant was born at Kellem, in Russia, in 1852, emigrated to the United States in 1884, and lived there for ten years, becoming naturalized in 1890. In 1894 he returned to Europe and has since that time resided in Germany near the Russian frontier.

On July 28, 1896, he made application for a passport at the embassy through the consular agent at Koenigsberg, stating that he would return to the United States to live within "the next two years." On the 12th of August, after a good deal of correspondence, a passport was issued to him (No. 202), and he was warned that "if he did not return to the United States at the time sworn to in his application, no further passport would be issued to him from the embassy."

In his present application it appears that he did not return to the United States within two years from that date, that he has not yet returned there, and that he now desires to remain for two years longer in Germany. Although given an opportunity to do so, he gives no reason for his failure to carry out his previously expressed intention or for his wishing to prolong his residence in Germany. I have therefore refused to issue a new passport to him.

I have, etc.,

AND. D. WHITE.

Mr. Hay to Mr. White.

No. 1299.]

DEPARTMENT OF STATE,
Washington, February 15, 1902.

SIR: Your No. 1836, of the 27th ultimo, has been received.

It rests on Mr. Schabsel Reif to explain satisfactorily his delay in carrying out his declared intention to return to the United States and to show the reasonable certainty of his present declaration to return.

Until this is done your course in withholding a passport from him is approved.

I am, etc.,

JOHN HAY.

PASSPORT APPLICATION OF JOSEPH DUFF.*Mr. White to Mr. Hay.*

No. 1865.]

EMBASSY OF THE UNITED STATES,
Berlin, February 26, 1902.

SIR: I have the honor to transmit herewith form of an application for a passport for Joseph Duff, which was received to-day from the United States consul at Mainz.

Consul Schumann writes, with regard to this case, that—

Mr. Duff was born in the city of New York, * * * but ever since his youth has resided in Germany. Mr. Duff can not say when he will return to the United States, as at present he is employed as salesman by a firm at Darmstadt and would not care to return to the United States without a definite business engagement.

The embassy, in reply, has informed Mr. Schumann that in view of the fact that Mr. Duff was brought to Germany in 1870, before he was a year old, and that he has never since visited his native country and even now has no intention to go there to reside and perform the duties of citizenship, it does not feel at liberty to issue the desired passport to him, and that under the circumstances a passport could only be issued in case one should be necessary to enable Mr. Duff to go to the United States to live.

I am, etc.,

AND. D. WHITE.

[Inclosure.]

I, Joseph Duff, a native and loyal citizen of the United States, hereby apply to the embassy of the United States at Berlin for a passport for myself.

I solemnly swear that I was born at city of New York, in the State of New York, on or about the 31st day of March, 1870; that my father was a naturalized citizen of the United States; that I left the United States on the end of 1870, and am now permanently residing at Darmstadt, Germany; that I intend to return to the United States within _____ with the purpose of residing and performing the duties of citizenship therein, and that I desire the passport for the purpose of traveling in France.

I have never made application for passport before.

OATH OF ALLEGIANCE.

Further, I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same, and that I take this obligation freely, without any mental reservation or purpose of evasion.

So help me God.

JOSEPH DUFF.

CONSULATE OF THE UNITED STATES AT MAINZ.

Sworn to before me this 21st day of February, 1902.

WALTER SCHUMANN, *United States Consul.*

Mr. Hay to Mr. White.

No. 1312.]

DEPARTMENT OF STATE,
Washington, March 22, 1902.

SIR: Your No. 1865, of the 26th ultimo, has been received, and your course in refusing to issue to Joseph Duff a passport, under the circumstances set out in the dispatch, is approved.

I am, etc.,

JOHN HAY.

PASSPORT APPLICATION OF GUSTAV FRANK EICHBORN.

Mr. Jackson to Mr. Hay.

No. 2061.]

EMBASSY OF THE UNITED STATES,
Berlin, September 5, 1902.

SIR: I have the honor to report that I have to-day declined to issue a new passport to one Gustav Frank Eichborn. When Eichborn's old passport (No. 1735) was issued to him in January, 1900, he was warned, by direction of Ambassador White, that "should he not return to the United States as expected, and should apply for a new passport at the expiration of the one given him, it would be refused him." Eichborn is the American-born son of naturalized parents; he

was brought to Germany in 1891, when about 13 years old, and he has resided in Dresden ever since. In January, 1900, he declared that it was his intention to return to the United States within two years. Consul-General Cole now writes that he "has secured a situation with a business house in Dresden predicated on his ability to secure a passport, and while he promises to return to the United States within two years, he (Mr. Cole) rather questions the statement, because he made the same promise two years ago." Eichborn is still of the "military age," and he apparently merely wishes to make a convenience of his American nationality.

I have, etc.,

JOHN B. JACKSON.

Mr. Adee to Mr. White.

No. 1403.]

DEPARTMENT OF STATE,
Washington, September 20, 1902.

SIR: Mr. Jackson's No. 2061, of the 5th instant, has been received, and his refusal to issue to Gustav Frank Eichborn a passport, under the circumstances set forth in the dispatch, has the Department's approval.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

EXPULSION OF PETER MIKOLAINIS.

Mr. White to Mr. Hay.

No. 1844.]

EMBASSY OF THE UNITED STATES,
Berlin, February 7, 1902.

SIR: I have the honor to inform you that on the 28th ultimo the embassy intervened in behalf of one Peter Mikolainis, to the end that he might be permitted to remain in Prussia until March 15 next, and that a note has to-day been received from the imperial foreign office in which it is stated that, to its regret, the Royal Prussian Government is not in a position to allow him to do so.

Kikolainis was born in Russia, in 1868, and emigrated to the United States in 1896. He was naturalized as a citizen in Luzerne County, Pa., on October 7, 1901, and he holds a passport issued to him by the Department of State last October. According to his own story, he left the United States in November and went to Tilsit, Prussia, near the Russian frontier, where he at once proceeded to establish himself in the book-selling business, his stock consisting of religious and scientific books printed in the Lithuanian language, imported from the United States. In January he was arrested, his books attached, and his premises searched, and an order served upon him to leave Prussian territory within forty-eight hours.

In its note the foreign office states that Mikolainis had lived in Tilsit from 1893 to 1896, and that during that time he was employed in a publishing house, and was engaged in the secret importation of forbidden books into Russia; that upon the nature of his business and his connection with certain agitators becoming known, he left Tilsit for the purpose of evading observation; that upon his return from America he engaged an apartment under an assumed name, resumed his

relations with the agitators in question, and began again to act as he had done before; and, further, that the books found in his possession were by no means of a "harmless" character. Under the circumstances the Prussian Government has every reason to consider him an objectionable foreigner.

It is evident that Mikolainis, who remained in the United States merely long enough to become naturalized as a citizen, and who then at once returned to the scene of his former activity, has merely sought to make a convenience of his American nationality.

I am, etc.,

AND. D. WHITE.

EXPULSION OF ALBERT AND NATHAN EISEMANN.

Mr. Jackson to Mr. Hay.

No. 1926.]

EMBASSY OF THE UNITED STATES,
Berlin, April 17, 1902.

SIR: I have the honor to report that on January 20 the embassy made intervention at the imperial foreign office (F. O., No. 1087) in behalf of the brothers Albert and Nathan Eisemann, to the end that the order expelling them and their families from Frankfort-on-the-Main might be revoked. These brothers were born at Mosbach, Baden, in 1856 and 1859, respectively, and both had emigrated to the United States when about 16 years of age, after having obtained release from their German allegiance. Both became naturalized as American citizens. "Having been very successful as wool merchants, and having become quite wealthy and prosperous, they returned with their families to Frankfort in 1901, expecting to settle there for a few years for the purpose of educating their children." Two or three months after their arrival they were summoned by the local police and told that they could not remain in Prussia, and the following day (December 14, 1901) a notice was published in the Frankfort Amts-Blatt stating that they and their families had been ordered to leave the country. Upon this they applied to the Regierungs-Präsident at Wiesbaden, the immediate superior of the Frankfort authorities, who suspended the order temporarily, but finally told them they must leave before March 15. They thereupon came to Berlin and presented their case to the ambassador in person. Not only was formal intervention made in their behalf, as stated above, but Mr. White spoke and wrote to both the chancellor of the Empire and the secretary of state for foreign affairs about the matter; and, since the ambassador went on leave, I have brought the question up on several occasions and have urged that a favorable answer be given. In fact, everything possible has been done in behalf of these gentlemen—more than in any other case during the time in which I have been connected with this mission.

To-day, however, I am in receipt of a note from the foreign office stating that the Royal Prussian Government has investigated the case thoroughly, and that, to its regret, it was not in a position to comply with the embassy's wish to have the expulsion order canceled; but, in view of the intervention made by the embassy, the brothers and their families would be permitted, as an exception, to remain in Prussia until the 1st of next October. The foreign office states that the records

show that these brothers emigrated in 1873 and 1876, respectively, shortly before arriving at the age of liability to be called upon to perform military service; that their emigration was obviously for the purpose of evading the performance of such service, and that their father had been especially warned, before the granting of their release from German allegiance, that they would not be permitted to return and sojourn in Prussia.

This information has been communicated to the Messrs. Eisemann through the United States consul-general at Frankfort.

I have, etc.,

JOHN B. JACKSON.

Mr. Hay to Mr. White.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 4, 1902.

(Mr. Hay states that Mr. Eisemann says he is sure that if the embassy asks for revocation of order of expulsion it will be granted, and directs Mr. White to make the request if, in his opinion, there is any probability of its being granted; that much interest is taken in the case by Senators Lodge and Spooner.)

Mr. Hay to Mr. White.

No. 1347.]

DEPARTMENT OF STATE,
Washington, June 5, 1902.

SIR: Referring again to Mr. Jackson's No. 1926, of April 17 last, relative to the expulsion of Albert and Nathan Eisemann, I have to inform you that the Messrs. Eisemann feel that the order of expulsion issued in their case, being for police purposes, involves a degrading significance. It is possible that the phrase in the order to which they attach such a meaning may be translated "for reasons of public policy." You are directed to ascertain this point, and, in any event, to endeavor to obtain from the German Government some statement which will relieve the Eisemann's of the possible imputation of any improper conduct on their part, allowing the decree of expulsion, if insisted on by the German Government, to stand, based exclusively upon their alleged evasion of military duty.

I am, etc.,

JOHN HAY.

Mr. White to Mr. Hay.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Berlin, June 6, 1902.

Have done everything possible in re Eisemanns. Have seen chancellor of the Empire and secretary of state for foreign affairs personally, again and again; laid all possible arguments before them, verbal and written, urging revocation of order; never has a case of the kind received more earnest and persistent attention. Thus far we have

only secured extension of permission until October 1. Question of revocation may yet be decided favorably, but probably not. Case is regarded as coming within military policy and rules, which must not be infringed. I believe that Prussian minister of the interior refuses to yield, and that he is securely backed. Evidently much feeling was aroused before the case reached the embassy. Shall continue doing everything which seems advisable, even straining a point as heretofore, if necessary; but any attempt at undue pressure or oversolicitation by this embassy would put us in a position most unfortunate as well as unsuccessful.

See Jackson's dispatch, No. 1926.

WHITE.

Mr. White to Mr. Hay.

No. 1966.]

EMBASSY OF THE UNITED STATES,
Berlin, June 6, 1902.

SIR: I have the honor to forward to you this day a telegram,^a a copy of which is appended.

The Eisemann case has been one of especial difficulty and delicacy. These two gentlemen having left Frankfort-on-the-Main shortly before arriving at military age, went to America, and, having been successful at Boston in large business, they returned before reaching middle age with the evident intention of residing for a considerable time at Frankfort. Shortly after their arrival they leased large apartments for a term of several years and furnished them very handsomely. This probably aroused some feeling not only among their German contemporaries, who had done their military service, but doubtless among others in the community, and especially among the military authorities. The order of expulsion was the result.

The next unfortunate phase of the case was that there was a delay by Messrs. Eisemann in bringing it to the knowledge of the embassy and that there was even delay in informing our consul-general at Frankfort. Instead of coming directly to this embassy, in which case we could have taken time by the forelock and probably have secured the necessary order before more feeling was aroused, the Messrs. Eisemann thought it advisable to try other methods, and the result was a great growth of bitterness, more especially among the officials charged with the case. When it reached us here the whole matter had been apparently settled. The military authorities had committed themselves fully and looked on the matter as *res adjudicata*. I immediately brought the matter to the attention of the foreign office, but found much reluctance to touch it on the ground that it was too late; that the matter was settled, and that the authorities here could not now go behind the decision which had been arrived at and the measures which had been taken in consequence. But the case was pressed both by Mr. Jackson and myself, and as I took a deep interest in it I did what I am always very reluctant to do with an official matter—presented it to the chancellor, both verbally and in writing, and more than once. It was only after mature consideration that I took the risk involved in doing this. Fortunately the minister of foreign affairs did justice to

my feeling in the matter, and he as well as the chancellor has been friendly. The same may be said of the acting minister of foreign affairs during Baron von Richthofen's absence, whom I also saw on the subject, furnishing him also with careful memoranda. But it was soon clear to me that the military authorities here as well as at Frankfort and the Prussian minister of the interior had at last been brought into a firm attitude against a complete revocation of the order. The utmost they could be induced to consider was an extension of the permission to sojourn until October 1. More than that, as I gather from my interviews at the foreign office, they have steadily opposed. * * *

The argument presented to me as that of the minister of the interior was, that if the Government yielded in the case of these wealthy men they could have henceforth nothing to say in the case of poor men. In regard to this whole question, every thinking Prussian, indeed every thinking German, feels deeply. * * * I mention this to show the feeling which is at the bottom of the attitude taken by German officials on questions of this kind; not to justify, but to explain it. You, of course, are fully aware of these facts; but I doubt whether any person who has not lived here for many years and talked much with men of light and leading in this Empire can understand the real depth of it. When, then, young men just arriving at the military age go to other countries and secure foreign citizenship, which absolves them from all duties to their fatherland, there is a deep prejudice against them, especially if they return to the districts from which they went.

Had the case been presented at once I think that we could have won it, or, if the Messrs. Eisemann had gone to any other part of Germany save the very city from which they went, there would probably have been no question; but unwittingly, on their return to the place from which they had gone, they immediately attracted general attention, aroused envy, and finally created a strong feeling in the official class that they ought to be expelled. Thus far, nothing, I think, has been omitted by this embassy which could help toward a decision in their favor. Both Mr. Jackson and myself have done all that has been possible. I shall keep close watch of the case and avail myself of every opportunity to make any point in their favor. I may say here that our difficulty has been increased by the fact that whereas both the brothers insisted for a considerable time that they would remain at Frankfort or nowhere in the German Empire, and whereas one of them later gave me to understand that they would be satisfied if allowed to come to Berlin, which statement I made to the foreign office, urging that a modification of the order be made to this effect, the other brother now comes back to the earlier position and insists that they do not wish to come to Berlin.

I give these facts in order that you may more fully understand the main points in the case as given in Mr. Jackson's dispatch 1926 of April 17.

I remain, etc.,

AND. D. WHITE.

Mr. White to Mr. Hay.

[Telegram—Paraphrase.]

EMBASSY OF THE UNITED STATES,

Berlin, June 14, 1902.

(Mr. White reports that he has applied in behalf of the Eisemanns for an extension of leave to remain in Frankfort until April, 1903;

that the brother at present in Germany declares that they will then be ready to return to Boston.

Mr. White has stated very fully to the foreign office the reasons for this request.)

Mr. Hill to Mr. White.

No. 1358.]

DEPARTMENT OF STATE,
Washington, June 26, 1902.

SIR: Your No. 1966 of the 6th instant, relative to the case of the expulsion of Nathan and Albert Eisemann, has been received, and the manner in which you endeavored to obtain a revocation of the order expelling them has the Department's approval.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Jackson to Mr. Hay.

No. 1998.]

EMBASSY OF THE UNITED STATES,
Berlin, July 5, 1902.

SIR: Referring to previous correspondence, I have the honor to inform you that a note has just been received from the German foreign office in which it is stated that permission is granted the Eisemann brothers to remain in Frankfort-on-the-Main until the 1st of next April.

I have, etc.,

JOHN B. JACKSON.

Mr. Hay to Mr. White.

No. 1369.]

DEPARTMENT OF STATE,
Washington, July 17, 1902.

SIR: Referring to my No. 1358, of the 26th ultimo, relative to the expulsion of the Messrs. Eisemann, I inclose copy of a letter from Senator Lodge, asking that the objectionable phrase "for police reasons" be stricken out of the order expelling them from Germany.

If that phrase could be eliminated so that it would not appear as if the Messrs. Eisemann were criminals and were on that account expelled from the country, it would be much appreciated.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Lodge to Mr. Hay.

Personal.]

UNITED STATES SENATE,
Nahant, Mass., July 11, 1902.

DEAR MR. HAY: In regard to the matter of the Eisemanns, I believe they are to have an extension until April, but what they are most anxious about is to have the statement in the edict expelling them, that they were expelled "for police reasons," removed. They want to get rid of that "police reasons." Is it not possible to have this done? It seems to me it is not unreasonable. We can not, of course, interfere with their removal from German territory if the German Government so decides, but I should think we might have them relieved from that objectionable clause. I should be very much obliged if anything could be done in regard to it.

Very sincerely, yours,

H. C. LODGE.

Mr. Jackson to Mr. Hay.

No. 2026.]

EMBASSY OF THE UNITED STATES,
Berlin, August 7, 1902.

SIR: I have the honor to acknowledge the due receipt of your instructions, Nos. 1347 and 1369, respectively, of June 5 and July 17, relating to the expulsion of the brothers Albert and Nathan Eisemann.

When this case was first brought to the attention of the German foreign office, reference was made to the words "for police reasons," but so long as there was a possibility that the orders complained of might be recalled in toto, no especial stress was laid upon their use. Upon the permission for the Messrs. Eisemann to remain in Prussia being extended for a second time—until April next—a formal request was made "that in justice to the gentlemen in question some official statement be made to the effect that the expulsion order had been issued on account of the nonperformance of military service and not on account of anything against the character of the parties concerned."

There is reason to believe that some such certificate of character will be made public before long, although it is not yet known what form this will take.

I am, etc.,

JOHN B. JACKSON.

Mr. White to Mr. Hay.

No. 2039.]

EMBASSY OF THE UNITED STATES,
Berlin, August 20, 1902.

SIR: Referring to the embassy's dispatch No. 2026, of the 7th instant, I have the honor to report that the "Regierungs-Präsident" at Wiesbaden has published an official announcement, under date of August 13, mentioning the orders which were issued last December in the cases of the brothers Albert and Nathan Eisemann, and stating that "no other police grounds, but merely the fact that the brothers had not performed military service prior to their emigration from Prussia had given occasion to their expulsion." In view of this announcement, of the fact that permission has been granted the brothers to remain in Frankfort on the Main until next April, and of the statements with regard to their wishes in the matter which were made to me by the Messrs. Eisemann and communicated by me to the German foreign office, I shall take no further action in this matter unless positively instructed to do so by you.

I am, etc.,

AND. D. WHITE.

Mr. Adee to Mr. Jackson.

No. 1398.]

DEPARTMENT OF STATE,
Washington, September 5, 1902.

SIR: Mr. White's No. 2039, of the 20th ultimo, has been received.

The public official explanation of the words "for police reasons" in the order expelling the Eisemann brothers from Prussia appears to be what the Messrs. Eisemann desired, and the incident may therefore be considered closed.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

EXPULSION OF JOHANN WILHELM LOHMANN.*Mr. White to Mr. Hay.*

No. 1992.]

EMBASSY OF THE UNITED STATES,
Berlin, July 2, 1902.

SIR: I have the honor to report that intervention was made on May 31, 1902 (F. O., No. 1182), and renewed on June 7 (F. O., No. 1186) in behalf of one Johann Wilhelm Lohmann, a naturalized American citizen of German origin. Lohmann had at first informed the embassy that he was threatened with expulsion, and then that he had actually been expelled. He wished to be permitted to remain at his former home for about three months.

Lohmann was born in Flögelh, Province Hannover, in 1878, and emigrated to the United States in 1893, where he became naturalized as a citizen last April. He then returned to Germany, having in his possession passport No. 53913, which was issued to him by the Department of State on April 11. On his arrival in Flögelh he complied with the local regulations regarding registration. On May 29 he was told that he must leave Prussia, and on June 5 he was called upon at the house of his mother and compelled to accompany a gendarme across the Prussian frontier to Bremerhaven.

To-day a note has been received from the foreign office in which it is stated that the Royal Prussian Government is not in a position to permit him to stay at his former home.

Lohmann, who was formally sentenced on account of his evasion of military duty, became naturalized in the United States in April and returned at once to his birth-place. As his sojourn there is not desired, the order of expulsion can not be revoked.

This information has been communicated to Lohmann, who has been living in Bremerhaven since his expulsion from Prussia without molestation.

I am, etc.,

AND. D. WHITE.

EXPULSION OF LEO HESS.*Mr. White to Mr. Hay.*

No. 2020.]

EMBASSY OF THE UNITED STATES,
Berlin, August 4, 1902.

SIR: I have the honor to report that on the 21st of May last the embassy was informed, through the United States consul-general at Frankfort on the Main, that one Leo Hess had received an order from the local authorities to leave Prussia within three weeks, and that he had addressed a petition to them requesting to be allowed to remain there for four months longer.

Hess was born in Germany and went to the United States when about 13 years of age. Subsequently, as shown by papers in his possession, he obtained a release from Prussian allegiance and became naturalized as an American citizen in the superior court of the city of New York on January 8, 1883. He returned to Germany and went to Frankfort with his family in April of this year and took an apartment, where his wife was subsequently confined. Early in May he received the order above referred to, which only mentioned him personally and not his

family. Hess expected to return to the United States in July, while his wife remained in Frankfort until next year.

The embassy immediately addressed a note to the foreign office, supporting Hess's petition and requesting that he might be allowed to remain as he desired. No reply having been received to this note, another note was addressed on July 1, and on the 2d instant an answer came from the foreign office. In this it was stated that on account of his wife's confinement in April Hess had been granted permission to remain until August 1, but that a longer stay could not be permitted, and that the order expelling him could not be withdrawn. The reason for this is stated to be on account of false information given by Hess to the authorities upon his arrival at Frankfort. Hess is said to have then affirmed that he was born in New York, whereas investigation proved that he was born in Germany. It is noted, however, that through the embassy's support Hess has virtually been accorded all he wished for.

I have, etc.,

AND. D. WHITE.

EXPULSION OF CHARLES VON OEHSSEN, (CARL) CHRISTIAN MARKHOFF AND FAMILY, AND HENRY BLOHM.

Mr. White to Mr. Hay.

No. 2040.]

EMBASSY OF THE UNITED STATES,
Berlin, August 20, 1902.

SIR: * * * I have the honor to report the expulsion from Prussia of Charles Von Oehsen, (Carl) Christian Markhoff and family, and Henry Blohm, American citizens of German origin, who had returned on visits to their former homes, in the neighborhood of Bremen. Von Oehsen and Blohm emigrated when about 16 and 14 years old, respectively, and duly became naturalized as American citizens, neither of them having performed military service in Germany. Von Oehsen returned to Germany almost immediately after his naturalization, last April, and after moving about the country and making several visits at his former home he was told, on July 5, that he must leave Prussia. The embassy intervened soon thereafter, to the end that he might remain until August 30, Von Oehsen living in Bremen in the meantime. On August 5 a reply was received, in which it was stated that he could not be permitted to return to Prussia, and that his expulsion from Bremen was being considered. The consul now writes that Von Oehsen was expelled from Bremen, and that he sailed for the United States on the 16th instant.

In June Blohm complained that the local authorities had told him that he would be allowed to remain in Prussia for two months, and the embassy then intervened in his behalf, to the end that he might be permitted to prolong his stay until October. The foreign office has now replied that Blohm had, at his own request, been granted permission to remain in Prussia till July 1; that he had then started upon a trip and his present whereabouts are unknown, and that as his continued residence was not considered desirable the order of expulsion would not be canceled.

Christian Markhoff is the father of the young man whose expulsion was reported in the embassy's dispatch No. 1714, of August 28, 1901. He and his family are reported as being anxious to go back to the United States, but that as they are in straitened circumstances they are unable to do so. In June, however, the local authorities ordered them to leave Prussia, and the embassy thereupon made intervention in their behalf. The foreign office has now replied that the Royal Prussian Government is not in a position to allow the family (with the exception of the two eldest daughters, who appear to be able to support themselves) to remain here longer.

I am, etc.,

AND. D. WHITE.

Mr. Jackson to Mr. Hay.

No. 2041.]

EMBASSY OF THE UNITED STATES,
Berlin, August 23, 1902.

SIR: Referring to the embassy's dispatch No. 2040, of the 20th instant, I have the honor to report that the German foreign office has now informed the embassy that the senate of the free city of Bremen had also decided that permission to sojourn could not be granted to Charles Von Oehsen, because he emigrated to the United States shortly before reaching the age of military service, and because he returned immediately after having acquired American citizenship. As he is now only 23 years old, his presence in Germany under these conditions is considered undesirable.

I have, etc.,

JOHN B. JACKSON.

EXPULSION OF MADS PEDER L. FYSANT.

Mr. Jackson to Mr. Hay.

No. 2122.]

EMBASSY OF THE UNITED STATES,
Berlin, October 25, 1902.

SIR: I have the honor to report that the embassy intervened on the 25th ultimo in behalf of one Mads Peder L. Fysant, an American citizen of Danish origin, to the end that he be permitted to remain in Prussia until October 17.

Fysant was born in Schleswig-Holstein in 1867, and emigrated to the United States in 1884, duly becoming naturalized as an American citizen. Last August he returned to Germany on a visit to his parents, at Langetwedt, in Schleswig, and after he had been there about a month he was told by the local police that he would be expelled if he did not leave of his own accord at once. Nothing further was heard from Fysant after intervention in his behalf was made, and it now appears that he was not molested again.

The foreign office has informed the embassy to-day that Fysant was permitted to remain in Prussia in accordance with its request, but that his further sojourn in his former home was not desired, as he had evaded military service by his emigration.

I have, etc.,

JOHN B. JACKSON.

EXPULSION OF SAMUEL SAMUEL.*Mr. Dodge to Mr. Hay.*

No. 2158.]

EMBASSY OF THE UNITED STATES,
Berlin, December 8, 1902.

SIR: I have the honor to report that on the 19th ultimo the embassy was informed through the consul at Kehl that one Samuel Samuel desired to make a visit at his former home at Weitersweiler, in Elsass, for three, or, if possible, for six months, his uncle having already obtained a permission for him to remain there for two weeks, which would soon expire. Samuel emigrated to the United States in 1895, when he was 17 years of age, having secured a release from his German allegiance, and became naturalized October 9 of the present year. Permission to make the desired visit was immediately requested of the foreign office, and nothing further of the case was heard until on the 6th instant the consul reported that Samuel had been compelled to leave the country and had gone to Switzerland. To-day a note from the foreign office states that permission to make a longer sojourn at his former home can not be granted, and that, after full consideration of his case, no ground was apparent which made it possible to make an exception for him to the established principle. The wishes of the embassy had so far been taken into account that upon his uncle's application he had been given permission to remain for fourteen days.

It is to be noted in this case that Samuel was a native of the "Reichsland," to which Germany does not admit that our naturalization treaties apply. Further, the usually unfavorable circumstances were presented of emigration nearly at the military age and return almost immediately after naturalization, just when the men about of his own age were performing their military duty, thus not improbably causing dissatisfaction among them.

I have, etc.,

H. PERCIVAL DODGE.

**MILITARY SERVICE CASES OF RENE HUTTLER, EUGENE HERR,
AND MEYER SCHWARTZ.***Mr. White to Mr. Hay.*

No. 1987.]

EMBASSY OF THE UNITED STATES,
Berlin, June 30, 1902.

SIR: Referring to the embassy's dispatch No. 1814 of December 31, 1901, I have the honor to append hereto a memorandum report of certain military cases, more particularly mentioned below, which have not been the subject of previous correspondence or which have been settled during the quarter ending to-day. There were no military cases to report for the quarter ending March 30 last.

I am, etc.,

AND. D. WHITE.

[Inclosure.]

Military case report.

At the instance of his attorney, Mr. Theo. Steeg, of Buffalo, N. Y., the embassy addressed a note (F. O., No. 1130) to the imperial foreign office on March 21, 1902,

in support of the petition to be allowed to visit his former home, which had been sent to the Imperial Statthalter at Strasburg by one Rene (Renatus) Huttler, an American citizen of Alsatian origin. Under date of April 9 the foreign office replied that the desired permission had been granted as a result of the embassy's intervention.

On March 8, 1902, the embassy learned through the United States consulate at Kiel, Baden, that Eugene Herr, an American citizen born in Wurttemberg, had been arrested on crossing the frontier at Deutsch-Avrucourt and had been transferred to a prison at Lörchingen, in Lorraine, on account of his evasion of military service, and intervention (F. O., No. 1123) was at once made in his behalf. A few days later, March 11, the embassy was informed that Herr had been released after depositing 400 marks as security for the payment of a military fine, and it at once renewed its intervention (F. O., No. 1124) in his behalf. So far as the embassy is aware, Herr was not molested again, and under date of April 28 the foreign office intimated to the embassy that the Wurttemberg authorities were ready to return the money in question upon Herr's submitting an authenticated copy of the certificate of his American naturalization, and stated that the local district attorney had been directed to communicate with the United States consul at Stuttgart in order to bring this about.

At his own request the embassy addressed a note (F. O., No. 1153) to the foreign office on April 21, 1902, in support of a petition sent in by Meyer Schwartz, an American citizen of Alsatian origin, for permission to visit his father at Strasburg, and under date of June 9 it was informed by the foreign office that in view of this action the permission had been granted as desired.

J. B. J.

Mr. White to Mr. Hay.

No. 2019.]

EMBASSY OF THE UNITED STATES,
Berlin, August 4, 1902.

SIR: Referring to the embassy's dispatch No. 1987, of the 30th of June last, I have the honor to inform you that Eugene Herr subsequently presented to the Wurttemberg authorities a duly authenticated copy of the certificate of his American naturalization, and that on the 2d instant a communication from the foreign office was received in which it was stated that the attachment against Herr's property in Wurttemberg had been removed and the judgment against him quashed. The proper authorities had also been instructed to pay to the United States consulate at Stuttgart the fine of 400 marks which had been collected from Herr.

I have, etc.

AND. D. WHITE.

**MILITARY SERVICE CASES OF FERDINAND HERMAN GRENZER,
HENRY HONEBEIN, GEORGE SOEHLKE, GUSTAV MEINCKE, AND
GEORGE DICKMANN (DIECKMANN).**

Mr. White to Mr. Hay.

No. 2090.]

EMBASSY OF THE UNITED STATES,
Berlin, September 30, 1902.

SIR: Referring to the embassy's dispatch No. 1987, of June 30, 1902, I have the honor to append hereto a memorandum report of the military cases of Ferdinand Herman Grenzer, Henry Honebein, George Soehlke, Gustav Meineke, and George Dickmann (Dieckmann), and to be, etc.,

AND. D. WHITE.

[Inclosure.]

Ferdinand Herman Grenzer was born at St. Louis, Mo., in 1880, his father having emigrated from Germany and having become naturalized as an American citizen in 1876. In 1882 the father returned to Germany, where he has since continued to reside. Grenzer was brought to Germany by his father, as an infant, but he went back to the United States in 1894 and remained there until August, 1901, since which time he has been studying in Germany. Last spring he was asked by the local authorities in Prussia if he were willing to perform military service, and upon his saying that he was not, as he was an American citizen merely sojourning in Germany for his education, he was told that he must leave the country by the 1st of July.

Grenzer's case was brought to the attention of the embassy by the consul at Breslau, and intervention was made in his behalf (F. O., No. 1138) on April 2, 1902, to the end that he might be allowed to finish his studies. He declared that it was his intention to return to the United States to reside within two years.

No answer having been received in the meantime, intervention was renewed (F. O., No. 1198) on June 30. Under date of July 12 the foreign office informed the embassy that Grenzer would be permitted to remain for two years longer in order to finish his studies at Mittweida, Saxony.

Henry Honebein was born in Germany, and emigrated when about 24 years old, after having performed military service, but with permission to be absent from the country for only two years. This leave he had prolonged twice, but he neglected doing so a third time, as he had in the meantime, in 1898, become naturalized as an American citizen. Last winter he returned on a visit to his former home in Prussia, and soon after his arrival he was called upon and eventually he was compelled to pay a fine for the technical offense of "emigration without permission."

The case was brought to the embassy's attention by the consul at Bremen, and intervention (F. O., No. 1102) was made in Honebein's behalf on February 5, 1902. No answer being received (Honebein, however, having returned to the United States and not being subjected to any inconvenience), intervention was renewed on June 30. On August 20 the embassy was informed by the foreign office that the money which Honebein had been compelled to pay had been refunded to him through the consul at Bremen.

George Soehlke emigrated to the United States when about 14 years old, and became naturalized, after a residence of about six years, in 1898. In June, 1902, he returned to Germany on a visit, and not long after his arrival at his former home in Prussia, he was told by the authorities that he must leave the country. He had already a ticket for the steamer sailing on August 23 in his possession, but the authorities said that he must leave before that date. At the steamship office, however, he was not able to exchange his ticket. Upon his case being brought to the embassy's attention by the consul at Bremen, intervention was made in his behalf (F. O., No. 1211), on July 20, and almost immediately thereafter the desired permission for Soehlke to continue his sojourn in Prussia was given.

Gustav Meincke emigrated to the United States after having obtained his release from Prussian allegiance, and became naturalized as an American citizen in New York, in 1892. He came back to Germany last summer for the purpose of undergoing a surgical operation. In August Meincke's wife informed the embassy that the Prussian authorities had ordered him to leave the country by the 15th of that month. Intervention was at once made (F. O., No. 1232), on the 9th, and under date of September 10, Meincke not having been molested in the meantime, the foreign office informed the embassy that he would be permitted to remain in Prussia until October 1, as desired.

George Dickmann (Dieckmann) was born in Germany and emigrated to the United States after having obtained his release from Prussian allegiance in 1886, duly becoming naturalized as an American citizen in 1894. In the summer of the current year he returned to Germany on a visit, and soon after arriving at his former home he was informed that he would not be allowed to remain longer than August 10. He then applied for permission to remain until September 20, as he had a steamer ticket for himself and his family good for that date, which he found he was unable to exchange. On being told that he must leave as ordered, he appealed to the consul at Bremen, who informed the embassy of the facts in the case. Intervention was made (F. O., No. 1229) in Dickmann's behalf on August 8, and renewed (F. O., No. 1261) on September 15. Under date of September 15, in a note which was received on the following day, the foreign office notified the embassy that permission had been granted Dickman to remain in Prussia till September 20, as requested.

J. B. J.

GREAT BRITAIN.

PRISONERS OF WAR, AMERICAN CITIZENS, HELD IN BRITISH COLONIES.

Mr. Hay to Mr. Choate.

No. 468.]

DEPARTMENT OF STATE,
Washington, October 16, 1900.

SIR: The Department is advised by the United States consul at Colombo, Ceylon, that a number of prisoners captured by the British troops in South Africa have been deported to an encampment at Diyalalawa, in that island, among them 22 men claiming American citizenship. As the consul was denied access to these men, I am without confirmation of their alleged American status, but the report is so circumstantial that it is due to ascertain the facts, if possible, and I have therefore to instruct you to ask an early inquiry into the truth of the statement.

If it be confirmed, the Government of the United States could not view without concern the risk of life and health involved in sending any unacclimated American citizens, taken under the circumstances described, to so notoriously insalubrious a place as the island of Ceylon. The principles of public law which exclude all rigor or severity in the treatment of prisoners of war beyond what may be needful to their safety imply their nonsubjection to avoidable danger from any cause. These admitted principles have found conventional expression in treaties, as in article 24 of the treaties of 1785 and 1799 between the United States and Prussia, and the enlightened practice therein specified to be followed with respect to the custody of prisoners of war is believed to represent the general view of modern nations, as it certainly does the sentiment of humanity and the law of nature on which it claims to rest.

If it prove that citizens of the United States, captured while temporarily serving in the armies of the South African Republic and the Orange Free State, have in fact been transported to distant and noxious places, you will represent the expectation of this Government that they be at once removed to some more healthful station, if indeed the situation at this time shall not permit their discharge, freely or on parole. The number of these Americans who have taken temporary service under another flag is represented to be small.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Choate.

No. 469.]

DEPARTMENT OF STATE,
Washington, October 16, 1900.

SIR: In connection with my instruction of even date concerning the reported imprisonment of some 22 American citizens as prisoners of

war in the island of Ceylon, I send you copy of a letter received to-day from the Hon. George P. Lawrence, a member of Congress from the State of Massachusetts, commending a request addressed to him by Mr. John J. Hearn, of Westfield, Mass., that the Department of State move to obtain the release of his brother, F. M. Hearn, now confined at Diyatalawa camp, in Ceylon. It is inferred that the prisoner is a citizen of the United States, but that no misapprehension may exist in this regard Mr. Lawrence will be asked to procure substantiation of that fact.

You will do what you properly can toward the release of Mr. Hearn, in company with the other American citizens confined in Ceylon, and to this end you may make such use as you may deem appropriate of the consideration that the present time, when hostilities in the Boer country are practically ended, is propitious for the relief of these men.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Lawrence to Mr. Hay.

HOUSE OF REPRESENTATIVES,
North Adams, Mass., October 13, 1900.

MY DEAR SIR: I inclose herewith a letter from Mr. John J. Hearn, of Westfield, Mass., a constituent of mine of character and standing, who writes to me with reference to the release of his brother, F. M. Hearn, now a Boer prisoner of war in the hands of the British. Will you please inform me if anything can be done by your Department for Mr. Hearn? I shall be glad to have you do all that you can.

Very truly, yours,

GEO. P. LAWRENCE.

[Subinclosure.]

Mr. Hearn to Mr. Lawrence.

WESTFIELD, MASS., October 12, 1900.

DEAR SIR: As a citizen and voter in your Congressional district, I respectfully request you to use your influence with the State Department at Washington to obtain the release of my brother, F. M. Hearn, now a Boer prisoner of war in the hands of the British.

He has been a prisoner several months, and is at present at Diyatalawa camp, Ceylon.

As the war in the Transvaal is practically ended, the United States Government should have no difficulty in securing his release, in which event sufficient funds will be forthcoming to bring him back to this country.

I have been in business in Westfield for several years and can give you prominent references if you so desire.

Thanking you in advance, etc.,

JOHN J. HEARN.

Mr. Choate to Mr. Hay.

No. 418.]

AMERICAN EMBASSY,
London, October 27, 1900.

SIR: With reference to your instruction No. 468, of the 16th instant, I have the honor to inclose herewith a copy of a note which, on the 25th instant, I addressed to Her Majesty's secretary of state for foreign affairs.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

*Mr. Choate to Lord Salisbury.*AMERICAN EMBASSY,
London, October 25, 1900.

MY LORD: I have the honor to inform your lordship that my Government has been informed by the United States consul at Colombo, Ceylon, that among the prisoners captured by the British troops in South Africa and deported to an encampment at Diyatalawa, in the island of Ceylon, are 22 men claiming to be American citizens, but as the consul was denied access to these men my Government is without confirmation of their claim to citizenship. The consul's report is, however, so circumstantial that my Government deems it its duty to ascertain the facts. From Mr. John J. Hearn, a man of business residing in Westfield, Mass., and vouched for as a man of character and standing by the Hon. George P. Lawrence, a member of Congress from that State, it has been ascertained that one of the prisoners mentioned is his brother, F. H. Hearn. The names of the others are at present unknown.

I am therefore instructed to ask at your lordship's hands an early inquiry into the correctness of the consul's report, and am prepared, if it turns out that the prisoners referred to are American citizens, to present to your lordship considerations which would probably lead to their removal to a more healthful station, and perhaps to their discharge, either freely or on parole.

I have, etc.,

JOSEPH H. CHOATE.

Mr. Hay to Mr. Choate.

No. 482.]

DEPARTMENT OF STATE,
Washington, November 1, 1900.

SIR: I inclose copy of a correspondence the Department has had with Hon. Frank E. Wilson, M. C., and Mr. Andrew J. Mulcare, touching the desired release on parole of the latter's relative, a deported Boer prisoner.

You may bring the matter informally to notice in the proper quarter, not as a request of this Government, but rather by way of kindly personal aid to an American citizen to enable him to bring his petition for relief of a relative to attention for consideration and such action as circumstances may make proper.

I am, etc.,

JOHN HAY.

[Inclosure 1.]

*Mr. Wilson to Mr. Hay.*HOUSE OF REPRESENTATIVES,
Brooklyn, N. Y., October 15, 1900.

SIR: I have the honor to inclose you herewith a letter received from one of my constituents which will explain itself. I would esteem it a great favor if you could secure the desired parole for Mr. William Smith, if it be consistent with the practice of your Department.

Very respectfully,

FRANK E. WILSON.

[Subinclosure.]

Mr. Mulcare to Mr. Wilson.

BROOKLYN, October 11, 1900.

DEAR SIR: I respectfully ask your cooperation in an effort to secure the parole of a near relative who is now a prisoner of war on the island of St. Helena. A word from you addressed to the Department of State at Washington, D. C., may aid him greatly, and, I hope, would not inconvenience you.

The young man was a member of the civil service of the Transvaal, and begs that we endeavor to secure parole, that he may return to the Cape Colony in order that he may make provision for his family. His state of mind is pitiful, as you may judge by the following, quoted from his last letter to me:

"Life here is very monotonous and I feel the confinement very much, having now been a prisoner since the early stages of the war. My wife, thank God, is well, but the two little daughters and the son are ill.

"The war may drag on for another six or eight months, and to stay here all that time will drive me mad.

"It is simply a desire on my part to return to the Cape Colony to make provision for my loved ones. Last year this time I was happy in the possession of a loving wife and children and a pretty home in Doornfontein, one of the suburbs of Johannesburg; now, how different. My home is looted and the wife and children are refugees among hundreds of others."

He closes his letter with an appeal to "not forget your kinsman, who is eating his heart out on the prison island of the South Atlantic."

This young man is about 30 years of age. His name is William Smith, and he is my first cousin, being a son of my father's sister.

I feel that I may approach you in this matter on the common ground of humanity.

By granting my request you will not only confer a great favor on me, which I earnestly appreciate, but also upon over a score of this poor boy's relatives, who are, with me, interested in this matter.

Very truly, yours,

ANDREW J. MULCARE.

[Inclosure 2.]

Mr. Hay to Mr. Wilson.

DEPARTMENT OF STATE, *Washington, October 16, 1900.*

SIR: I am in receipt of your letter of the 15th, in which, referring to the letter you transmit from a constituent touching the release on parole of the deported Boer prisoner, a relative of the writer, you ask the Department's aid in the matter.

Pending consideration of your request, I have the honor to inquire whether the young man, Mr. William Smith, in whose behalf the interposition of this Government is solicited to obtain his release on parole from confinement on the island of St. Helena, is a citizen of the United States or was ever domiciled in this country. The statements in the letter of your constituent (Mr. Andrew J. Mulcare) do not make it clear whether Mr. Smith was a citizen of the South African Republic or an "outlander" employed at Johannesburg, who, on the outbreak of the war, took refuge with his family in the Cape Colony.

I have, etc.,

JOHN HAY.

[Inclosure 3.]

Mr. Adee to Mr. Mulcare.

DEPARTMENT OF STATE, *Washington, October 20, 1900.*

SIR: Your letter of the 11th instant addressed to the President has been referred to this Department. It refers to the case of William Smith, a deported Boer prisoner, whose release you seek on parole, and is a replica of the letter addressed by you to the Hon. Frank E. Wilson and by him sent hither with a request for the Department's aid in the matter.

Mr. Wilson has probably communicated to you the Department's reply ^a of October 16, but in case he has not I inclose a copy for your information.

You will see that it is essential that Mr. Smith's American citizenship or domicile be established before the Department can give the matter consideration.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure 4.]

*Mr. Mulcare to Mr. Adee.*BROOKLYN, N. Y., *October 23, 1900.*

SIR: I have your esteemed favor of the 20th instant in the matter of obtaining parole for William Smith. Also copy of letter addressed to the Hon. Frank E. Wilson.

Prior to the receipt of your letter I had an interview with Mr. Wilson regarding the information required.

My cousin, William Smith, is *not* a citizen of the United States. He is a native of South Africa, but I do not know just when he was born. His mother was a native of Ireland and his father of Germany. He never resided here, and the only time he spent in this country was on a visit of several months' duration.

I am aware that his release can not be asked for in any sense as a right, but I do earnestly request, in behalf of over a score of his relatives who *are* citizens of this glorious country, the good offices of our Government toward securing his release.

I beg to emphasize the fact that he desires to return to the Cape Colony and not to the late scenes of the war.

At the outbreak of the war Mr. Smith was employed in the post-office department at Johannesburg, and was commandeered (believe that is the term) into service.

I beg to express my sincere thanks for the prompt consideration which the Department of State has given this matter, and I hope sincerely that there is some way in which the desired end can be attained.

Yours, very truly,

ANDREW J. MULCARE.

Mr. Choate to Mr. Hay.

[Telegram.]

AMERICAN EMBASSY,
London, November 21, 1900.

Have received note from Lord Lansdowne stating no objection to American consul at Colombo communicating with the 22 prisoners of war referred to in your instruction No. 468, but all communications should be made either through governor of Ceylon or general officer commanding troops.

CHOATE.

Mr. Choate to Mr. Hay.

No. 431.]

AMERICAN EMBASSY,
London, November 21, 1900.

SIR: Referring to my dispatch No. 418 of the 27th ultimo, I have the honor to inclose herewith a copy of a note which I have received from the Marquis of Lansdowne in relation to the American prisoners of war in Ceylon, together with a copy of a telegram^a which I sent you on the 21st instant, from which it will be observed that the American consul at Colombo can communicate with the 22 prisoners of war, but that all communications should be made either through the governor of Ceylon or through the general officer commanding the troops.

I have, etc.,

JOSEPH H. CHOATE.

^a Printed, ante.

[Inclosure.]

Lord Lansdowne to Mr. Choate.

FOREIGN OFFICE, November 17, 1900.

YOUR EXCELLENCY: The Marquis of Salisbury referred your letter of the 25th ultimo to the secretary of state for war, and I have now the honor to inform your excellency that a telegram has been received from the military authorities in Ceylon to the effect that there is no objection to the United States consul at Colombo communicating with the 22 prisoners of war referred to in your excellency's note, but that all communications should be made either through the governor of Ceylon or through the general officer commanding the troops.

I have, etc.,

LANSDOWNE.

Mr. Hay to Mr. Choate.

No. 500.]

DEPARTMENT OF STATE,
Washington, November 21, 1900.

SIR: I inclose a copy of a letter from the Hon. Thomas Hedge, a member of Congress from Iowa, with inclosure, from which it appears that Edward C. Janse, a native of Iowa, who was engaged in railroad building in South Africa, was captured by a British force at Machadodorp while engaged in his work, and was taken to Pretoria, where he is now held as a prisoner of war.

You will ask for an investigation of the matter and suggest that Mr. Janse be released, if the facts warrant it at this time.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Hedge to Mr. Hay.*HOUSE OF REPRESENTATIVES,
Burlington, Iowa, November 16, 1900.

DEAR SIR: Mr. Edward C. Janse, a native of Fort Madison, Lee County, Iowa, some three years ago went to South Africa to engage in railroad building. His family has received word that he was captured by the British at Machadodorp, where he was engaged in railroad work, and was taken to Pretoria as a prisoner of war, and is now held there as a prisoner. I inclose a letter from Mr. George B. Stewart, the assistant United States attorney at Fort Madison, which tells all that the family knows of the situation. I desire very much to relieve their anxiety concerning this young man and know of no more direct or certain course to take than by applying to the State Department to obtain particular information of the case and do what it properly may toward obtaining young Mr. Janse's release. May I ask your kind offices in this matter?

Respectfully, yours,

THOMAS HEDGE.

[Subinclosure.]

*Mr. Stewart to Mr. Hedge.*OFFICE OF UNITED STATES ATTORNEY,
SOUTHERN DISTRICT OF IOWA,
Fort Madison, Iowa, November 14, 1900.

DEAR SIR: Mr. Edward Janse, son of Mr. Hector Janse, one of the old Republicans of this county and town, has been in South Africa for three years past, engaged with his brother in contracts for building railroads. Word has just come that Mr. Janse

was captured by the British at Machadodorp, where he was engaged on railroad work, and taken to Pretoria as a prisoner of war, where he now is. The family do not know the particulars or any more about it than I have given you. They are very much alarmed, and would greatly appreciate it if you would take the matter up with the State Department and have it ascertain the facts and do what it can for Mr. Janse. Mr. Edward Janse was born here; his family is a prominent and well-to-do one, and he is an upright, sober young man, with a large circle of friends, who would greatly appreciate anything you could do for him.

Yours, very truly,

GEORGE B. STEWART.

Mr. Choate to Mr. Hay.

No. 434.]

AMERICAN EMBASSY,
London, November 24, 1900.

SIR: Referring to your instruction No. 482, dated the 1st instant, relating to the desire of the American friends of Mr. William Smith, a prisoner at St. Helena, to procure his release, I have the honor to report that by means of unofficial inquiries I have reliably ascertained that no application for the discharge of any particular prisoner at St. Helena would be entertained; that requests for the discharge of other prisoners similarly situated, made by other nations, directly and officially, have been refused, and that it would therefore not be expedient to present an application in his case.

I have, etc.,

JOSEPH H. CHOATE.

Mr. Hay to Mr. Choate.

No. 506.]

DEPARTMENT OF STATE,
Washington, December 6, 1900.

SIR: I inclose for your information copy of a letter from the Hon. William Alden Smith, a member of the House of Representatives, in regard to the case of William Frederic Versluis, formerly a member of Company M, First Illinois Infantry, who served in the American Army through the Santiago campaign, receiving an honorable discharge therefrom.

You will observe that he is now, it is supposed, held as a prisoner of war by the British, by whom he was captured between Heidelberg and Standerton, in September last, in South Africa.

You are requested to make inquiry in regard to the man in question with a view to taking such action in regard to the matter as may be deemed proper.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Smith to Mr. Hay.

HOUSE OF REPRESENTATIVES,
Grand Rapids, Mich., November 30, 1900.

DEAR SIR: Inclosed I send you letter from Hon. G. J. Diekema, chairman of the Republican State central committee of Michigan, including memorandum from Dr. J. J. Huizinga, 100 State street, Chicago, Ill., relating to William Frederick Versluis, formerly a member of Company M, First Illinois Infantry, who served in the Amer-

ican Army through the Santiago campaign, receiving an honorable discharge. It is supposed that he is now held as prisoner by the British, by whom he was captured between Heidelberg and Standerton September last, in South Africa.

If you can save the life of this young soldier, his friends in this part of the State will esteem it a great favor, and I sincerely hope that you may be able to do so.

With great respect, etc.,

WILLIAM ALDEN SMITH.

[Subinclosure.]

Mr. Diekema to Mr. Smith.

HOLLAND, MICH., November 28, 1900.

MY DEAR FRIEND: I have just received from Dr. J. J. Huizinga, of Chicago, the inclosed note^a relating to a William Frederick Versluis. The young doctor is very anxious to have me interest you in this matter. He says that Congressman Mann has been seen and will do what he can in the matter, and that whatever is done must be done quickly if the life of this young American captured by the British in South Africa is to be saved.

It is feared that he is in great danger of death by a process of drumhead court-martial.

He fought under Colonel Roosevelt at Santiago and belonged to Colonel Turner's regiment.

Do what you can in the matter, for you can do much in any matter.

Very truly, yours,

G. J. DIEKEMA.

Mr. Hay to Mr. Choate.

No. 525.]

DEPARTMENT OF STATE,
Washington, January 3, 1901.

SIR: I inclose, for such kindly consideration as you may be able to obtain for his request, a letter from Arie Dubber, stating that his brother, Dirk J. Dubber, is a prisoner of war on parole at Pretoria, and asking that he may be sent to some British or Dutch port whence, the writer states, he will guarantee payment for his brother's transportation to Cleveland, Ohio.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Dubber to Mr. Hay.

CLEVELAND, OHIO, December 27, 1900.

DEAR SIR: Information has reached me that my brother, Dirk J. Dubber, is now a prisoner of war on parole at Pretoria, South African Republic.

I would hereby kindly ask the good offices of our Government to request the English Government to transport the said D. J. Dubber to some English, or if in order, better still, to some Dutch port, whence I will guarantee payment for his transportation to Cleveland, Ohio.

Very respectfully,

ARIE DUBBER.

Mr. Choate to Mr. Hay.

No. 473.]

AMERICAN EMBASSY,
London, January 7, 1901.

SIR: With reference to your instruction, No. 500, of the 21st of November last, inclosing a copy of a letter from Mr. Thomas Hedge, of Iowa, respecting the case of Mr. Edward J. Janse, I have the honor

to inclose a copy of a note from Lord Lansdowne, dated the 3d instant, from which it appears that Mr. Janse was released on parole on the 5th of October last and is reported to have returned to America.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

Lord Lansdowne to Mr. Choate.

FOREIGN OFFICE, *January 3, 1901.*

YOUR EXCELLENCY: With reference to my note of the 8th ultimo respecting the case of Mr. E. J. Janse, I have the honor to inform you that I learn from Her Majesty's secretary of state for war that the gentleman in question was released on parole on the 5th October last, and is reported to have returned to America.

I have, etc.,

LANSDOWNE.

Mr. Choate to Mr. Hay.

No. 504.]

AMERICAN EMBASSY,
London, February 9, 1901.

SIR: With reference to your instruction No. 525, of the 3d ultimo, relating to the case of Mr. Dirk J. Dubber, a prisoner of war on parole at Pretoria, I have the honor to inclose herewith the copy of a note which I have just received from Lord Lansdowne, in which it is stated that there is no reason to believe that Mr. Dubber is seriously or dangerously ill, which at present constitutes the only reason for extending exceptional treatment to prisoners of war, and that in these circumstances His Majesty's Government regret that they are unable to order the release of the person referred to.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

Lord Lansdowne to Mr. Choate.

FOREIGN OFFICE, *February 6, 1901.*

YOUR EXCELLENCY: I referred to His Majesty's secretary of state for war your note of the 15th ultimo inclosing a copy of a letter from Mr. Arie Dubber, of Cleveland, Ohio, stating that his brother, Mr. Dirk J. Dubber, is a prisoner of war on parole at Pretoria, and asking that he may be sent to the United States of America from a British or Dutch port.

I have the honor to inform your excellency that there is no reason to believe that Mr. Dubber is seriously or dangerously ill, which at present constitutes the only reason for extending exceptional treatment to prisoners of war, and that in these circumstances His Majesty's Government regret that they are unable to order the release of the person referred to.

I have, etc.,

LANSDOWNE.

Mr. Hill to Mr. Choate.

No. 620.]

DEPARTMENT OF STATE,
Washington, April 30, 1901.

SIR: I inclose a copy of a letter from Frank Lawrence, from which it appears that Harry Wood, a native American citizen, is now a pris-

oner of war, held at Ragama Camp, in Ceylon, and is sick with enteric fever and not able well to bear the rigors and restrictions of the life of a prisoner.

You will inquire whether, in view of Mr. Wood's health, it may not be possible to release him on parole on condition that he return to the United States, his family furnishing the passage money.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

[Inclosure.]

Mr. Lawrence to Mr. Hay.

NEW YORK, April 26, 1901.

DEAR SIR: Mr. John Elderkin, of this city, has very kindly consented to give me a letter of introduction to you, which I inclose with this letter, requesting your aid in my efforts to procure the release of my friend, Harry Wood, late of Washington, who is a son of the late John Thornton Wood of that city, who is now a British prisoner of war at the Ragama camp, in Ceylon. As my friend, Mr. Elderkin, explains, Mr. Wood was taken prisoner while sick in the hospital at Barberton, in the Transvaal, in September last. He was then suffering from enteric fever, and is in consequence in a very debilitated condition and totally unfitted to endure the rigors of even the best camp life. His family informed me that his treatment is very far from good, although, as his letters are censored, he is unable to enter into the details of his hardships. He does write, however, that the food supplied is quite unfitted for one in his condition, and that he was unable for seven weeks to obtain a stamp for the purpose of writing home.

He is an American citizen of native birth. It is not known definitely whether he was bearing arms against the British, nor whether they are prepared to maintain this. If his release upon parole can be obtained, his family will be very glad to deposit sufficient money with the British authorities to defray the expense of his return home. Mr. Wood is a gentleman, and his word can be relied upon.

I do not know just what may be done in the matter, but if your excellency can inform me as to the best course to pursue, and will make such representations to the proper British authorities as your excellency may deem most advisable, it will be a great favor both to me and to Mr. Wood and a great relief to his family, who are sorely troubled as to his condition.

Respectfully, yours,

FRANK LAWRENCE.

[Subinclosure.]

Mr. Elderkin to Mr. Hay.

NEW YORK, April 26, 1901.

DEAR SIR: I take the liberty of giving this letter to my friend, Mr. Frank Lawrence, of this city, who is desirous of obtaining the release of Harry Wood, an American citizen, late a resident of Washington, D. C., and son of John Thornton Wood, who at the time of his death was one of the editors of the North American Review. Probably Mr. John Thornton Wood was known to you, as he was a resident of Washington.

The son, Harry Wood, who is about 26 years of age, joined a body of Americans who went from New York to Delagoa Bay and from there crossed to the Transvaal and joined the Boers. He was made a prisoner by the British when sick of enteric fever in the hospital at Barberton in September last and was taken to Colombo, Ceylon, and is now in the Ragama camp, near that city. He is still sick and suffering for want of many necessities for one in his debilitated condition. His family are anxious to secure his parole and release, and are willing to furnish money to pay his passage to America. Mr. Frank Lawrence, who is a friend of Mr. Wood's family, has asked me to write and ask you for such assistance as the State Department can render in the case. If you will be so good as to interest yourself in the matter and inform Mr. Lawrence what steps are necessary in order to obtain Mr. Harry Wood's release, you will confer a personal favor upon me.

Sincerely, yours,

JOHN ELDERKIN.

Mr. Hill to Mr. Choate.

No. 636.]

DEPARTMENT OF STATE,
Washington, May 22, 1901.

SIR: With reference to the Department's No. 482, of November 1 last, you are instructed to report what action you have taken in the matter of the request that Mr. William F. Smith, an American citizen, detained on St. Helena as a prisoner of war, be released on parole.

In consequence of a letter from the Hon. Frank E. Wilson, M. C., of the 16th instant, you are instructed to recall the matter to the attention of the British Government.

I am, etc.,

DAVID J. HILL,
*Acting Secretary.**Mr. Hill to Mr. Choate.*

No. 641.]

DEPARTMENT OF STATE,
Washington, May 27, 1901.

SIR: I inclose herewith copy of a letter from Hon. J. N. W. Rumble, a member of Congress from Iowa, in regard to one Francis Connelly, a native of Davenport, Iowa, who is said to be held by the British Government as a prisoner of war on the island of Ceylon.

You may inquire whether it is possible for this young man to be released on parole on condition that he will return to the United States.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

[Inclosure.]

*Mr. Rumble to Mr. Hill.*HOUSE OF REPRESENTATIVES,
Marengo, Iowa, May 22, 1901.

DEAR SIR: One Francis Connelly, a native of Davenport, Iowa, when 19 years old, went to Johannesburg, South Africa, to reside with his brother, in 1890; was there when the war broke out between England and the South African Republic; joined the Boer army, and was captured and is now a prisoner on the island of Ceylon. He has a brother who resides in Davenport, who, with many other friends, is very desirous that he should be released and allowed to return to the United States.

I do not suppose that the Department could make a demand for his release on account of his being an American citizen, but that the Department might use its good offices in asking that he be paroled on condition that he would return to the United States.

If you can give me the modus operandi necessary to bring about this result and assist me in any way in asking this favor of the English Government, I would consider it a great favor.

The parole of this young man will be greatly appreciated by the people of Davenport, and the Administration will receive their gratitude.

Yours, truly,

J. N. W. RUMBLE.

Mr. Hay to Mr. Choate.

No. 647.]

DEPARTMENT OF STATE,
Washington, June 4, 1901.

SIR: I inclose herewith copy of a letter from Hon. James R. Mann, a member of Congress from Illinois, who desires inquiry to be made with a view to ascertain whether William Frederick Versluis, who is held as a British prisoner of war on the island of Ceylon, may not be released on parole on the understanding that he will return to the United States, his brothers furnishing the passage money.

You may make the inquiry.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Mann to Mr. Hill.*HOUSE OF REPRESENTATIVES,
Chicago, Ill., May 31, 1901.

DEAR SIR: Referring to your kind favor of the 22d instant relating to the case of William Frederick Versluis, who is held as a prisoner of war by the British Government, permit me to request that you make proper representations to endeavor to obtain the release of Mr. Versluis on parole on the understanding that he will return to the United States. His brothers here are willing to furnish the passage money for his return home, and will do so at such time and in such manner as may be indicated by you or required.

May I specially request that an effort be made to obtain the release on parole of Versluis?

I have, etc.,

JAMES R. MANN.

Mr. Choate to Mr. Hay.

No. 592.]

AMERICAN EMBASSY,
London, June 15, 1901.

SIR: Referring to your instruction, No. 620, of the 30th of April last, in relation to the case of Mr. H. Wood, a native American citizen, at present a prisoner of war in Ceylon, I have the honor to inclose a copy of a note from Lord Lansdowne, dated the 13th instant, from which it appears that Mr. Wood is in good health.

Lord Lansdowne states that it would not be in accordance with the practice hitherto followed to release Mr. Wood, and that Mr. Brodrick regrets that the circumstances are such as to prevent him from complying with the request to that end.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

*Lord Lansdowne to Mr. Choate.*FOREIGN OFFICE, *June 13, 1901.*

YOUR EXCELLENCY: With reference to my note of the 21st ultimo, respecting the case of Mr. H. Wood, at present a prisoner of war in Ceylon, I have the honor to inform you that, as according to a telegram recently received from the governor of that colony, Mr. Wood is in good health, it would not be in accordance with the practice hitherto followed to release Mr. Wood.

Mr. Brodrick regrets that the circumstances should be such as to prevent him from complying with the request made in your note of the 14th ultimo.

I have, etc.,

LANSDOWNE.

Mr. Choate to Mr. Hay.

No. 610.]

AMERICAN EMBASSY,
London, July 3, 1901.

SIR: With reference to your instructions, Nos. 636 and 641, of May 22 and 27 last, I have the honor to inclose herewith a copy of a note which I have received from the Marquis of Lansdowne, stating that His Majesty's secretary of state for war is unable to make any exception in respect to prisoners of war, unless they are suffering from serious or dangerous illness, and that he does not see his way to ordering the release of Messrs. Connelly and Smith.

I had previously, upon the receipt of your instruction No. 636, approached His Majesty's Government in respect to Mr. W. F. Smith, but without success.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

*Lord Lansdowne to Mr. Choate.*FOREIGN OFFICE, *London, June 28, 1901.*

YOUR EXCELLENCY: I referred to His Majesty's secretary of state for war the copies of dispatches addressed to your excellency by the United States Government, asking for the release of two United States citizens, Messrs. F. Connelly and W. Smith, who are detained as prisoners of war in Ceylon and St. Helena, respectively.

I have the honor to inform your excellency that I learn from Mr. Secretary Brodric that he is unable to make exceptions in the cases of individual prisoners of war unless they are suffering from serious or dangerous illness, and consequently regrets that he does not see his way to ordering the release of Messrs. Connelly and W. Smith.

I have, etc.,

LANSDOWNE.

Mr. Choate to Mr. Hay.

No. 621.]

AMERICAN EMBASSY,
London, July 11, 1901.

SIR: With reference to your instruction No. 647, of the 4th ultimo, and to my dispatch No. 610, of the 5th instant, I assume that you will have inferred from Lord Lansdowne's note of the 28th ultimo, stating that His Majesty's Government is unable to make any exception in respect to prisoners of war unless they are suffering from serious or dangerous illness, and that the secretary of state for war does not see his way to ordering the release of Messrs. Connelly and Smith, that it would be neither advisable nor of any use to ask for the release on parole of Mr. William Frederick Versluis.

I have, etc.,

JOSEPH H. CHOATE.

Mr. Adee to Mr. Choate.

No. 735.]

DEPARTMENT OF STATE,
Washington, September 30, 1901.

SIR: On November 1, 1900, you were instructed to present informally a petition for the release of William Smith, an American citizen held as a prisoner of war at St. Helena, and you replied in your No.

434, of the 24th of that month, that you had reliably ascertained that such a petition would not be entertained, and that similar requests in behalf of prisoners of war of other nationalities had been refused.

In your No. 473, of January 7 last, you reported that Edward C. Janse, who had been taken prisoner, had been released on parole. In that case, however, the correspondence does not show that Mr. Janse had been taken with arms in hand or that he had violated in any way his duties as a neutral.

In your Nos. 504, 592, and 610, of February 9, June 15, and July 3, respectively, you report in each case that the British Government is unable to release the American citizens, prisoners of war, named in the dispatches, because it would not be in accordance with the practice followed by His Majesty's war office, under which prisoners are only released if "they are suffering from serious or dangerous illness."

Upon this question I now inclose a copy of a dispatch from the consul at Colombo, from which it appears that three prisoners of war held at Ragama Camp, Ceylon, were recently released on parole and allowed to return to Germany. If it prove true that prisoners of war of other nationalities are being released, you may sound the Government of His Majesty as to the reopening of the cases of the American citizens whose release has heretofore been refused. It may be that the persons named in Mr. Morey's dispatch were released on account of sickness, although the letter to him, inclosed with his dispatch, says that the men were well.

The consul will be instructed to forward to you directly any proof he may be able to obtain regarding the circumstances of the liberation of the German prisoners.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

Mr. Morey to the Department of State.

CONSULATE OF THE UNITED STATES,
Colombo, August 27, 1901.

SIR: I inclose herewith a copy of a letter received from Messrs. Harry McGaw Wood, F. M. Hearn, John P. Doherty, and John Riley, prisoners of war, interned at the Boer prisoners' camp Ragama, propounding three inquiries respecting the propriety of their continued detention in Ceylon as prisoners of war, and stating that three prisoners captured in South Africa under similar conditions as themselves have lately been liberated and allowed to return to Germany.

I am, etc.,

W. MOREY, *Consul.*

[Subinclosure.]

Harry McGaw Wood et al. to Mr. Morey.

RAGAMA CAMP, *August 12, 1901.*

SIR: Whereas the British commander in chief in South Africa has made public proclamation and announcement of the annexation of the territories of the Orange Free State and South African Republic to the British Crown, and the same are daily referred to in the British official reports and in the British press as Crown colonies;

And whereas in the official parole, written and signed by the camp commandant in charge of Ragama camp, reference is made to "the late Government of the Orange River Colony;"

And whereas three prisoners of war, namely, C. Lavino, Wynburg, and R. Wilkie, who have taken an active part, under arms, in this war, and who, at the time of their release were in good health, have been allowed to return to Germany, either on parole or under no obligations;

We therefore beg that you will communicate with the home Government and advise us:

1. Whether the foreign governments recognize the extinction of the Governments of the Orange Free State and the South African Republic; and

2. Whether, if these governments have ceased to exist and their territories have been annexed to the British Crown, we can still be properly detained as prisoners of war; and

3. Whether, considering that we are properly so detained, we should not be allowed the same privilege of parole as has been granted to the three prisoners of war mentioned above.

Similar addresses are being forwarded by this mail to the various consuls in Colombo. You will greatly oblige by notifying us of your receipt of this.

Very truly,

HARRY MCGAW WOOD.
F. M. HEARN.
JOHN P. DOHERTY.
JOHN RILEY.

Mr. Adee to Mr. Choate.

No. 736.]

DEPARTMENT OF STATE,
Washington, October 1, 1901.

SIR: I inclose herewith a copy of a letter of the 23d ultimo from the Hon. W. A. Clark, United States Senator, with inclosure from Mr. Patrick Lennon, who states that he is a citizen of the United States and was formerly resident in Montana, and after emigrating to South Africa was made a prisoner by the British at Johannesburg and is now detained as such at Camp Ragama, Ceylon.

Mr. Lennon claims to have been a noncombatant, "carefully observing all the terms of Lord Roberts's proclamation."

The Department would be pleased to have you inquire into the matter and report the facts in the case.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

Mr. Clark to Mr. Hay.

UNITED STATES SENATE,
Washington, September 23, 1901.

MY DEAR SIR: Inclosed please find a communication dated at Ragama Camp, Ceylon, August 10, 1901, from Patrick Lennon, who alleges that he is an American citizen and a legal resident of Butte, Mont., and a constituent of mine. It will be observed that Mr. Lennon states that he has been a citizen of Montana for twelve years, voting regularly in Silverbow County, and that his wife and family are still residents of Butte. Also, details the circumstances under which he has become a prisoner of war and is detained in the camp at Ragama by the English authorities.

I respectfully refer to you Mr. Lennon's letter for your consideration and whatever action the Department of State may think proper to take.

Very respectfully,

W. A. CLARK.

[Subinclosure.]

*Mr. Lennon to Mr. Clark.*RAGAMA CAMP, CEYLON, *August 10, 1901.*

DEAR SIR: I take the liberty of placing before you the circumstances under which I, a citizen of Montana, became and still remain a prisoner of war in the hands of the English, in the hope that you will be able to move the Government to interest itself for my release.

I had been a citizen of Montana for twelve years, voting regularly in Silverbow County, and my wife and family are still residents of Butte; but in March, 1897, I proceeded to the Transvaal mines, being employed at the Rose Deep Gold Mining Company. I was in the country at the time of the British occupation of Johannesburg and was, of course, compelled to secure a pass from the military governor authorizing me to pass freely to and from my work. This pass I duly paid for and received, continuing to observe carefully all the terms of Lord Roberts's proclamations; but notwithstanding all this, I was suddenly arrested some four months after the occupation of Johannesburg and thrown into the fort as a prisoner of war.

I presented my American citizenship papers, but the officer in command refused to recognize them and hinted that he did not believe them to be actually mine, so took them from me. I have since procured certified copies. Later on I was told that I might regain my liberty either by putting up £500 (\$2,500) bail, or by taking the oath of allegiance to the British, but I refused both alternatives and was transported to Ceylon, where I am now detained in this camp at Ragama. I am thus deprived of my liberty and unable to attend to the requirements of my wife and family.

You would confer a great obligation upon me if you would interest yourself in repairing the injustice under which I am suffering.

I am, etc.,

PATRICK LENNON.

Mr. White to Mr. Hay.

No. 687.]

AMERICAN EMBASSY,
London, October 19, 1901.

SIR: Referring to your instruction No. 735, of the 30th ultimo, I have the honor to inform you that I attended the Marquis of Lansdowne's reception at the foreign office yesterday and called his attention to the cases of the three prisoners of war of German nationality who are alleged to have been released in Ceylon and allowed to return to their homes. I also left with him a copy of the dispatch from our consul at Colombo on the subject, with its inclosure. His Lordship naturally had no personal knowledge of the matter, but promised at my request to cause inquiry to be made on the subject and to let me know the result. I said to him that if it should turn out that prisoners of German nationality, in good health, had been released from Ceylon and allowed to return to their homes, I felt sure that my Government would expect the same treatment to be accorded our fellow-citizens similarly situated, and would doubtless reopen the cases of the American citizens whose release has hitherto been refused.

I shall no fail to transmit promptly to the foreign office any information which may reach this embassy from our consul at Colombo, tending to prove the circumstances under which the liberation of the German prisoners took place.

I may add that upon the receipt, several weeks ago, of urgent letters from Mrs. Wood, mother of Harry McGaw Wood, one of the signers of the letter to Consul Morey, and from his brother, asking me to bring any personal influence which I might possess to bear in favor of the release on parole—"parole of the island" they called it—of that

prisoner, I communicated on the subject with Mr. Secretary Brod-
rick, who is a friend of mine, and afterwards wrote him a private letter,
asking him to do what he could toward granting to Mr. Wood the
desired privilege. He promised to have inquiry made on the spot and
then to see what he could do in the matter, but there has not yet been
time enough for him to hear from Ceylon, and I have consequently
heard nothing from him yet in reply.

I have, etc.,

HENRY WHITE.

Mr. Hill to Mr. White.

No. 749.]

DEPARTMENT OF STATE,
Washington, October 22, 1901.

SIR: I inclose, in original, the petition of Hugh B. Molloy, of Boston,
who, stating that his brother, James L., served with the Boers in
South Africa as a member of the Irish-American hospital corps, and
that he was taken prisoner and is believed to be in Bermuda, asks
whether his whereabouts can not be ascertained, and whether he can-
not be released.

The Department has, in several cases, instructed the embassy to
learn whether American citizens, prisoners of war on Ceylon, might
not be released on parole, and has been informed that His Majesty's
Government could not accede to the request except in case the prisoner
were seriously or dangerously ill. It is possible that the British Gov-
ernment may not apply such a stringent rule in the case of prisoners
detained on Bermuda. You will ascertain whether the request for
Mr. Molloy's release can be granted, and in any event you will ask
whether His Majesty's Government will not be good enough to inform
the inquirer of the prisoner's whereabouts.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. White to Mr. Hay.

No. 692.]

AMERICAN EMBASSY,
London, October 28, 1901.

SIR: With reference to my dispatch No. 687, of the 19th instant, in
relation to prisoners of war in Ceylon, I have the honor to inclose
herewith a copy of a memorandum, dated the 26th instant, which I
have just received from the foreign office, setting forth the exceptional
circumstances under which Messrs. Lavino and Wilke were released,
and stating that the authorities are only prepared to entertain applica-
tions for the release of prisoners of war in those cases in which such
prisoners are certified to be dangerously ill.

It further appears that nothing is known of the Mr. Wynburg
referred to in your instruction above mentioned.

I have, etc.,

HENRY WHITE.

[Inclosure.]

FOREIGN OFFICE, *October 26, 1901.**Memorandum.*

On October 18 the United States chargé d'affaires communicated to the Marquis of Lansdowne a copy of a dispatch from the United States consul at Colombo, forwarding a letter from four United States citizens detained as prisoners of war in Ceylon, in which they state that three of their fellow-prisoners, Messrs. C. Lavino, Wynburg, and R. Wilke, have been released by His Majesty's Government, although in good health, and inquire whether they might not be allowed a like privilege.

Mr. Lavino was released at the request of Lord Kitchener, who, no doubt, had special reasons for recommending such an act of clemency.

The circumstances attending the release of Mr. R. Wilke were very exceptional. He was seriously ill, and his mother, who had a short while ago lost her husband, Mr. Wilke's father, was in a dying state.

Of Mr. Wynburg nothing is known in this department.

The only cases in which His Majesty's secretary of state for war is prepared to consider applications for the release of prisoners of war are those in which the prisoners are certified to be dangerously or seriously ill.

Mr. Hay to Mr. White.

No. 758.]

DEPARTMENT OF STATE,

Washington, October 30, 1901.

SIR: Your No. 687, of the 19th instant, regarding the reported release of three German prisoners of war who were detained on Ceylon, has been received.

The matter is commended to your attention.

I am, etc.,

JOHN HAY.

Mr. White to Mr. Hay.

No. 699.]

AMERICAN EMBASSY,

London, November 6, 1901.

SIR: With reference to Mr. Hill's instruction No. 749, of October 22, I have the honor to inform you that I have been several times informed by officials of the foreign and war offices that the refusal of His Majesty's Government to release prisoners of war, except in cases of serious or dangerous illness; as set forth in Lord Lansdowne's memorandum of the 26th ultimo, forwarded in my dispatch No. 692, of the 28th ultimo, applies to those detained in any part of the British dominions, as well as in Ceylon. In accordance with Mr. Hill's instructions, I have, however, addressed a note to the Marquis of Lansdowne, asking whether the request for Mr. Molloy's release can not be granted, and in any case, that I may be informed as to his whereabouts.

I have, etc.,

HENRY WHITE.

Mr. White to Mr. Hay.

No. 710.]

AMERICAN EMBASSY,

London, November 22, 1901.

SIR: With reference to your instructions No. 749, of the 22d ultimo, which inclosed a petition from Mr. H. B. Molloy in relation to the

case of J. L. Molloy, an American citizen, now a prisoner of war in Bermuda, having been captured by the British military authorities at Schaalhaus on the 2d of June last, I have the honor to inclose herewith a copy of a note from the foreign office, stating that Mr. Brodrick is unable to sanction the release of Mr. Molloy unless it is shown that the latter's life is endangered by the confinement.

I have, etc.,

HENRY WHITE.

[Inclosure.]

Mr. Bertie to Mr. White.

FOREIGN OFFICE, *November 21, 1901.*

SIR: I have been in communication with His Majesty's secretary of state for war in regard to your note of the 6th instant respecting the case of the American citizen, J. L. Molloy, and I have the honor to state that Mr. Molloy is a prisoner of war at Bermuda. He belonged to the State Artillery, and was captured at Schaalhaus on the 2d June, 1901.

Mr. Brodrick informs me that Mr. Molloy's release can not be sanctioned unless it is shown that his life is endangered by continued confinement.

I have, etc.,

FRANCIS BERTIE.

Mr. White to Mr. Hay.

No. 732.]

AMERICAN EMBASSY,
London, December 28, 1901.

SIR: With reference to your instruction No. 736, of the 1st of October last, I have the honor to inclose herewith a copy of a note which I have received from Lord Lansdowne, embodying a report upon the case of Mr. Patrick Lennon, who is detained as a prisoner of war in Ceylon, and who would appear to have described himself, when he took burgher rights on the 1st of December, 1899, as a British subject, born at Armagh, Ireland.

I have, etc.,

HENRY WHITE.

[Inclosure.]

Lord Lansdowne to Mr. White.

FOREIGN OFFICE, *December 23, 1901.*

SIR: With reference to my note of the 17th of October last, respecting the case of Mr. P. Lennon, stated to be a United States citizen, at present detained as a prisoner of war in Ceylon, I have the honor to inform you that a report on the subject which I have received from His Majesty's secretary of state for war shows that Mr. Lennon was undergoing a sentence of six months' imprisonment at Johannesburg for assaulting his wife and that he was released by the Boer authorities in order that he might join their First Irish Brigade. On the occasion, however, of that brigade passing through Johannesburg in May, 1900, Lennon remained behind on the French Rand Mine, where he had obtained employment. He was arrested by the British authorities early in September and made a prisoner of war.

It appears that Lennon took burgher rights in the late South African Republic on the 1st of December, 1899, on which occasion he described himself as a British subject, born at Armagh, Ireland.

I have, etc.,

LANSDOWNE.

Mr. White to Mr. Hay.

No 748.]

AMERICAN EMBASSY,
London, January 18, 1902.

SIR: Referring to your instruction No. 736, of October 1 last, I have the honor to inform you that I lost no time upon its receipt in requesting the foreign office to furnish me with such facts as they might be able to obtain relative to the case of Mr. Patrick Lennon, in order that I might communicate them to you.

I have just received a note from Lord Lansdowne in reply, inclosing a copy, which I transmit herewith, of the oath taken by Mr. Lennon on December 1, 1899, as a burgher of the South African Republic, which has been forwarded by the general officer commanding in chief in South Africa.

I have, etc.,

HENRY WHITE.

[Inclosure.]

Copy of oath taken by Mr. Lennon.

I, Patrick Lennon, a native of county Armagh, Ireland, desiring to become a citizen of the South African Republic, with full right of suffrage, by virtue of the resolution of the noble and worthy first popular council (Volksraad), article 1442, bearing date of September 29, 1899, do hereby swear (or solemnly declare that the taking of an oath is not allowable according to my religious belief, and do solemnly promise) in all sincerity that I will be true to this State, will respect and uphold its independence, will obey the constitution and other laws and the lawful authorities of the country, and that I will conduct myself in all respects as becomes a loyal citizen of the State. So help me God Almighty; or (this I solemnly believe).

PATRICK LENNON.

Sworn before me, at Johannesburg, this 1st day of December, 1899.

T. M. MENTON, V. R.

Mr. Hay to Mr. Choate.

No. 839.]

DEPARTMENT OF STATE,
Washington, February 14, 1902.

SIR: I inclose a copy of a letter from Senator Gallinger stating that Harry McGaw Wood went to South Africa in 1900 for Collier's Weekly, later on became irregularly attached to the Boer forces, was taken prisoner while sick with enteric fever, and has been held a prisoner on Ceylon for over a year.

It is stated that detention on that island is seriously affecting his health, and that his widowed mother, who is 70 years of age, is greatly distressed about him, and asks for his release or his transfer to the Bermudas, which lie in a more healthful climate.

The Department's instruction of September 30 last and Mr. White's Nos. 687 and 692, of October 19 and 28 following, will show that Mr. Wood's release has been heretofore requested by this Government, and that that request has been denied. You will, however, do what you properly can toward Mr. Wood's transfer to Bermuda.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Gallinger to Mr. Hay.*UNITED STATES SENATE,
Washington, February 8, 1902.

SIR: My attention has been called to the fact that during the year 1900 Mr. Harry McGaw Wood went to South Africa with Mr. George Parson, staff artist of Collier's Weekly, to assist Mr. Parson in preparing sketches while with the Boer army for that publication. Some time afterwards both boys became irregularly attached to the Boer army, and it is represented to me that the affair was more in the nature of an escapade than anything else. Later on Mr. Wood was taken prisoner while ill with enteric fever in the hospital at Barberton, and was sent to Ceylon, where he is now confined as a prisoner of war. Mr. Parson returned to this country.

Mr. Wood has a widowed mother over 70 years of age, who has made several efforts in London to secure her son's release, but without success. The young man has been confined in Ceylon continuously for over a year, and it is represented that the confinement is seriously affecting his health. As can well be imagined, his aged mother is full of anxiety for the welfare of her son, and I have been appealed to to do what I can to secure his release, failing in which it is desired that he be sent to the Bermudas, which is a more healthful place than Ceylon.

I beg to express the hope that through the good offices of the State Department this young man's release may be secured, and that he may be returned to his home and family.

I have, etc.,

J. H. GALLINGER.

Mr. Choate to Mr. Hay.

No. 806.]

AMERICAN EMBASSY,
London, March 11, 1902.

SIR: Referring to Mr. White's dispatch No. 687, of October 19 last, to your instruction No. 839 of February 14, and to previous correspondence, I have the honor to inclose herewith the copy of a note which I addressed to the Marquis of Lansdowne on the 3d instant relative to the case of H. McGaw Wood.

I also inclose the copy of a private note which Mr. White has received to-day from the Right Hon. St. John Brodrick, His Majesty's secretary of state for war, in reply to the appeal made by the former in Wood's behalf, and from which you will see that His Majesty's Government is not disposed to make any concessions with respect to this prisoner of war.

Upon receipt of Lord Lansdowne's reply to my note of the 3d I shall lose no time in communicating a copy of the same to you.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure 1.]

*Mr. Choate to Lord Lansdowne.*AMERICAN EMBASSY, *London, March 3, 1902.*

MY LORD: With reference to the memorandum of October 26 last, which you were good enough to communicate to Mr. White, and particularly to the final paragraph thereof, setting forth the circumstances under which His Majesty's secretary of state for war is prepared to consider applications for the release of prisoners of war, i. e., dangerous or serious illness, I have the honor to bring again to the attention of your lordship the case of Harry McGaw Wood, an American citizen, who is a prisoner of war in Ceylon, and in respect to whom I had the honor of writing to you on the 14th of last May.

It now appears from information received lately from Wood that his health has suffered seriously at Ragama, and during his detention at Wellikade convict establishment, where he would seem to have lost 6 pounds during a period of three weeks, and to be 25 pounds below his normal weight.

He asserts that for two months preceding and one month following his capture he was suffering from enteric fever and his condition was such that the medical officer at Barberton promised to recommend his release; that he was removed to hospital, Barberton, to hospital, Pretoria (general hospital No. 2), thence to barracks and thence to Cape Town, whence he embarked for Ceylon; that he was, from leaving general hospital No. 2 to his embarkation, continually being treated for stomach and mild dysentery; that he landed, after a week's illness on the *Catalonia*, in general hospital, Colombo, whence he was sent to Diyatalawa and thence to Ragama; that two weeks' parole in June built him up very much; but he put in a week of August in Ragama hospital, and on recovering was sent to where he now is.

My Government's attention has been called to this case by one of the Senators from Wood's State, who appeals to me on behalf of Wood's widowed mother, who is over 70 years of age, and who is suffering great anxiety for him, and I am instructed by the Secretary of State to inquire of your lordship whether the condition of his health is not sufficiently serious to bring him within the category mentioned in your memorandum aforesaid of prisoners whose release the secretary of state for war is prepared to consider; and, if not, whether it may not at least be possible to cause him to be transferred from Ceylon to a more salubrious place of detention, such as Bermuda.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure 2.]

Mr. Brodrick to Mr. White.

WAR OFFICE, *March 8, 1902.*

MY DEAR WHITE: My appeal to Lord Kitchener on behalf of H. M. Wood, now a prisoner of war, has failed, as I feared it would.

He objects, as was to be expected, to making concessions to men in such a position as Wood's in contradistinction to those who are our bona-fide enemies.

Yours, truly,

ST. JOHN BRODRICK.

Mr. Hay to Mr. Choate.

No. 856.]

DEPARTMENT OF STATE,
Washington, March 12, 1902.

SIR: I inclose a copy of a letter from Senator Mark A. Hanna, setting forth the circumstances under which Charles H. Toe Water was taken prisoner of war by the British forces.

You are instructed to ask that the matter be investigated, and to report the result.

It will be observed that Mr. Water's release from detention is asked for on parole. Should the circumstances turn out to be as stated in Senator Hanna's letter, however, you will at once, without awaiting further instructions, request that he be released unconditionally.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Hanna to Mr. Hay.

UNITED STATES SENATE,
Washington, March 6, 1902.

MY DEAR SIR: I have been asked to secure the good offices of the Government in a case which is stated to me as follows:

"On the 28th of May, Mr. Charles H. Toe Water, manager of the rolling stock, or

as some call it, traffic manager, of the South African Railroad, left Johannesburg, as this town intended to surrender to the English, and went to Pretoria, and on the 5th day of June Pretoria surrendered. Mr. Toe Water was asked to go to Johannesburg as the traffic manager (for the English), who wished to ask him some questions concerning the business of the road. He was willing to do this, and went, but the questions asked were such that he could not answer. Some of them were questions concerning other roads, and when he told them that he could not answer these, they immediately threw him into the prison at the fort of Johannesburg, not even permitting him to return to his house with a guard. They would not allow him to see anyone, or permit him to send a letter to his wife or mother. He had never fought against the English, but was arrested, or rather asked to return to Johannesburg in order to oblige the English by enlightening them about the traffic of the road. From Johannesburg he was sent as a prisoner of war to Ceylon, where he is at the present time, at Ragama Camp, near Colombo, island of Ceylon. We are very anxious to get him out by parole or by ransom."

Can you advise me what course to pursue in the matter?

Truly, yours,

M. A. HANNA.

Mr. Hay to Mr. Choate.

No. 883.]

DEPARTMENT OF STATE,
Washington, April 5, 1902.

SIR: Referring to Mr. White's No. 710, of November 22 last, and to prior correspondence, I now inclose copies of correspondence relating further to James L. Molloy, detained as a prisoner of war in Bermuda.

You will ask that the consul of the United States at Hamilton, Bermuda, be afforded opportunity to obtain Molloy's affidavit as to the circumstances of his alleged compulsory enlistment with the Boer forces.

I am, etc.,

JOHN HAY.

[Inclosure 1.]

Mr. Napfen to Mr. Hay.

HOUSE OF REPRESENTATIVES,
Washington, January 16, 1902.

MY DEAR SIR: The inclosed letter this day received from the brother of James L. Molloy, who is now detained at Bermuda as a prisoner of war. From this you will see that Molloy was forced to enter the Boer army. I feel that under the circumstances, especially in view of the fact that he is sick, he is entitled to be paroled.

Very respectfully,

H. F. NAPFEN.

[Subinclosure.]

Mr. Molloy to Mr. Napfen.

BRIGHTON, MASS., *January 14, 1902.*

SIR: In regard to my brother, who is an English prisoner of war on Morgans Island, Bermuda, I have just been in conversation with Mr. Tearney, a young man who was with my brother in South Africa. He received a letter from him yesterday, informing him that he was sick in the prison hospital. He also informs me that my brother was very anxious to come home with the rest of the corps the time they came, but that he was forced to join the Boer artillery or be shot. The letter that Mr. Tearney received from him has come through the British, and I have no reason to doubt but it is true. Hoping that you will use your valuable influence, and thanking you sincerely for what you have already done toward his release,

I am, etc.,

HUGH B. MOLLOY.

[Inclosure 2.]

Mr. Peirce to Mr. Greene, Consul at Hamilton, Bermuda.

No. 56.]

DEPARTMENT OF STATE,
Washington, January 20, 1902.

SIR: I inclose herewith a copy of a letter ^a from Hon. Henry F. Naphen, a member of Congress, transmitting a letter from Hugh B. Molloy in regard to his brother, who is detained in Bermuda as a prisoner of war and who is reported to be ill in a hospital there.

You will ascertain the condition of Mr. Molloy, and whether his illness is of such a nature that his life is endangered by continuous confinement, and report to the Department.

I am, etc.,

HERBERT H. D. PEIRCE,
Third Assistant Secretary.

[Inclosure 3.]

Mr. Greene to Mr. Peirce.

No. 80.]

CONSULATE OF THE UNITED STATES,
Hamilton, Bermuda, February 12, 1902.

SIR: I have the honor to report, in answer to your dispatch No. 56, received on the 1st instant, concerning one Molloy, a prisoner of war in Bermuda, that I have received a letter from Maj. J. L. Edey, commandant of Port's Island Hospital—to whom I had written for information—that I herewith quote:

“As regards prisoner of war J. L. Molloy, he is in excellent health, with the exception of an indolent ulcer on leg, which is now healing satisfactorily. No anxiety need be felt whatever as to the condition of prisoner of war Molloy, who, though naturally chafing under his present inactivity, is in first-rate condition—the local affection stated above being the only thing wrong with him, and that, as I have said, is progressing satisfactorily, and he will be able to leave hospital in a few weeks.”

This seems to cover the whole subject-matter of your dispatch.

I have, etc.,

W. MAXWELL GREENE.

[Inclosure 4.]

*Mr. Hay to Mr. Naphen.*DEPARTMENT OF STATE,
Washington, February 25, 1902.

SIR: Referring to your letter of January 16 last, in regard to James L. Molloy, a prisoner of war at Hamilton, Bermuda, I have the honor to inclose copy of a dispatch ^b from the consul at Hamilton reporting that Mr. Molloy is in the hospital, but will be able to leave it in a few weeks.

I have, etc.,

JOHN HAY.

[Inclosure 5.]

*Mr. Naphen to Mr. Hay.*HOUSE OF REPRESENTATIVES,
Washington, March 1, 1902.

SIR: I have the honor to acknowledge the receipt of your communication of the 25th ultimo, relative to the case of James F. Molloy, a prisoner of war at Hamilton, Bermuda, and to invite your attention to my letter to you under date of January 16 last.

^a Printed, p. 485.^b Printed, ante.

As you will notice, while I am grateful to you for your courtesy in furnishing me information relative to Mr. Molloy's present condition, I still feel that if, as is claimed, Molloy was forced to enter the Boer army despite his wishes, he should be paroled.

May I ask whether any action can be taken by the State Department looking to this man's liberation?

Very respectfully,

HENRY F. NAPHEN.

[Inclosure 6.]

Mr. Adee to Mr. Greene.

No. 59.]

DEPARTMENT OF STATE,
Washington, March 6, 1902.

SIR: I have to call your attention to instruction No. 56, of January 20 last, transmitting a letter from Mr. Hugh B. Molloy, in which the claim is made that James L. Molloy, a prisoner of war at Bermuda, was forced to join the Boer army under a threat of being shot if he refused.

You will please procure Mr. Molloy's affidavit of the facts of the case. The affidavit of Mr. Molloy should contain a complete statement of the circumstances of his joining the Boer army.

I am, etc.,

ALVEY A. ADEE,
Second Assistant Secretary.

[Inclosure 7.]

Mr. Greene to Mr. Adee.

No. 84.]

CONSULATE OF THE UNITED STATES,
Hamilton, Bermuda, March 21, 1902.

SIR: I have the honor to acknowledge the receipt of your dispatch No. 59, dated the 6th instant, concerning a prisoner of war named J. L. Molloy, detained in this colony, requesting me to secure his affidavit, with all detail as to his joining the Boer forces.

After an exchange of letters with the colonial secretary, as representing his excellency the governor of Bermuda, I have sufficiently established the fact that the said Molloy is an American citizen (although this is not set forth in the dispatches received from the Department), by the prima facie evidence, that a series of dispatches had been exchanged between the Government of the United States, the embassy, and His Majesty's Government, as to this case, which would not have taken place in the case of an alien.

His excellency has replied to me this day, through the colonial secretary, that as a correspondence had already taken place concerning this prisoner, he prefers that the Government of the United States should make the application to allow the affidavit to be taken through the same channel that was used in the aforesaid correspondence.

I am therefore unable to see the prisoner and take his affidavit at the present time. Awaiting instructions, I have the honor to be, etc.,

W. MAXWELL GREENE.

Mr. Choate to Mr. Hay.

No. 833.]

AMERICAN EMBASSY,
London, April 12, 1902.

SIR: With reference to your instruction No. 620, of the 30th of April, 1901, and to subsequent correspondence respecting the case of H. McGaw Wood, at present a prisoner of war in Ceylon, I have the honor to inclose a copy of a note dated the 11th instant, just received from the foreign office, from which it appears that in view of a report from the governor of Ceylon to the effect that Mr. Wood's health is in no

danger from his confinement, and that he is still capable of undertaking military service, the secretary of state for war has not found it possible to assent to Mr. Wood's release.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

Lord Lansdowne to Mr. Choate.

FOREIGN OFFICE, *April 11, 1902.*

YOUR EXCELLENCY: I have the honor to inform you that on the receipt of your excellency's note of the 3d ultimo, respecting the case of the United States citizen H. McGaw Wood, at present a prisoner of war in Ceylon, I placed myself in communication with His Majesty's secretary of state for war with a view to ascertaining whether he would be disposed to agree to this person's release.

It appears, however, from a report which has been received on the subject from the governor of Ceylon, that Mr. Wood's health is in no danger from his confinement. He is reported to be still capable of undertaking military service.

In these circumstances Mr. Brodrick has not found it possible to assent to the prisoner's release.

I have, etc.,

LANSDOWNE.

Mr. Hill to Mr. Choate.

No. 895.]

DEPARTMENT OF STATE,

Washington, April 14, 1902.

SIR: Referring to previous correspondence, and particularly to the Department's No. 735, of September 30, 1901, and to your Nos. 687 and 692, of October 19 and 28, 1901, touching the reported release on parole of certain prisoners at Ceylon and their return to their homes in Germany, and the refusal of the British Government to consider applications for release other than those in which the prisoners are certified to be seriously ill, I have now to inclose a further dispatch from Consul Morey at Colombo in which, adverting again to the release of the four German prisoners, he reported the grave condition of health of one of the American prisoners, F. M. Hearn.

The Department leaves it to your discretion whether, in view of the facts already in your possession and of the consul's present report of the illness of one of the American prisoners, you will again bring the matter to the attention of His Majesty's Government.

I am, etc.,

DAVID J. HILL,

Acting Secretary.

[Inclosure.]

Mr. Morey to Mr. Hill.

No. 618.]

CONSULATE OF THE UNITED STATES,

Colombo, February 28, 1902.

SIR: Department instructions No. 251, dated November 11, 1901, regarding liberated German prisoners of war, have been received, and I have to further report on the subject.

I note that the British Government allows that prisoners of war, Lavino and Walkie,

referred to in my letter No. 599 of August 27 last, were released for special reasons, and I am assured that the same was the case with respect to John Winburg or Wynburg, another German liberated last year.

Thus it appears that the said three men were not ill, neither was Lieut. Thilo Von Trother, whom I mentioned in my letter to Ambassador Choate, and to the Department in my No. 611 of November 20, 1901. Accordingly, so far as I can learn, four prisoners of war of German nationality have been liberated here when not seriously ill.

Since the liberation of the four men aforesaid, F. M. Hearn, one of the Americans referred to in my letter No. 599 of August 27, 1901, has been for three months seriously ill in the Colombo General Hospital, of enteric fever, from which he is now convalescing. The first physician of the hospital (Dr. H. M. Fernando) is of opinion that this man's recovery will be permanent, and that his life will not be endangered by a continuation of his local captivity. I, however, with all due respect for Dr. Fernando's judgment, think differently, and believe that if Hearn is returned to the prisoners' camp he will be again ill and probably die, for he is very feeble constitutionally.

I am, etc.,

W. MOREY, *Consul.*

Mr. Choate to Mr. Hay.

No. 841.]

AMERICAN EMBASSY,
London, April 18, 1902.

SIR: With reference to your instruction No. 856, of the 12th ultimo, respecting the case of C. H. Toe Water, I have the honor to inclose herewith a copy of my note to Lord Lansdowne, dated the 24th ultimo, together with a copy of his lordship's reply of the 17th instant, covering a copy of a memorandum on the subject by Lieutenant-Colonel Davies, who was chairman of the committee before which Toe Water was examined, from which it would appear that according to Mr. Toe Water's sworn statement he was a burgher of the late South African Republic and carried arms as such during the war.

Awaiting your further instructions in regard to the matter, I have, etc.,

JOSEPH H. CHOATE.

[Inclosure 1.]

Mr. Choate to Lord Lansdowne.

AMERICAN EMBASSY, *London, March 24, 1902.*

MY LORD: I have the honor to draw your lordship's attention to the case of Charles H. Toe Water, an American citizen, who is now a prisoner of war at Ragama Camp in the island of Ceylon.

From information received by my Government it appears that on the 28th of May, 1900, Mr. Toe Water, manager of the rolling stock or, as some call it, traffic manager of the African Railroad, left Johannesburg, as this town intended to surrender to Her Majesty's forces, and went to Pretoria, and remained in that town until its surrender on the 5th of June. Mr. Toe Water was asked by the British authorities to go to Johannesburg as the traffic manager in order to answer some questions concerning the business of the road. He accordingly went, but some of the questions asked concerning other roads he could not answer, and upon his failure to do so he was thrown into prison at the fort of Johannesburg, not even being permitted to return to his house with a guard. He was not permitted to see anyone or to send a letter to his wife or mother. He had never fought against the British and it was only in order to oblige the British authorities by enlightening them with regard to the traffic of the road that he returned to Johannesburg. He was subsequently sent to Ceylon where he is at present, at Ragama Camp, near Colombo, in the island of Ceylon.

I have, therefore, the honor to ask that your lordship will be so good as to cause the matter to be investigated in order that I may report the result to my Government.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure 2.]

*Lord Lansdowne to Mr. Choate.*FOREIGN OFFICE, *April 17, 1902.*

YOUR EXCELLENCY: With reference to my note of the 27th ultimo respecting the case of Mr. C. H. Toe Water, I have the honor to transmit to you a copy of a memorandum on the subject by Lieutenant-Colonel Davies, who was chairman of the committee before which Toe Water was examined.

Your excellency will observe that according to Mr. Toe Water's sworn statement he was a burgher of the late South African Republic and carried arms as such during the war.

I have, etc.,

LANSDOWNE.

[Subinclosure.]

Memorandum of Lieutenant-Colonel Davies.

C. H. TOE WATER.

I was chairman of the committee before which Toe Water was examined, and was in the chair when he gave his evidence.

A full text of his sworn deposition will be found on page 49 of Part III of the Report of the Transvaal Concessions Commission, 1901.

The following extracts from Toe Water's sworn statement show the true facts of the case:

"Charles Hermann Toe Water, being sworn, says: I am locomotive superintendent on the southeastern line, southern line, and southwestern line. * * * I am a burgher of the South African Republic. Became a burgher after the Jameson raid. * * * I carried arms during the war. I received my arms from the Government. * * * I was present part of the time when two engines in Johannesburg were rendered useless. I am responsible for the removal of the parts. I gave instructions that these parts are [sic] to be taken away. I am a burgher of the Republic and I decline to say where the parts were taken to. * * * I absolutely refuse to give any information which will lead to the recovery of these parts. * * * I know that bridges were blown up in Natal, and heard of the bridges at Bethulie and Norvals Point being blown up. I decline to say by whom these bridges were blown up."

Although the committee had power to commit any witness who refused to answer a question, it was held that as a burgher of the South African Republic Toe Water had a right to refuse to give any information which would be of assistance to the British troops. He was informed of this decision by me as chairman, and no further action was taken by the committee.

Toe Water was subsequently made a prisoner of war by order of the military governor of Johannesburg, who considered that he had taken a leading part in the war.

F DAVIES.

APRIL 4, 1902.

Mr. Hay to Mr. Choate.

No. 909.]

DEPARTMENT OF STATE,
Washington, May 8, 1902.

SIR: Referring to the Department's No. 839, of February 14 last, and to your embassy's Nos. 806 and 833, of March 11 and April 12 last, I now inclose a copy of a letter from Mr. Abbot Low Wood, relating further to the desire of the friends of Harry McGaw Wood that, if he can not be released on his parole, he may at least be detained, pending the continuation of hostilities in South Africa, in a more salubrious locality than Ragama Camp appears to be.

Mr. A. L. Wood's letter contains some information in addition to

that heretofore sent you regarding the state of his brother's health, and it is thought that this additional information will warrant a renewed request on your part that the place of H. M. Wood's detention be changed.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Wood to Mr. Hay.

WASHINGTON, D. C., *May 6, 1902.*

SIR: In accordance with your direction that I give in writing the facts in the case of my brother, Harry McGaw Wood, a prisoner of war in Ceylon, in whose interest I called upon you this morning. I herewith respectfully submit them.

Early in February last you were good enough to request my brother's transfer to Bermuda on the ground of ill health, at the instance of my Senator, Mr. Gallinger. Lord Lansdowne, replying on April 11, says that "Mr. Brodrick has not found it possible to consent to the prisoner's release." Inasmuch as release was not asked, this is clearly a case of the grossest misunderstanding, and the matter is no further advanced than if no effort had been made.

All I desire is that my brother be permitted to live in a healthier part of Ceylon or be transferred to Bermuda, as his health has given way, notwithstanding the assurances to the contrary in the letter of Lord Lansdowne, who was apparently entirely misinformed regarding the matter. In proof of this, the records of Ceylon will show that my brother was in February last granted a month's parole on account of ill health, and made application in March for two months' additional on the same grounds, the application being indorsed by two surgeons of the British army.

My brother has been in Ceylon for eighteen months, and it is a well-known fact that Europeans going there voluntarily and living comfortably in their own homes, which are, of course, situated in cool and healthy spots, are obliged to return to Europe periodically to recruit their health.

Ragama, where my brother is confined, is known to be one of the most unhealthy spots on the island, situated practically on the dead sea level, but cut off from the sea breeze. It is surrounded on three sides by rice swamps and exposed to the full force of the tropical sun.

If Mr. Brodrick will have my brother transferred to Bermuda or permit him to live, on parole, at Kandy or some other place on high ground until the cessation of hostilities, it will, I think, be possible for him to regain his health. The request is just and reasonable, and I most earnestly pray that you may see fit to use your good offices to secure it.

Very truly, yours,

ABBOT LOW WOOD.

Mr. Choate to Mr. Hay.

No. 857.]

AMERICAN EMBASSY,
London, May 12, 1902.

SIR: With reference to your instruction No. 883, of the 5th ultimo, and to previous correspondence respecting the case of J. L. Molloy, a prisoner of war in Bermuda, I have the honor to state that upon information received from Lord Lansdowne the general officer commanding at Bermuda has been requested by telegraph to allow the United States consul at Hamilton to interview Molloy and to obtain an affidavit from him.

I have, etc.,

JOSEPH H. CHOATE.

Mr. Hay to Mr. Choate.

No. 922.]

DEPARTMENT OF STATE,
Washington, May 21, 1902.

SIR: I inclose a copy of a letter from the Hon. Henry F. Naphen, M. C., asking for a list of prisoners of war of American nationality taken during the war in South Africa, together with a statement showing the States from which the prisoners come.

You will endeavor to obtain the information desired.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Naphen to Mr. Hay.

HOUSE OF REPRESENTATIVES,
Washington, May 14, 1902.

DEAR SIR: I shall be much obliged if you will kindly furnish me, as soon as practicable, a list showing the names of United States citizens who have been captured and are now held by the British authorities; and I would like such list to show also the States from which these captured prisoners come.

Thanking you for your attention to this matter,

Very truly, yours,

H. F. NAPHEN.

Mr. Choate to Mr. Hay.

No. 886.]

AMERICAN EMBASSY,
London, June 25, 1902.

SIR: With reference to your instruction No. 922, of the 21st ultimo, asking for a list of prisoners of war of United States nationality taken during the war in South Africa, together with a statement showing the various States of the Union from which such prisoners come, I have the honor to inclose herewith a note from Lord Lansdowne, dated the 24th instant, stating that Mr. Brodrick is not in possession of the complete information asked for, but that Lord Kitchener and other officers concerned have been instructed to furnish it as soon as possible.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

Lord Lansdowne to Mr. Choate.

FOREIGN OFFICE, *June 24, 1902.*

YOUR EXCELLENCY: I referred to His Majesty's secretary of state for war your note of the 4th instant asking for a list of prisoners of war of United States nationality taken during the war in South Africa, together with a statement showing the various States of the Union from which such prisoners come.

I have the honor to inform your excellency that Mr. Secretary Brodrick is not in possession of the complete information asked for, but that Lord Kitchener and other officers concerned have been instructed to furnish it as soon as possible.

I have, etc.,

LANSDOWNE.

Mr. Choate to Mr Hay.

No. 894.]

AMERICAN EMBASSY,
London, July 5, 1902.

SIR: I have the honor to inclose herewith a copy of a statement which I have just received from Lord Lansdowne, stating that the governors of the various British colonies in which prisoners of war are detained have been instructed by His Majesty's secretary of state for the colonies that foreign prisoners who wish to leave at their own expense should be allowed to do so. The remainder may be handed over to the respective consuls if their governments desire to make special arrangements for their removal, but that if not, they will have to wait until His Majesty's Government can conveniently repatriate them. Foreign prisoners of war, however, will not be allowed to return to South Africa.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

FOREIGN OFFICE, *July 4, 1902.*

The governors of the various British colonies in which prisoners of war are detained have been instructed by His Majesty's secretary of state for the colonies that foreign prisoners who wish to leave at their own expense should be allowed to do so. The remainder may be handed over to their respective consuls if their governments desire to make special arrangements for their removal. If not, they will have to wait until His Majesty's Government can conveniently repatriate them. Foreign prisoners of war will not be allowed to return to South Africa.

Mr. Hay to Mr. Choate.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 9, 1902.

British embassy advises me, in answer to an inquiry, that the governor of Bermuda has not yet received instructions as to how the Boer prisoners are to be dealt with. You will inquire when and how any American citizens held as prisoners will be released, and suggest that instructions be sent by cable to Bermuda.

HAY.

Mr. Choate to Mr. Hay.

[Telegram.]

AMERICAN, EMBASSY,
London, July 10, 1902.

Referring to your cablegram of the 9th instant relating to Boer prisoners in Bermuda, am informed that governor has been instructed. My dispatch No. 894, of the 5th instant, gives details to effect that foreign prisoners wishing to leave may do so at their own expense;

that remainder may be handed over to respective consuls if their governments desire to make special arrangements for their removal; if not, they must wait until the British Government can conveniently repatriate them.

CHOATE.

Mr. Choate to Mr. Hay.

No. 903.]

AMERICAN EMBASSY,
London, July 28, 1902.

SIR: With reference to your instruction No. 922, of the 21st of May last, asking to be furnished with a list of prisoners of war of American nationality captured during the war in South Africa, together with a statement showing the various States of the Union from which such prisoners come, I have the honor to inclose herewith a copy of a note from the foreign office, dated the 26th instant, covering lists of citizens of the United States detained as prisoners of war in Ceylon and Bermuda. It will be observed that Lord Lansdowne states in the note just mentioned that lists of those detained in India and St. Helena have been called for and will be forwarded when received.

I am, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

Mr. Bertie to Mr. Choate.

FOREIGN OFFICE, *July 26, 1902.*

YOUR EXCELLENCY: I referred to His Majesty's secretary of state for war your note of the 4th ultimo, asking to be furnished with a list of prisoners of war of United States nationality captured during the war in South Africa, together with a statement showing the various States of the Union from which such prisoners come.

I have the honor to inclose lists of the citizens of the United States of America detained as prisoners of war in Ceylon and Bermuda and to inform your excellency that lists of those detained in India and St. Helena have been called for and will be sent to you when received.

I have, etc.,

FRANCIS BERTIE,
(*For the Marquis of Lansdowne*).

[Subinclosure 1.]

United States citizens, Bermuda.

No.	Name.	State or Territory.	Remarks.
24131	Du Quenee, F. J.	Indian Territory ...	Editor of Petit Bleu; said he had no nationality.
21229	Molloy, J. L.	Massachusetts	This man's name was not included in rolls sent you on 13th instant, No. S. A. 723/1, as he has only since given this information.
11265	Halley, M.	Nevada	
	Rubino, Antonio ...	New York	Reported in House of Representatives as being a citizen.

Bermuda, June 24, 1902.

LE G. GEARY,
Lieutenant-General, Commanding the Troops, Bermuda.

[Subinclosure 2.]

United States citizens, Ceylon.

No.	Name.	State.
3137	Hearne, Francis Michael.....	Massachusetts.
3077	McCarthy, James.....	Pennsylvania.
3158	McDermott, Frank.....	Wisconsin.
11337	McTighe, John Harold.....	Illinois.
3103	Smith, Samuel.....	Do.
3341	Wilson, Butch.....	Do.
15023	Wood, Henry McGaw.....	New York.
3047	Doherty, John Patrick.....	Massachusetts.
	Lennon, P. ^a	
	McElroy, James ^a	
	Riley, John ^a	
	Versluies, W. F. ^a	
	Witt, J. ^a	
	Elbriest, H. ^a	
	Hill, J. ^a	
	Miller, M. ^a	

^a Reported in addition in House of Representatives as being or having been prisoners of war.

Camp Diyatalawa, June 22, 1902.

A. C. VINCENT,
Lieutenant-Colonel, A. A. G., Commandant P. O. W. in Ceylon.

Mr. Choate to Mr. Hay.

No. 914.]

AMERICAN EMBASSY,
London, August 11, 1902.

SIR: I have the honor to inclose herewith a copy of a note, dated August 8, which I have just received from the foreign office, stating that 10 prisoners of war of American nationality are still in the island of Ceylon, being unable to defray the cost of their passage home, and inquiring whether the United States Government wishes to let them remain to await their turn to be sent home or to make special arrangements for their conveyance.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

His Majesty's Government have received information from the officer administering the government of Ceylon that 10 prisoners of war of American nationality are still there, being unable to defray the cost of their passage home.

In these circumstances, His Majesty's Government desire to ascertain whether the United States Government wish to let them remain to await their turn to be sent home or to make any special arrangements for their conveyance.

FOREIGN OFFICE, *August 8, 1902.*

Mr. Choate to Mr. Hay.

No. 923.]

AMERICAN EMBASSY,
London, August 21, 1902.

SIR: With reference to my note of the 28th ultimo, I have the honor to inclose herewith a list of prisoners of war at St. Helena, who are citizens of the United States, which I have just received from the foreign office.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

FOREIGN OFFICE.

Nominal roll of prisoners of war at St. Helena who are citizens of the United States.

No.	Name.	Name of State.
785	Seckendale, Herman	Montana.
15847	Gardner, John	Illinois.
1198	Harris, Walton	Massachusetts.
16041	Mack, Henry	California.
25991	Maloney, James	Texas.
1868	Quirk, Thomas	Massachusetts.
1869	Quirk, John	Do.
12127	Klee, Edw. J.	New York.
3645	Brown, Abe.	California.
3435	Golding, J.	Texas.
(?)	Nelan, Jno.	Massachusetts.
4140	Schultz, Jno.	New York.
4089	Nymen, Jno.	Colorado.

Mr. Adee to Mr. Choate.

No. 999.]

DEPARTMENT OF STATE,
Washington, September 5, 1902.

SIR: I have to acknowledge the receipt of your dispatch, No. 914, of the 11th ultimo, reporting a communication received by you from the foreign office stating that 10 prisoners of war of American nationality are still in the island of Ceylon, being unable to defray the cost of their passage home, and inquiring whether the United States Government wishes to let them remain to await their turn to be sent home or to make special arrangements for their conveyance.

I have also your later dispatch, No. 923, of August 21, inclosing a nominal roll of 13 prisoners of war at St. Helena, who are citizens of the United States. While no inquiry is made in this letter as to the wishes of the United States Government respecting these men, it may be presumed that they are in identical case with those in Ceylon.

You do not explain what arrangements for the return of these men are contemplated on the part of the British Government, although the inquiry as to whether they are to remain to await their turn to be sent home would suggest that some arrangement of that character is contemplated.

The reports we have received from the United States consul at Ceylon indicate that no arrangements for the return of these persons have been made. The instructions of the Department, and the communication addressed to you by the consul at Ceylon will have acquainted you with the conditions thereof, showing that the most the consul has been able to obtain is scanty subsistence for the men until he can make arrangements to send back those who are unable to provide for themselves. In one instance the person's friends in the United States sent him money to defray his passage hither. This recourse, however, is not likely in the majority of the cases. The facilities on the part of the consulate for shipping these unfortunate men to their homes are very limited. I need scarcely suggest to you that they would be still more limited with respect to the persons at St. Helena, between which island and the United States there is practically no maritime communication.

The Government of Great Britain can not reasonably expect that the Government of the United States should provide transportation for these men to their homes, even if there were authority of law and appropriation available for such a purpose. It has not been able to do so in the case of men confined at Bermuda, although, happily, these latter, being near our shores, are not so hardly situated as those who, in accordance with the military interests of Great Britain, have been deported from South Africa to places remote from the scene of war and still more remote from the homes of the persons.

Under the circumstances, this Government deems it not unreasonable to entertain the hope that, as the present situation of these persons has been brought about in furtherance of the interested policy of the British Government, that Government will see its way to relieve them from the predicament which it has itself imposed and place the persons in some quarter from which they may enjoy the ordinary opportunities of returning to their homes, if, indeed, it be not equally reasonable to expect that their transportation home is contemplated in the communication made to you by the foreign office on the 8th instant. If the latter be the case, it is hoped that their turn to be sent home will not be long delayed, or, if delayed, that the delay shall not impose burdens upon the United States consulates for the maintenance and shipping of the men.

I have, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Choate to Mr. Hay.

No. 964.]

AMERICAN EMBASSY,
London, October 29, 1902.

SIR: With reference to your instruction, No. 999, of the 5th ultimo, in relation to the repatriation of the American citizens detained by the British Government as prisoners of war in Ceylon, I have the honor to inclose herewith a copy of a note from Lord Lansdowne dated the 27th instant, in which it is stated that it is proposed to send the prisoners in question to the United States by the first packet, and that until they arrive at their destination they will continue to receive subsistence from His Majesty's Government.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

Lord Lansdowne to Mr. Choate.

FOREIGN OFFICE, *October 27, 1902.*

YOUR EXCELLENCY: I referred to His Majesty's secretary of state for war your note of the 15th ultimo asking what arrangements His Majesty's Government proposed to make for the repatriation of the United States citizens who have been detained as prisoners of war in Ceylon.

I have the honor to inform your excellency that it is proposed to send these men to the United States by the first packet and that until they arrive at their destination they will continue to receive subsistence from His Majesty's Government.

I have, etc.,

LANSDOWNE.

**SPECIAL EMBASSY OF THE UNITED STATES TO CORONATION OF
EDWARD VII.**

Lord Pauncefote to Mr. Hay.

No. 8.]

BRITISH EMBASSY,
Washington, January 13, 1902.

SIR: I have the honor, by direction of the Marquis of Lansdowne, to transmit to you herewith a copy of a proclamation by the King, my august sovereign, in which the date of His Majesty's coronation is fixed for June 26 next.

I have, etc.,

PAUNCEFOTE.

[Inclosure.]

[Supplement to the London Gazette of Tuesday, the 10th of December—Published by authority—Tuesday, December 10, 1901.]

BY THE KING.

A PROCLAMATION

For appointing a day for the celebration of the solemnity of the coronation of Their Majesties.

Edward, R. I.:

Whereas by our royal proclamation, bearing date the 26th day of June last, we did (among other things) publish and declare our royal intention to celebrate the solemnity of our royal coronation and of the coronation of our dearly beloved consort the Queen, upon a day of June next to be thereafter determined, at our palace at Westminster; and whereas we have resolved, by the favor and blessing of Almighty God, to celebrate the said solemnity upon Thursday, the 26th day of June next, we do, by this our royal proclamation, give notice thereof, and we do hereby strictly charge and commend all our loving subjects whom it may concern, that all persons, of what rank or quality soever they be, who either upon our letters to them directed or by reason of their offices and tenures, or otherwise, are to do any service at the time of our coronation do duly give their attendance at the said solemnity on Thursday, the 26th day of June next, in all respects furnished and appointed as to so great a solemnity appertaineth, and answerable to the dignities and places which every one of them respectively holdeth and enjoyeth, and of this they or any of them are not to fail, as they will answer the contrary at their perils, unless upon special reasons by ourself, under our hand to be allowed, we shall dispense with any of their services or attendances:

Provided always, and we do further by this our royal proclamation signify and declare that nothing herein contained shall be construed to change or alter our royal determination as more fully declared in our royal proclamation bearing date the 26th day of June last, whereby we did signify it to be our royal will and pleasure upon the occasion of this our coronation to dispense with that part of the ceremonial which heretofore took place in Westminster Hall and that part thereof which consisted of the procession.

Given at our court at St. James's this 10th day of December, A. D. 1901, and in the first year of our reign.

God save the King.

Mr. Hay to Mr. Reid.

No. 1.]

DEPARTMENT OF STATE,
Washington, March 18, 1902.

SIR: The President having determined upon the appointment of a special embassy to represent the Government of the United States at

the ceremonies which are to take place at London on June 26 next, incident upon the coronation of His Majesty Edward VII, King of Great Britain and Ireland and of the British Dominions beyond the Seas, and Emperor of India, and you having indicated your acceptance of the same, I inclose herewith your commission^a as ambassador extraordinary of the United States on special mission for that purpose, and a letter^a (with office copy) accrediting you to His Britannic Majesty in that capacity.

I also inclose a letter^a of congratulation (with office copy) addressed by the President to His Majesty upon the occasion.

The office copies of the two letters you will forward to the minister for foreign affairs and deliver the originals in whatever manner may be most agreeable to His Majesty.

Your assistants on this special mission will be Maj. Gen. James H. Wilson, U. S. Army, as the representative of the War Department, and Capt. Charles E. Clark, of the U. S. Navy, as representative of the Navy Department.

Messrs. J. Pierpont Morgan, jr., of New York; Edmund Lincoln Baylies, of New York, and William Wetmore, of Rhode Island, will each attend in the character of secretary and attaché.

The President has directed that the actual and necessary expenses of the special embassy shall be borne by this Department, not in excess of the sum of \$10,000. Such expenses within this amount as shall be incurred by you will be reimbursed upon receipt of your account therefor or upon your personal certificate.

Upon your arrival at London you may freely consult with His Excellency Joseph H. Choate, the ambassador extraordinary and plenipotentiary of the United States there, who will be able to fully advise you and will cheerfully render you all proper and necessary assistance and cooperation.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Choate.

No. 861.]

DEPARTMENT OF STATE,
Washington, March 18, 1902.

SIR: The correspondence which has been exchanged between the Department and your embassy has acquainted you with the intention of the President to send a special embassy to represent the United States at the ceremonies which are to take place at London on June 26 next incident upon the coronation of His Majesty Edward VII.

The special embassy is composed of the following persons:

His Excellency Whitelaw Reid, as special ambassador.

Maj. Gen. James H. Wilson, U. S. Army, to assist Mr. Reid as the representative of the War Department.

Capt. Charles E. Clark, U. S. Navy, to assist Mr. Reid as the representative of the Navy Department.

Messrs. J. Pierpont Morgan, jr., Edmund L. Baylies, and William Wetmore will attend Mr. Reid each in the character of secretary and attaché.

^a Not printed.

It is not possible at this time to give Mr. Reid specific and detailed instructions. He has been instructed to freely consult with you upon his arrival in London. The President doubts not it will be your pleasure to cooperate with him in all possible ways in order to insure harmony of action in the important duty intrusted to him.

I am, etc.,

JOHN HAY.

Lord Pauncefote to Mr. Hay.

No. 74.]

BRITISH EMBASSY,
Washington, March 21, 1902.

SIR: With reference to my note No. 8, of January 13 last, I have the honor to inform you that on the occasion of the King's coronation it would be pleasing to His Majesty to receive as his guest a representative of the United States of America to attend the ceremony, and that I have therefore been directed by the King's command to inquire of you whether it would be convenient and agreeable to the President of the United States to be represented on the occasion; and if so, whom he would propose to designate for the purpose, in order that the pleasure of my august sovereign may be taken in regard to the arrangements to be made for his reception.

I have the honor to inclose herewith the order of precedence which will be observed at the King's coronation.

I have, etc.,

PAUNCEFOTE.

[Inclosure.]

Precedence at the coronation of the King.

1. Heirs to great powers (in order of consanguinity to their own sovereigns).
2. Princes representing sovereigns of great powers (also in order of consanguinity).
3. Heirs to kingdoms—other powers (in order of date of kingdoms).
4. Grand dukes being sovereigns.
5. Younger sons of kings.
6. Royal princes not sons of kings.
7. Heirs to reigning grand dukes and dukes.
8. Ambassadors, papal envoy, etc.

Mr. Hay to Lord Pauncefote.

No. 2401.]

DEPARTMENT OF STATE,
Washington, March 25, 1902.

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 74, of the 21st instant, by which your excellency informs me that on the occasion of the King's coronation, in the month of June next, it would be pleasing to His Majesty to receive as his guest a representative of the United States of America to attend the ceremony, and that you have been directed by the King's command to inquire whether it would be convenient and agreeable to the President of the United States to be represented on the occasion; and if so, whom he would propose to designate for the purpose.

In reply it gives me pleasure to say that the President has decided

to send a special embassy to London on the auspicious occasion referred to, and has accredited Mr. Whitelaw Reid, of New York, as ambassador extraordinary of the United States on special mission to His Majesty.

Mr. Reed will be assisted by Maj. Gen. James H. Wilson, U. S. Army, to represent the War Department, and Capt. Charles E. Clark, U. S. Navy, to represent the Navy Department.

Messrs. J. Pierpont Morgan, jr., of New York; Edmund Lincoln Baylies, of New York, and William Wetmore, of Rhode Island, will each attend Mr. Reid in the capacity of secretary and attaché.

I have, etc.,

JOHN HAY.

Mr. Choate to Mr. Hay.

No. 840.]

AMERICAN EMBASSY,
London, April 14, 1902.

SIR: With respect to your instruction No. 861, of March 18, I have the honor to inclose herewith a note from the foreign office, dated the 11th instant, in which Lord Lansdowne states that it will give His Majesty much pleasure to receive Mr. Whitelaw Reid as special ambassador to the coronation.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

Lord Lansdowne to Mr. Choate.

FOREIGN OFFICE, *April 11, 1902.*

YOUR EXCELLENCY: I have laid before the King, my sovereign, your excellency's notes of the 3d and 5th instant, in which you inform me that the Hon. Whitelaw Reid will represent the United States of America at the King's approaching coronation, and will be accompanied by the gentlemen named in your excellency's above-mentioned notes.

I have received the King's commands to inform your excellency that it will give His Majesty much pleasure to receive Mr. Whitelaw Reid in his capacity as special ambassador on this occasion.

I have, etc.,

LANSDOWNE.

Mr. Raikes to Mr. Hay.

BRITISH EMBASSY, *June 24, 1902.*

DEAR MR. SECRETARY: I deeply regret to inform you that owing to the illness of the King, my sovereign, the coronation ceremony and all festivities have been indefinitely postponed.

I remain, etc.,

ARTHUR RAIKES.

Mr. Choate to Mr. Hay.

[Telegram.]

AMERICAN EMBASSY,
London, June 24, 1902.

Coronation has just been indefinitely postponed owing to the King's indisposition. * * *

CHOATE.

No. 1.]

Mr. Reid to Mr. Hay.

AMERICAN SPECIAL EMBASSY,
Brook House, London, July 14, 1902.

SIR: I have the honor to acknowledge your instructions of March 18, in pursuance of the commission issued to me on February 3, 1902, as ambassador extraordinary of the United States on special mission, representing the Government at the coronation of His Majesty Edward VII, and to report that in the absence of definite information as to the time at which the special representatives of other Governments would be expected in London, I decided to sail by the steamer *St. Paul*, of the American Line, on June 14, and advised the other members of the embassy of this purpose. A communication subsequently received from the vice-chancellor of the University of Cambridge, proposing to confer a degree upon me on the 10th, led me to anticipate that date and sail instead by the *Umbria* on the previous Saturday, May 31.

On arrival at Liverpool at 11 o'clock on the night of Saturday, June 7, I was met by the lord mayor and other dignitaries of the city. They presented Colonel Collins, of the British army, who informed me that he was one of the equerries assigned by His Majesty to the special embassy during our stay in England and that he had been ordered to conduct me immediately to London, where I should be met by Lieut. Col. Right Hon. Sir Fleetwood Edwards, G. C. V. O., K. C. B., long an equerry and one of the private secretaries to Her Majesty, the late Queen, and the chief of the three equerries assigned to the embassy, and that royal carriages would be in waiting.

Proceeding directly to London, I was there met by the secretaries of the embassy, Mr. J. P. Morgan, jr., Mr. Edmund Lincoln Baylies, and Mr. William Wetmore, and by Lieutenant-Colonel Borup, of the staff of the general attached to represent the War Department, and was taken at once to Brook House, which I had engaged for my own residence and as the headquarters of the special embassy. The next morning calls were received from Sir William Colville, the King's master of ceremonies, and from the equerries.

Mr. Choate advised me that Lord Lansdowne had named Monday afternoon for the presentation of my credentials at the foreign office. The reception was most cordial, and his lordship said that the King would receive me the next day. I assented immediately to this appointment, but Mr. Choate here kindly intervened with the explanation that it would prevent me from receiving the degree at Cambridge on the 10th, for which I had come over on an earlier steamer, and Lord Lansdowne assured me that His Majesty would not think of allowing the early appointment he had made to interfere with that engagement.

Within an hour after I had reached Brook House again a letter came from Lord Lansdowne saying that His Majesty had been glad to change the date for the audience to the following day.

At the time appointed I waited upon him at Buckingham Palace in company with Lord Lansdowne, and was received with every courtesy and much cordiality. The King talked freely of his relations with the United States, which he hoped might always remain on the present friendly footing, and made many inquiries showing his intimate acquaintance with American affairs and the public men of the country. He appeared in excellent health and spirits.

Rear-Admiral Watson, U. S. Navy, reported on June 13, accompanied by his staff officers, Commander W. S. Cowles and Lieutenant Watson; and General Wilson, U. S. Army, retired, the next day, accompanied by Major Biddle and Lieutenant-Colonel Borup.

Within the next week the arrangements for the coronation began to take clear shape, the details being generally communicated first by Sir Fleetwood Edwards, and coming afterwards in official form from the offices of the earl marshal and the lord chamberlain. The assignment of places in the abbey and in the royal procession the next day, as well as at the state banquets to be given by the King and Queen, by the Prince of Wales, and by the secretary of state for foreign affairs, so clearly showed the desire of His Majesty and the authorities of the court to manifest all possible respect for the representatives of the United States that a few details which it would not otherwise be thought needful to report are summarized in a memorandum hereunto attached.

While the arrangements for the coronation were thus completed down to the minutest details, some anxiety began to be manifested as to the condition of the King's health. It was said that he had overexerted himself in the review at Aldershot. He had undoubtedly exposed himself in witnessing a torchlight parade there in a damp and chilly evening, and reports were current that an attack of lumbago had been brought on. The uneasiness was quieted for a time by the King's going from Aldershot back to Windsor and by newspaper statements that he was driving out there every day. When it was seen, however, that he did not attempt to attend Ascot, either on the opening day or on cup day, for both of which a royal procession was expected, the feeling deepened that the situation must be more serious than the guarded reports from the castle had implied.

But on the Monday of coronation week the King came up to London and proceeded at once to Buckingham Palace in an open carriage, accompanied by the Queen. Some of those who saw him thought that he looked ill, though the spectators generally, as well as the newspapers, seemed to unite in declaring that he appeared much as usual. The next morning I received at Brook House a telephone message from Buckingham Palace saying that the royal dinner for that evening would be postponed on account of His Majesty's health. A little later, as I was driving about with the royal equerry, Sir Fleetwood Edwards, completing the official calls upon the other special embassies, we were stopped on the street, near St. James's Palace, by an officer of the household under great excitement, who announced that the King was alarmingly ill, and that the coronation must be indefinitely postponed. We drove as soon as possible to Buckingham Palace to inscribe and make inquiries, and there learned that the situation had been found so

grave that an operation had just been performed, for appendicitis the court officials thought, and that the King seemed to be rallying from the shock.

It was soon ascertained that the disease for which the operation had been found necessary was not appendicitis at all, but perityphlitis, resulting in a large abscess, some inches from the appendix, on or over the great intestine. It was currently believed that a surgical operation for this abscess should have been performed at Windsor Castle shortly after the first attack, but that the King's resolute desire to avoid the enormous disappointment and loss to his people involved in a postponement of the coronation led him to overrule his physicians, at the risk of his life, as they assured him, in a determined effort to keep up until the ceremony should be concluded. Palliatives were then resorted to and some of the physicians were supposed to believe that they had been more or less successful, while others insisted that the delay greatly increased the danger. One of the surgeons was credibly quoted as saying the next week, as he took a sheet of paper in his hand, "there was not the thickness of that between His Majesty and death when we operated." As late as Monday evening, however, the night before the operation, the King had still insisted that he would go through the ceremony on the following Thursday at whatever cost, and it was not till the peremptory declaration of the surgeon of greatest authority among those in attendance that without a prompt operation he would absolutely refuse to assume further responsibility or attend in the case that His Majesty finally consented even on Tuesday morning to submit to their demand. Then instead of allowing himself to be carried to the operating table he walked there, and it was said to be the opinion of some of the surgeons that this was possibly one of the circumstances contributing to the success of the operation, since, owing to the excessive distension of the abscess, the strain to which it would have been subjected in an effort to carry him might have proved fatal.

The great national ceremonial thus postponed had had no parallel in England for over sixty years, and its startling and dramatic interruption is probably without a parallel in history. The first effect on the public mind seemed to be simply stunning. Then the dogged disposition with which the English people receive reverses asserted itself. There was not a symptom of disorder, and while extraordinary disappointment and the keenest desire for the King's recovery were everywhere manifest, there was nowhere any sign of apprehension for the Government or for the secure maintenance of England's position, even in the case of a fatal termination. The composed and serious courage with which the people faced the sudden situation challenged the notice of all observers.

For the first week the anxiety was naturally intense, and the evidences of profound sorrow were visible everywhere throughout the capital. The mottoes and transparencies on the streets were in some cases changed. In many places fresh ones were strung across the streets or against prominent buildings with merely the words "God save the King." For the first forty-eight hours it is probable that the majority of the public expected a fatal termination and that even the professional opinion inclined that way. The King himself, however, seems never to have lost nerve or hope.

On the day after that which had been fixed for the coronation a

solemn service of intercession was held at St. Paul's Cathedral, to be attended by those who had been provided with seats in Westminster Abbey for the coronation itself. The notice was so brief that Major-General Wilson and his staff officers did not find it practicable to attend, but all the other members of the special embassy were present, and the authorities took pains to seat them in the places of honor in the choir. A similar service was held in St. Paul's on the following Sunday, attended by the general public, and others were held in nearly every church in London and almost everywhere throughout the British Isles.

No one then supposed that, in case of the King's recovery, the coronation could possibly take place before the latter part of September or the first of October, and the special ambassadors at once prepared to take their leave. On communicating to Lord Lansdowne my desire to do this in whatever form might cause him the least inconvenience or loss of time, he replied that, instead of my coming to the foreign office, he preferred that Mrs. Reid and I should come in and take luncheon with Lady Lansdowne and himself the next day. He thought also I should not fail to go, the day following, as he phrased it, "to say good-bye to the Prince of Wales." After the luncheon at Lansdowne House, on what was to have been coronation day, June 26, I briefly expressed to Lord Lansdowne my sense of the courtesy with which the President's representative had been received, the earnest sympathy of the President and the whole American people with the Government and with the British nation in this trial, and their sincere hopes for the recovery of the King, and then took my official leave.

That evening a communication from St. James's Palace (where the Prince of Wales was still residing) advised me of the hour at which I should be received the next day, and that Mrs. Reid also would be expected. We were met with the utmost cordiality by their Royal Highnesses the Prince and Princess, and during the interview the three royal children came in and were presented. The Prince spoke with the greatest confidence as to his father's splendid physical condition and almost certain recovery. He entered into many details as to the nature of the operation and the manner in which it was borne. The Prince was also good enough, when I finally took my official leave, to say that he hoped I would be able to return to the coronation.

The same evening Gen. Sir Stanley Clarke, equerry to the King, came to Brook House with a letter for Sir Fleetwood Edwards, and in his absence communicated to me its contents. It surprised me by the intimation that Mrs. Reid and myself were to have the honor of a farewell audience with Her Majesty the Queen the next afternoon at Buckingham Palace.

In this audience Her Majesty expressed with even more emphasis the same confidence as to the recovery of the King which the Prince of Wales had shown the day before, saying repeatedly, "Thank God, the worst is over." She spoke warmly of the way in which His Majesty had stood the shock of the operation, and of the keen interest he was already beginning to manifest again in public affairs, and mentioned particularly his pleasure at reading himself the cable dispatch in the newspapers reporting the President's sympathetic remarks at Harvard. She was confident that the coronation would take place this year, and probably sooner than had been expected, and repeated gra-

ciously the invitation to return, saying: "You must be sure to come back. It will be a good omen. We shall count on you."

I then quitted London for a short time, after engaging passage for New York by the American Line for July 26, paid a promised visit to Rear-Admiral Crowninshield on board the flagship *Illinois*, and have since made several visits at English country places.

I have, etc.,

WHITELAW REID.

[Inclosure.]

Memorandum of places assigned at the chief ceremonies.

Official cards of invitation for the coronation service in Westminster Abbey on June 26 were sent to the special ambassador and all the members of his suite, and when accompanied by their wives to them also. The memorandum sent with the cards assigned the special ambassador and his wife to seats on one side the choir, in full view of the altar and thrones, and in the same line with the Archduke Francis Ferdinand of Austria, Prince and Princess Henry of Prussia, the Crown Prince of Denmark, etc., while in front of them, on the lower seats on the same side of the choir, were Mr. and Mrs. Chamberlain, Mr. and Miss Balfour, Sir M. and Lady Hicks-Beach, etc. In the corresponding line on the opposite side of the choir were placed the Hereditary Grand Duke Michael of Russia, the Duke and Duchess d'Aosta of Italy, Admiral Gervais of France, etc.

The fact having been communicated that the wife of one of the naval staff officers attached to the embassy was a sister of the President, and that another sister accompanied her, places were voluntarily provided for them in the choir below the latter line and near the altar and thrones, between the Princess Henry of Pless and the Grand Duke Michael Michaelovitch.

The suites of the various special embassies were assigned to places in the nave and in the temporary addition to the abbey through which the procession was to enter.

The official programme for the royal procession the next day was also communicated. It assigned the special ambassadors from the two Republics of the United States and France to the fifth carriage in the procession following the great officers of the court and preceding the royalties.

The dinner to be given by the King and Queen in the throne room at Buckingham Palace was to comprise 270 guests, while the suites of special embassies and others were to be seated in a large temporary dining room below, made by inclosing a piazza and hanging it in tapestries. The invitation to the dinner in the throne room was accompanied by a plan of the tables. On this the special ambassador of the United States was assigned to the table of the King, between the Earl of Pembroke, Lord Stewart, and His Highness the Maharajah of Gwalior; while Mrs. Reid was assigned to the table of His Royal Highness Prince George of Greece, placed at his side, and to be taken in by His Royal Highness Prince Philip of Coburg, with the special ambassador of France at the same table.

The details would certainly seem too trivial to be reported to the Department, even in this detached memorandum, excepting that they may perhaps be taken as indicating the strong desire of the King and of the authorities of his court to omit nothing that could serve to show the highest appreciation of the President's action in sending the special embassy, as well as their estimate of the rank the country holds in the family of nations.

Mr. Choate to Mr. Hay.

No. 900.]

AMERICAN EMBASSY,
London, July 19, 1902.

SIR: I have the honor to inclose herewith copy of a circular note, which I have received from the Marquis of Lansdowne, stating that this Government deprecates the sending of special ambassadors from

foreign countries to the postponed coronation, which is now fixed to take place on the 9th of August; and that they will expect foreign Governments to be represented by their ambassadors and ministers accredited to this country.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

Lord Lansdowne to Mr. Choate.

FOREIGN OFFICE, *July 17, 1902.*

YOUR EXCELLENCY: I have the honor to inform you that, by the King's commands, I have instructed His Majesty's representatives in states which had accredited envoys to represent them at His Majesty's coronation, to express to those Governments the profound regret which the King felt at being compelled, by his illness, to allow them to leave this country without offering them his thanks in person for the compliment which their appointment conveyed.

The improvement in the King's health gives reason to hope that his coronation may take place in the course of a few weeks. It will not, however, be possible to carry out the original programme, and the ceremony will be performed with as much simplicity as the circumstances will allow.

His Majesty would, consequently, deprecate any special missions being sent from foreign countries to attend it, and would prefer that they should be represented on the occasion by their resident ambassadors and ministers at this court.

I have, etc.,

LANSDOWNE.

Mr. Adee to Mr. Reid.

No. 6.]

DEPARTMENT OF STATE,
Washington, September 23, 1902.

SIR: Your dispatch of the 14th of July last, with its inclosures, was duly received.

The Department appreciates the dignity, efficiency, and intelligent tact with which you represented the President on the historic occasion of the proposed coronation of King Edward VII.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

TITLE OF KING EDWARD VII.

Lord Pauncefote to Mr. Hay.

No. 24.]

BRITISH EMBASSY,
Washington, January 29, 1902.

SIR: I have the honor to transmit to you herewith, by the instructions of my Government, a copy of a proclamation by the King, my august sovereign, declaring his intention in virtue of powers given to His Majesty by an act passed in the last session of Parliament, to add to the style and titles heretofore appertaining to the Imperial Crown of the United Kingdom and its Dependencies the words "and of the

British Dominions beyond the Seas" after the words "of the United Kingdom of Great Britain and Ireland."

This addition to His Majesty's titles having to be made in all documents emanating in future from the foreign office, His Majesty's Government consider that the Governments of those foreign countries where His Majesty has diplomatic representatives should be officially informed thereof.

I have, etc.,

PAUNCEFOTE.

[Inclosure.]

Supplement to the London Gazette of Friday, the 1st of November—Published by authority—Monday, November 4, 1901.

BY THE KING.

A PROCLAMATION.

Edward, R. I.:

Whereas an act was passed in the last session of Parliament, entitled "An act to enable His Most Gracious Majesty to make an addition to the royal style and titles in recognition of His Majesty's dominions beyond the seas," which act enacts that it shall be lawful for us, with a view to such recognition as aforesaid of our dominions beyond the seas, by our royal proclamation under the great seal of the United Kingdom issued within six months after the passing of the said act, to make such addition to the style and titles at present appertaining to the Imperial Crown of the United Kingdom and its dependencies as to us may seem fit; and

Whereas our present style and titles are, in the Latin tongue, "Edwardus VII Dei Gratiâ Britanniarum Rex, Fidei Defensor, Indiæ Imperator," and in the English tongue, "Edward VII, by the Grace of God of the United Kingdom of Great Britain and Ireland King, Defender of the Faith, Emperor of India," we have thought fit, by and with the advice of our privy council, to appoint and declare, and we do hereby, by and with the said advice, appoint and declare that henceforth, so far as conveniently may be, on all occasions and in all instruments wherein our style and titles are used, the following addition shall be made to the style and titles at present appertaining to the Imperial Crown of the United Kingdom and its dependencies—that is to say, in the Latin tongue, after the word "Britanniarum," these words, "et terrarum transmarinarum quæ in ditione sunt Britannicæ;" and in the English tongue, after the words "of the United Kingdom of Great Britain and Ireland," these words, "and of the British Dominions beyond the Seas."

And our will and pleasure further is, that all gold, silver, and bronze moneys, now current and lawful moneys of the United Kingdom, and all gold, silver, and bronze moneys which shall, on or after this day, be coined by our authority with the like impressions, shall, notwithstanding such addition to our style and titles, be deemed and taken to be current and lawful moneys of the said United Kingdom; and further, that all moneys coined for and issued in any of the dependencies of the said United Kingdom and declared by our proclamation to be current and lawful money of such dependencies, respectively bearing our style or titles, or any part or parts thereof, and all moneys which shall hereafter be coined and issued according to such proclamation, shall, notwithstanding such addition, continue to be lawful and current money of such dependencies, respectively, until our pleasure shall be further declared thereupon.

Given at our court at St. James, this 4th day of November, 1901, in the first year of our reign.

God save the King.

PROTECTION OF BRITISH INTERESTS IN COLOMBIA BY UNITED STATES OFFICIALS.

Lord Pauncefote to Mr. Hay.

No. 36.]

BRITISH EMBASSY,
Washington, February 8, 1902.

SIR: I have the honor to inform you that reports have reached His Majesty's Government from the acting British consul at Panama respecting the concerted action taken by the officers commanding the British, United States, and French vessels of war in Central America, which resulted in preventing much bloodshed and in restoring order in the towns of Panama and Colon during the recent insurrection in Colombia.

It appears that the threatened bombardment of the town of Colon by the Government gunboat *Pinzon* was averted by the tact and hearty cooperation of the naval commanders and consular officers of the three powers, and I have the honor to transmit to you herewith a copy of a letter addressed to the Marquis of Lansdowne by Messrs. Harrison, of Liverpool, a firm of steamship owners interested in trade to Colon, bearing testimony to the happy results of the prompt and decisive action of these gentlemen.

Later, at the time of the threatened attack on Panama, when the insurgents and Government troops came into contact within 10 miles of that place, Captain Perry, of the U. S. S. *Iowa*, took charge of the Panama Railway and refused to permit armed forces of either side to be conveyed on the trains.

At this stage Captain Perry and Commander McCrea, of the U. S. S. *Machias*, together with Captain Galloway, of H. M. S. *Tribune*, and His Majesty's acting consul, were instrumental in bringing about a meeting between the leaders of the opposing forces on board the U. S. S. *Marietta*, when the revolutionary general De la Rosa agreed to surrender to Governor Alban, of Panama. It was arranged that Colon should be handed over to the commanding officers of the foreign warships, and by them to the Government troops, which was done in an orderly manner.

I have the honor, by direction of the Marquis of Lansdowne, to express to you the gratification with which His Majesty's Government have received these reports, bearing testimony to the good feeling existing between the naval and consular officers of the two powers and recording the appreciation of their joint action felt by the British commercial firms.

I have, etc.,

PAUNCEFOTE.

[Inclosure.]

Messrs. Harrison to the Marquis of Lansdowne.

LIVERPOOL, *December 31, 1901.*

MY LORD: We are advised by our agent in Colon that it is owing entirely to the cooperation between the American consul and his British and French colleagues, and the commanders of the U. S. S. *Machias* and *Marietta*, H. M. S. *Tribune*, and the French *Suchet*, that the port of Colon was prevented from being bombarded and destroyed by the Colombian warship *Pinzon*.

This vessel arrived there from Savanilla with troops, after the port had been seized, and with the full intention on the part of the general in command of the troops of at once opening fire on the place with its guns, and it is quite clear that had such action been permitted the whole place must have been destroyed. What this destruction would have involved, in delays to the various steamers in port and then en route, will be understood without comment on our part.

Being largely interested in the trade via Colon, and the safe conveyance of goods across the Isthmus, we should be obliged if you would convey to the Secretary of the Navy of the United States, and to the marine minister of France, and also to the secretary of the admiralty our thanks for the great services rendered to us and to all other steamship owners and merchants interested in the trade to Colon by the prompt and decisive action of the commanders of these vessels.

We have, etc.,

THOMAS AND JAMES HARRISON.

Mr. Hay to Lord Pauncefote.

No. 2365.]

DEPARTMENT OF STATE,
Washington, February 14, 1902.

EXCELLENCY: I have the honor to acknowledge, with appreciation of the kind expressions of His Majesty's Government therein contained, the receipt of your note of the 8th instant, regarding the good feeling which existed between the naval officers of the United States and Great Britain during the recent revolution in Colombia.

I have, etc.,

JOHN HAY.

Mr. Adee to Mr. Raikes.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 6, 1902.

Navy Department hears from commander of *Ranger* at Panama that he is informed the Colombian Government contemplates seizing the British steamer *Quito*. I communicate this for your information.

ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Mr. Raikes.

DEPARTMENT OF STATE,
Washington, August 9, 1902.

MY DEAR MR. CHARGÉ: As supplementary to my telegram of the 6th instant (which I herewith confirm), I inclose a copy of a report made by the commanding officer of the U. S. S. *Philadelphia* regarding the protection by him of British interests in Colombia.

I am, etc.,

ALVEY A. ADEE.

[Inclosure.]

Extract from a letter from the commanding officer of the Philadelphia, dated June 9, 1902.

1. Since my last report concerning affairs on the Isthmus, dated June 2, I have to report that there has been but little change, with the exception that on June 6 Mr.

Peebles, acting agent for the Pacific Steam Navigation Company, came on board and told me of a request made by the Government that he furnish the *Chiriqui* for carrying of troops. I told him what action Mr. Peet (who is their regular agent) had been advised to take. He was also apprehensive of the seizure of that vessel, and asked if I would act for the English in the absence of their man-of-war. I told him yes, but only in this manner—it would be advisable that the English consul laid the matter before the United States consul-general, and upon his request in writing I would put a guard on the *Chiriqui* if necessary. I arranged for signals by day and by night with the *Chiriqui* and advised the dismantling of her machinery.

2. I also wrote to the consul-general as follows:

“Would it not be well to inform the governor that in the absence of the *Amphion* (daily expected) I would act in the interest of the English residents and protect their property upon their written request. That would prevent any misunderstanding. I am the more anxious to have my position understood clearly, since you may remember that the English admiral’s instructions to the captain of the *Amphion* was ‘to render all aid to the United States naval commander, and in his absence to care for the United States’ interest.’ As we should of course act in accord, and as Mr. Peebles lacks experience, I suggested that the request should come through the consuls.

“I repeat that I fully believe that the Government should be fully informed as to my attitude and readiness to act for the English.”

* * * * *

4. The *Amphion* arrived on the afternoon of the 7th, and her captain has orders to remain at least two months. Upon hearing of my action concerning the *Chiriqui*, Captain Casement, R. N., thanked me and informed me that he should at once communicate the fact to his admiral. I believe this action to be in accord with the Department’s policy.

Mr. Raikes to Mr. Adee.

BRITISH EMBASSY,
Washington, October 1, 1902.

DEAR MR. ADEE: I forwarded to Lord Lansdowne in an official dispatch a copy of the report from the commanding officer of the U. S. S. *Philadelphia*, inclosed in your personal note of August 9, describing his readiness to protect British interests at Panama in the absence of H. M. S. *Amphion*. I have now great pleasure in asking you, by Lord Lansdowne’s direction, to be so good as to convey to the commander of the *Philadelphia* an expression of the thanks of His Majesty’s Government for his friendly attitude on this occasion.

I am, etc.,

ARTHUR S. RAIKES.

AGREEMENT BETWEEN RUSSIA AND CHINA RELATIVE TO
MANCHURIA. ^a

Mr. Choate to Mr. Hay.

No. 780.]

AMERICAN EMBASSY,
London, February 12, 1902.

SIR: I have the honor to report that in a conversation which I had yesterday with His Majesty’s secretary of state for foreign affairs, I found that he already knew substantially the position which you had taken with Russia and China in respect to the proposed Manchurian convention and the separate convention with the Russian-Chinese

^a Completely covered under China, page 271, and Russia, page 926, this volume.

Bank, and that it exactly tallied with the position of his Government in the same matter. It had been freely stated for some days in the London papers that the United States, Great Britain, and Japan were presenting the same views at St. Petersburg. He thought the convention with the Russian-Chinese Bank, though it expressed the privileges granted or conceded by the terms as "preferential," would practically be exclusive, and that it would create a monopoly which would not only conflict with treaty rights and lawful and equal commerce, and impair Chinese sovereign rights and its discharge of its international obligations, but would probably be followed by similar "preferential" concessions to other powers, and so the whole policy of equal rights of all nations in commerce and navigation and of the "open door" might be seriously invaded. I could not discover any difference in the positions of the two Governments on this important subject.

I have, etc.,

JOSEPH H. CHOATE.

Mr. Choate to Mr. Hay.

No. 890.]

AMERICAN EMBASSY,
London, February 22, 1902.

SIR: I have the honor to acknowledge the receipt of your instruction of the 3d instant, covering a copy of a memorandum in regard to the proposed convention and arrangement between the Chinese and Russian Governments respecting Manchuria. I inclose herewith a copy of my note to Lord Lansdowne, dated the 14th instant, together with his lordship's reply thereto, dated the 19th instant, with reference to the above subject.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure 1.]

Mr. Choate to Lord Lansdowne.

AMERICAN EMBASSY, *London, February 14, 1902.*

My LORD: Under instructions from my Government, I have the honor to inclose herewith for your lordship's information a copy of a memorandum expressing the views of the United States in regard to the proposed convention and arrangement between the Chinese and Russian Governments respecting Manchuria, which has been telegraphed to our legation at Peking and to our embassy at St. Petersburg.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure 2.]

Lord Lansdowne to Mr. Choate.

FOREIGN OFFICE, *February 19, 1902.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 14th instant, transmitting a copy of a memorandum which gives the views of the United States Government in regard to some suggested arrangements between the Chinese and Russian Governments respecting Manchuria.

I have to thank your excellency for this interesting statement, the substance of which you had already been good enough to communicate to me verbally.

I have, etc.,

LANSDOWNE.

TEXT OF DEFENSIVE AGREEMENT BETWEEN GREAT BRITAIN
AND JAPAN.

Mr. Choate to Mr. Hay.

No. 781.]

AMERICAN EMBASSY,
London, February 12, 1902.

SIR: I have the honor to report that at an interview yesterday with His Majesty's secretary of state for foreign affairs he gave me a copy of the new defensive treaty of alliance between Great Britain and Japan. I now inclose the copy that he gave me.

It seems to me greatly to fortify the policy of the "open door," and goes far to secure the independence and integrity of the Chinese and Korean empires. Perhaps also it explains the decision of His Majesty's Government, announced in Parliament the day before, not to proceed further with the fortification of Weihaiwei as a naval base. I inclose a clipping from the London Times of yesterday's date, containing the debate on this interesting subject, in which, however, I see no allusion to the provision in the lease to Great Britain of Weihaiwei that it was to be for so long a period as the Russian occupation of Port Arthur should last.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure 1.]

DISPATCH TO HIS MAJESTY'S MINISTER AT TOKYO FORWARDING AGREEMENT BETWEEN
GREAT BRITAIN AND JAPAN OF JANUARY 30, 1902.

The Marquis of Lansdowne to Sir C. MacDonald.

FOREIGN OFFICE, *January 30, 1902.*

SIR: I have signed to-day, with the Japanese minister, an agreement between Great Britain and Japan, of which a copy is inclosed in this dispatch.

This agreement may be regarded as the outcome of the events which have taken place during the last two years in the Far East, and of the part taken by Great Britain and Japan in dealing with them.

Throughout the troubles and complications which arose in China consequent upon the Boxer outbreak and the attack upon the Peking legations, the two powers have been in close and uninterrupted communication, and have been actuated by similar views.

We have each of us desired that the integrity and independence of the Chinese Empire should be preserved, that there should be no disturbance of the territorial status quo either in China or in the adjoining regions, that all nations should, within those regions, as well as within the limits of the Chinese Empire, be afforded equal opportunities for the development of their commerce and industry, and that peace should not only be restored, but should, for the future, be maintained.

From the frequent exchanges of views which have taken place between the two Governments, and from the discovery that their Far Eastern policy was identical, it has resulted that each side has expressed the desire that their common policy should find expression in an international contract of binding validity.

We have thought it desirable to record in the preamble of that instrument the main objects of our common policy in the Far East to which I have already referred, and in the first article we join in entirely disclaiming any aggressive tendencies either in China or Korea. We have, however, thought it necessary also to place on record the view entertained by both the high contracting parties, that should their interests, as above described, be endangered, it will be admissible for either of them to take such measures as may be indispensable in order to safeguard those interests, and words have been added which will render it clear that such precautionary measures might become necessary and might be legitimately taken, not only in the case of aggressive

action or of an actual attack by some other power, but in the event of disturbances arising of a character to necessitate the intervention of either of the high contracting parties for the protection of the lives and property of its subjects.

The principal obligations undertaken mutually by the high contracting parties are those of maintaining a strict neutrality in the event of either of them becoming involved in war, and of coming to one another's assistance in the event of either of them being confronted by the opposition of more than one hostile power. Under the remaining provisions of the agreement, the high contracting parties undertake that neither of them will, without consultation with the other, enter into separate arrangements with another power to the prejudice of the interests described in the agreement, and that whenever those interests are in jeopardy they will communicate with one another fully and frankly.

The concluding article has reference to the duration of the agreement which, after five years, is terminable by either of the high contracting parties at one year's notice.

His Majesty's Government have been largely influenced in their decision to enter into this important contract by the conviction that it contains no provisions which can be regarded as an indication of aggressive or self-seeking tendencies in the regions to which it applies. It has been concluded purely as a measure of precaution, to be invoked, should occasion arise, in the defense of important British interests. It in no way threatens the present position or the legitimate interests of other powers. On the contrary, that part of it which renders either of the high contracting parties liable to be called upon by the other for assistance can operate only when one of the allies has found himself obliged to go to war in defense of interests which are common to both, when the circumstances in which he has taken this step are such as to establish that the quarrel has not been of his own seeking, and when, being engaged in his own defense, he finds himself threatened, not by a single power, but by a hostile coalition.

His Majesty's Government trust that the agreement may be found of mutual advantage to the two countries, that it will make for the preservation of peace, and that, should peace unfortunately be broken, it will have the effect of restricting the area of hostilities.

I am, etc.,

LANSDOWNE.

[Subinclosure.]

Agreement between Great Britain and Japan, signed at London, January 30, 1902.

The Governments of Great Britain and Japan, actuated solely by a desire to maintain the status quo and general peace in the extreme East, being moreover specially interested in maintaining the independence and territorial integrity of the Empire of China and the Empire of Korea, and in securing equal opportunities in those countries for the commerce and industry of all nations, hereby agree as follows:

ARTICLE I.

The high contracting parties having mutually recognized the independence of China and of Korea, declare themselves to be entirely uninfluenced by any aggressive tendencies in either country. Having in view, however, their special interests, of which those of Great Britain relate principally to China, while Japan, in addition to the interests which she possesses in China, is interested in a peculiar degree politically, as well as commercially and industrially, in Korea, the high contracting parties recognize that it will be admissible for either of them to take such measures as may be indispensable in order to safeguard those interests if threatened either by the aggressive action of any other power, or by disturbances arising in China or Korea, and necessitating the intervention of either of the high contracting parties for the protection of the lives and property of its subjects.

ARTICLE II.

If either Great Britain or Japan, in the defense of their respective interests as above described, should become involved in war with another power, the other high contracting party will maintain a strict neutrality, and use its efforts to prevent other powers from joining in hostilities against its ally.

ARTICLE III.

If in the above event any other power or powers should join in hostilities against that ally, the other high contracting party will come to its assistance and will conduct the war in common, and make peace in mutual agreement with it.

ARTICLE IV.

The high contracting parties agree that neither of them will, without consulting the other, enter into separate arrangements with another power to the prejudice of the interests above described.

ARTICLE V.

Whenever, in the opinion of either Great Britain or Japan, the above-mentioned interests are in jeopardy, the two Governments will communicate with one another fully and frankly.

ARTICLE VI.

The present agreement shall come into effect immediately after the date of its signature, and remain in force for five years from that date.

In case neither of the high contracting parties should have notified twelve months before the expiration of the said five years the intention of terminating it, it shall remain binding until the expiration of one year from the day on which either of the high contracting parties shall have denounced it. But if, when the date fixed for its expiration arrives, either ally is actually engaged in war, the alliance shall, ipso facto, continue until peace is concluded.

In faith whereof the undersigned, duly authorized by their respective Governments, have signed this agreement, and have affixed thereto their seals.

Done in duplicate at London the 30th January, 1902.

[L. S.]

His Britannic Majesty's Principal Secretary of State for Foreign Affairs.

LANSDOWNE,

[L. S.]

Envoy Extraordinary and Minister Plenipotentiary of His Majesty the Emperor of Japan at the Court of St. James.

HAYASHI,

[Inclosure 2.]

Weihaiwei.

[The Times, Tuesday, February 11, 1902.]

Earl Spencer asked the undersecretary of state for the colonies what were the intentions of His Majesty's Government with regard to Weihaiwei.

The Earl of Onslow: My lords, I do not think I need trouble you with the early history of Weihaiwei, because it is probably well known to you. But I may say that the Government have held a careful inquiry into the advantages of the place as a military and naval station, and they have decided that the idea which was at one time entertained of fortifying it and keeping there a large garrison has been abandoned. There is at present there a Chinese regiment. That regiment will be gradually disbanded or withdrawn, and in future the administration of the colony will be undertaken by the police, which will be raised by the administrator of the colony itself. The position has been found to be one which could only be fortified at very great expense; but it is an extremely useful place for small-arms practice and for gunnery practice for the navy, as the bay is large and the water is shallow. It is also an extremely healthy station, and it is believed that in the course of a very short time a number of persons will utilize it as a sanitarium for Hongkong and Shanghai and other places on the coast of China. It will also be used as a sanitarium for our military and naval forces. It has been taken over by the colonial office from January 1, and the new administrator will be Mr. Lockhart, who has had many years official experience at Hongkong. It is hoped that in his hands the place will be made to yield a much larger revenue than that at present, which is something like £2,000 a year. The inhabitants are mostly fishermen and agriculturists who are not rich nor very prosperous; but there are capabilities about the colony which lead us to hope that before very long it will yield a much greater revenue than at present. Your

lordships will recollect that Hongkong was in very much the same position as Weihaiwei is to-day. It has no custom duties, no railway communication with the interior, and yet it has proved to be a very important commercial port, and Weihaiwei has the advantage of being on the highway from the Gulf of Pechili to northern China. It has an excellent harbor, labor is cheap, and there is therefore every reason to believe that it will continue to be a useful and valuable possession. At any rate, the rumor that there is an intention on the part of His Majesty's Government to give it up, either returning it to China or handing it over to another power, is entirely without foundation. His Majesty's Government have no intention of abandoning the place, which they believe to be a very valuable possession. [Hear! hear!]

The Earl of Rosebery said their lordships must have listened to the statement just made with mixed feelings. He had been in no way prepared for the explanation just made by the undersecretary for the colonies, for otherwise he would have endeavored to refresh his memory by some reference to the statements which were made at the time when Weihaiwei was first occupied. He recollected that the acquisition of the place had been announced with a flourish of trumpets, and now apparently all that was thought of it was that it was an important watering place. Was he to understand that the inquiry as to its naval and military value was held subsequently to its occupation by the Government? If so, some of the statements which were made at the time of its acquisition would appear to have been put forward with more rashness than was becoming in the case of a Government taking over an important post in an empire like China.

The Earl of Onslow: The inquiries were made subsequently to the lease.

The Earl of Rosebery said that Weihaiwei was no longer a naval base. It was no longer a place of arms; no longer a protection for our commerce or our fleets. It had become a sort of second-rate watering place. [Hear! hear! and laughter.] It was hoped that its salubrious climate would induce people to come and spend what was known as the unhealthy season there. He had no doubt that, if their lordships consulted the original authorities, they would find that the statements made by the Government compared somewhat strangely with the very piano announcement they had just listened to from the undersecretary of the colonies.

Viscount Goschen said that, as one who had held a responsible position at the admiralty when Weihaiwei was acquired, he had listened with a certain amount of surprise to some of the statements of the undersecretary of the colonies. He could assure their lordships that not long ago most exhaustive inquiries had been made into the capacities of Weihaiwei in various aspects. The question of the number of guns requisite for its fortification was carefully examined, and the subject of a breakwater was likewise considered. In fact a dredger was sent out to deepen the water. The number of battle ships which could find anchorage within the bay was also fully examined into. There was no lack of information originally, but he was disposed to think that on review His Majesty's Government had come to the conclusion on fresh information acquired that the first opinions as to the value of Weihaiwei as a naval and military base could not be sustained. There could be no doubt at the same time that Weihaiwei occupied a most important position in the Gulf of Pechili, and any power holding it possessed a strategical advantage. He hoped the Government, in deciding that it should not be a fortified place, would state whether this decision was based on financial or strategical considerations. He was glad at the same time to hear that if Weihaiwei was not to be fortified there was no intention of handing it over to another power or of returning it to China. [Hear! hear!] He felt that their lordships had not sufficient information before them to enable them adequately to debate the change of policy on the part of the Government. As to the proposed disbandment of the Chinese regiment, he understood that it had been a very successful experiment. But if there were any international reasons against making a fuller statement he should be perfectly satisfied with the explanation of the Government.

The Earl of Portsmouth was of opinion that if Weihaiwei was not to be fortified and no money spent upon it, then the place would not be a strength, but a menace to us, and that therefore if we were not to take the necessary precautions to strengthen our position there we had much better retire. He could not help being impressed by a sense of the extraordinarily flippant and careless way in which the matter had been dealt with on the part of the Government.

The Earl of Selborne: I shall be prepared to go into this question at length on any occasion in which any one of your lordships brings it again before the notice of the House, and I think perhaps later on we shall be in a better position to discuss it in the fullest detail. But I have now, and at once, to say that the decision of this question has not been financial. It has been purely strategical, and that strategy was purely naval. Lord Rosebery spoke of Weihaiwei as the protection to British

commerce. I think on reflection the noble earl would not repeat that. The only protection to British commerce in Chinese seas is the navy, and the value and importance of Weihaiwei is purely relative to the navy. Naval opinion as to the proper method of utilizing Weihaiwei has differed, and does differ; but speaking as one who has closely studied this question for more than a year, perhaps I may say that there is an extraordinary concurrence of naval opinion in favor of the course which the Government has adopted. There are, roughly speaking, two alternatives. One is to make Weihaiwei a fortress like Hongkong, the other is to use it as a peace base, and not to commit ourselves to the custody of the fortress. The naval opinion has been pronounced, and I venture strongly to concur with it, in favor of the latter course as against the former. While that decision has been taken and while naval opinion has pronounced itself in the degree I have mentioned in favor of this course, naval opinion is also equally strong as to the value, the great value, of this base to the navy, of value to the efficiency of the navy and of value to the health of the navy; and while I should oppose personally any attempt to turn Weihaiwei into a fortress like Hongkong I should also oppose any idea of surrendering it.

Earl Spencer asked the Government whether they would present full papers on the subject.

The Earl of Selborne, in reply, stated that many of the reports were confidential, but the Government would carefully consider the suggestion.

TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN TO FACILITATE THE CONSTRUCTION OF A SHIP CANAL.

Signed at Washington, November 18, 1901.

Ratification advised by the Senate, December 16, 1901.

Ratified by the President, December 26, 1901.

Ratified by Great Britain, January 20, 1902.

Ratifications exchanged at Washington, February 21, 1902.

Proclaimed, February 22, 1902.

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, to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the Convention of the 19th April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in Article VIII of that Convention, was concluded and signed by their respective plenipotentiaries at the city of Washington on the 18th day of November, 1901, 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 to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the Convention of the 19th April, 1850, commonly called the Clayton-Bulwer Treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general

principle" of neutralization established in Article VIII of that Convention, have for that purpose appointed as their Plenipotentiaries:

The President of the United States, John Hay, Secretary of State of 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, the Right Honourable Lord Pauncefote, G. C. B., G. C. M. G., His Majesty's Ambassador Extraordinary and Plenipotentiary to the United States;

Who, having communicated to each other their full powers which were found to be in due and proper form, have agreed upon the following Articles:—

ARTICLE I.

The High Contracting Parties agree that the present Treaty shall supersede the afore-mentioned Convention of the 19th April, 1850.

ARTICLE II.

It is agreed that the canal may be constructed under the auspices of the Government of the United States, either directly at its own cost, or by gift or loan of money to individuals or Corporations, or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present Treaty, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

ARTICLE III.

The United States adopts, as the basis of the neutralization of such ship canal, the following Rules, substantially as embodied in the Convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal, that is to say:

1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these Rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise. Such conditions and charges of traffic shall be just and equitable.

2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the Regulations in force, and with only such intermission as may result from the necessities of the service.

Prizes shall be in all respects subject to the same Rules as vessels of war of the belligerents.

4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

5. The provisions of this Article shall apply to waters adjacent to the canal, within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than twenty-four hours at any one time, except in case of distress, and in such case, shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within twenty-four hours from the departure of a vessel of war of the other belligerent.

6. The plant, establishments, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof, for the purposes of this Treaty, and in time of war, as in time of peace, shall enjoy complete immunity from attack or injury by belligerents, and from acts calculated to impair their usefulness as part of the canal.

ARTICLE IV.

It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the High Contracting Parties under the present Treaty.

ARTICLE V.

The present 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 at Washington or at London at the earliest possible time within six months from the date hereof.

In faith whereof the respective Plenipotentiaries have signed this Treaty and thereunto affixed their seals.

Done in duplicate at Washington, the 18th day of November, in the year of Our Lord one thousand nine hundred and one.

JOHN HAY [SEAL.]
PAUNCEFOTE. [SEAL.]

And Whereas the said Convention has been duly ratified on both parts, and the ratification of the two Governments were exchanged in the city of Washington on the twenty-first day of February, one thousand nine hundred and two;

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 witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this twenty-second day of February, in the year of Our Lord one thousand nine hundred and two, and of the Independence of the United States the one hundred and twenty-sixth.

[SEAL.]

THEODORE ROOSEVELT

By the President:

JOHN HAY

Secretary of State.

BRITISH PROTECTORATES IN EAST AFRICA PLACED UNDER ZONE OF TOTAL PROHIBITION OF ALCOHOLIC LIQUORS, UNDER ARTICLE XCI OF THE BRUSSELS ACT.

Lord Pauncefote to Mr. Hay.

No. 59.]

BRITISH EMBASSY,
Washington, February 27, 1902.

SIR: In my note dated April 28, 1892, I had the honor, by direction of the Marquis of Salisbury, to notify to your Government the decision of Her Majesty's Government that the British protectorate of Zanzibar, including all the dominions of the Sultan, both on the island and on the mainland, should be placed under the terms of Article XCI of the act of Brussels from the 6th of April, 1892, within "the zone of prohibition of alcoholic liquors."

Since that date the territories under British protection in East Africa have from time to time been reorganized. They are now constituted under the respective titles of the British Central Africa Protectorate (formerly styled Nyasaland), the protectorate of Zanzibar, the East Africa Protectorate (comprising among other districts the mainland dominions of the Sultan of Zanzibar, the Sultanate of Witu, and the adjacent territory extending northward to Kismayu), and the protectorate of Uganda.

In order to avoid the possibility of any misapprehension as to the position of these territories with regard to the stipulations of the Brussels act respecting the trade in distilled liquors, I am directed by His Majesty's principal secretary of state for foreign affairs to notify to your Government, as being one of the signatory powers of that instrument, that each of the aforesaid protectorates is and remains placed within the zone of total prohibition, under Article XCI of the Brussels act, and, further, that it has now been decided to place the British Somaliland Protectorate within the same zone.

I have, etc.,

PAUNCEFOTE.

ABDUCTION OF MISS STONE—ASSISTANCE IN RESCUE RENDERED BY BRITISH OFFICIALS IN TURKEY AND BULGARIA.^a

Mr. Hay to Mr. Choate.

No. 866.]

DEPARTMENT OF STATE,
Washington, March 24, 1902.

SIR: I inclose a copy of part of a dispatch^b from the minister to the Ottoman Porte relative to the interest taken by Sir Nicholas O'Conor, the British ambassador at Constantinople; by Mr. Elliot, the British diplomatic agent at Sofia; by Mr. McGregor, the British consul at the last-named city, and by Sir Alfred Billiotti, the British consul at Salonica, in the rescue of Miss Stone.

You will say to His Majesty's Government that the Government of the United States appreciates the interest taken by the gentlemen named and is thankful for their assistance.

I am, etc.,

JOHN HAY.

^aSee also under Turkey.

^bPrinted, page 1022.

PROTECTION OF AMERICAN INTERESTS IN BULGARIA BY BRITISH REPRESENTATIVES.

Mr. Raikes to Mr. Hay.

BRITISH EMBASSY, *Washington, May 3, 1902.*

DEAR MR. HAY: Mr. Dickinson, the United States agent at Sofia, recently requested Mr. Francis Elliot, the British representative in that city, to take charge of United States interests during his absence, and Lord Lansdowne has authorized Mr. Elliot to do so, but as the charge of United States interests was withdrawn from him, on Mr. Dickinson's appointment, by your letter of the 14th of October last and by a letter from the United States embassy in London to the foreign office of the 24th of the same month, and as Mr. Dickinson has left for a prolonged period, Lord Lansdowne thinks that it would be as well that the United States Government should formally request him to instruct Mr. Elliot again to take charge of United States interests in Bulgaria, as before, until Mr. Dickinson returns or other arrangements are made. I would suggest that in doing so the Department of State might express the hope that Mr. Elliot will communicate freely with you and with the United States minister at Constantinople on all matters on which he may require to do so.

I remain, etc.,

ARTHUR S. RAIKES.

Mr. Hay to Lord Pauncefote.

Personal]

DEPARTMENT OF STATE,
Washington, May 9, 1902.

MY DEAR MR. AMBASSADOR: I beg to thank you for your personal note of the 3d instant, and to inclose for your information a copy of an instruction^a which I have sent to Mr. Choate, directing him to formally request Lord Lansdowne to instruct His Majesty's agent at Sofia to take charge of United States interests in Bulgaria, as before.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Choate.

No. 911.]

DEPARTMENT OF STATE,
Washington, May 9, 1902.

SIR: In its No. 743, of October 14 last, the Department instructed Mr. White to "express the great pleasure with which this Government recognizes the valuable aid courteously extended by His Majesty's agency at Sofia, in the absence of direct representation of the United States in Bulgaria which has now been supplied, and to ask that our grateful thanks be communicated to the agent."

At the time of writing that instruction the Department did not anticipate that there would be any delay in the recognition by the Bulgarian Government of Mr. Dickinson, who had been appointed to

^a Printed next below.

the dual capacity of agent to Bulgaria and consul-general at Constantinople.

It now appears that the Bulgarian Government is disinclined to receive Mr. Dickinson unless the agency to Bulgaria be separated from the consulate-general at Constantinople. This, of course, can be done only by Congress. Meanwhile the United States has no representative in Bulgaria.

I should be pleased to have you explain the situation to Lord Lansdowne, and to formally request him to instruct Mr. Elliot to take charge of United States interests in Bulgaria, as before, until other arrangements are made for our direct representation.

If it should be the pleasure of His Majesty's Government to comply with this request, it is the hope of this Department that Mr. Eliot will communicate freely with it and with the United States minister at Constantinople on all matters on which he may require to do so.

I am, etc.,

JOHN HAY.

Mr. Choate to Mr. Hay.

No. 868.]

AMERICAN EMBASSY,
London, June 3, 1902.

SIR: With reference to your instruction No. 911, of May 9, relative to the representation of the United States at Sofia I have the honor to inclose herewith a copy of my note to the foreign office of the 23d ultimo and Lord Lansdowne's reply thereto, dated the 31st ultimo, in which his lordship states that he will have much pleasure in instructing His Majesty's agent and consul-general at Sofia to take charge temporarily of American interests in Bulgaria, and that he will be authorized to communicate with the Secretary of State at Washington and the United States minister at Constantinople whenever he may consider it desirable to do so.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure 1.]

[*Mr. White to Lord Lansdowne.*]

AMERICAN EMBASSY, London, May 23, 1902.

MY LORD: With reference to Mr. White's note of October 14 last, expressing the great pleasure with which my Government recognized the valuable aid courteously extended by His Majesty's agency at Sofia and informing your lordship that arrangements had been made for the appointment as American agent at that capital of Mr. Charles M. Dickinson, consul-general at Constantinople, I now have the honor to acquaint you that the Bulgarian Government appears to be disinclined to receive Mr. Dickinson unless the agency at Sofia be separated from the consulate-general at Constantinople, which of course can only be done by Congress.

In view of the fact that until Congress takes action in the matter the United States has no representative in Bulgaria, I am directed by my Government to ask your lordship to be so good as to instruct Mr. Elliot to take charge of the interests of my Government, as before, until other arrangements shall be made for our direct representation there. If it should be the pleasure of His Majesty's Government to comply with this request, it is the hope of my Government that Mr. Elliot will communicate freely with the Secretary of State and with the American minister at Constantinople on all matters in respect to which he may require to do so.

I have, etc.,

HENRY WHITE.

[Inclosure 2.]

*Lord Lansdowne to Mr. Choate.*FOREIGN OFFICE, *May 31, 1902.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of the 23d instant relative to the representation of the United States at Sofia.

In compliance with the request of the United States Government I shall have much pleasure in instructing His Majesty's agent and consul-general in that capital to take charge temporarily of American interests in Bulgaria, and I will authorize him to communicate with the Secretary of State at Washington and with the United States minister at Constantinople whenever he may consider it desirable to do so.

I have, etc.,

LANSDOWNE.

Mr. Hay to Mr. Choate.

No. 941.]

DEPARTMENT OF STATE,

Washington, June 14, 1902.

SIR: Your No. 868 of the 3d instant, with inclosures, has been received.

The Department has noted with appreciation the readiness with which His Majesty's Government acceded to the request to authorize Mr. Elliot to take temporary charge of American interests in Bulgaria.

You will express to Lord Lansdowne this Government's thanks for the courtesy so promptly extended.

I am, etc.,

JOHN HAY.

**ASSISTANCE RENDERED BY UNITED STATES TO SUFFERERS
FROM VOLCANIC ERUPTION AT SAINT VINCENT, WINDWARD
ISLANDS.**

Mr. Hay to Mr. Choate.

[Telegram.]

DEPARTMENT OF STATE,

Washington, May 12, 1902.

Express to British Government the sympathy of the President and the people of this country in the affliction which has befallen St. Vincent, and our desire to share in the work of aid and rescue.

HAY.

Mr. Choate to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,

London, May 15, 1902.

(Mr. Choate reports that the British Government expresses grateful appreciation of the generous offer of aid to the sufferers at St. Vincent, and is communicating it to the governor of the Windward Islands and asking him to state the most immediate needs. On receipt of the governor's reply the British Government hopes to avail itself of the offer of the United States Government. Meanwhile, any gifts sent to the care of the governor at St. Vincent will be gladly received and distributed.)

Mr. Choate to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
London, May 17, 1902.

(Mr. Choate reports that in answer to his formal note embodying the substance of the Department's telegram of May 12, and stating that if the British secretary of state for foreign affairs would indicate any aid or service which, by reason of the proximity of the United States to the scene of disaster, might be rendered, it would give Mr. Choate great pleasure immediately to communicate it to the President. He has just received Lord Lansdowne's formal reply, dated May 14, stating "His Majesty has commanded me to inform you that he has been deeply touched by this message and by the sympathy shown by the President and people of the United States on the occasion of the great calamity which has overtaken one of the British colonies," and requesting Mr. Choate "to convey to the President His Majesty's message, together with the heartfelt thanks of His Majesty's Government, and the assurance that the feeling to which your excellency has given expression will be most highly appreciated in this country and by the community which has suffered so much.")

Upon hearing from Mr. Chamberlain what are the special needs of the colonists, Lord Lansdowne will communicate further with Mr. Choate.)

Mr. Choate to Mr. Hay.

No. 861.]

AMERICAN EMBASSY,
London, May 17, 1902.

SIR: I have the honor to report that your cable of the 12th reached me in the evening of that date. I immediately sent a copy of it to Lord Lansdowne, stating that I would address him a formal note next day. I received an informal acknowledgment the same evening, of which I inclose copy. On the 13th I addressed to him the formal note as promised. At our interview on the 14th (Wednesday) he informed me that this had been sent to the King.

In the House of Commons on Thursday, the 15th, Mr. Balfour referred to and quoted your sympathetic message and offer of aid, and I inclose a copy of his remarks.

On the evening of the 15th Mr. Villiers addressed to Mr. White an informal note, including an "extract from a letter just received from the colonial office," of both of which I inclose copies. On the receipt of this the same evening I sent you my cable.

I have just received from Lord Lansdowne his formal reply, dated the 14th, to my note of the 13th, of both of which I send you a copy, and have to-day sent you a cable summarizing its contents.

I need not state that the spontaneous and energetic efforts on the part of our Government and people to aid and rescue the sufferers in St. Vincent have created a most favorable impression here.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure 1.]

*Lord Lansdowne to Mr. Choate.*FOREIGN OFFICE, *May 12, 1902.*

MY DEAR AMBASSADOR: I hasten to acknowledge receipt of your letter covering the Secretary of State's friendly and sympathetic message.

The feelings which he expresses on behalf of the President and people of the United States will be deeply appreciated in this country as well as by the community which has suffered so much.

I reserve a more formal acknowledgment until to-morrow.

Yours, sincerely,

LANSDOWNE.

[Inclosure 2.]

Martinique and St. Vincent.

[The Times, Friday, May 16, 1902.]

Mr. Dillon asked the first lord of the treasury whether he was now in a position to make a statement as to the measures which had been adopted by the Government for the relief of the people of Martinique and St. Vincent, and whether his attention had been called to the precedent of the earthquake of Lisbon on November 24, 1755, when that House, on a message from the King, voted £100,000 to the relief of the sufferers by that disaster.

Mr. BALFOUR. I am well aware of the precedent. I think it was in 1755. That is not a very recent date, nor has it any very special relevance to the present subject. With regard to St. Vincent, the honorable member will have noted that the lord mayor has consented to open a relief fund at the mansion house. Canada, Jamaica, the neighboring West India islands, and Mauritius have already given or promised help in money or in kind, and I do not doubt but that other colonies will be equally generous. In addition, the governor has already been authorized to spend what he considers to be necessary, and His Majesty's Government, without naming at this moment any definite sum, are prepared to supplement the contributions from other sources to whatever extent may be deemed necessary, and to augment to that extent the small West India grant which is annually voted by this House. I ought to add that in the above I have not taken account of the most sympathetic manner in which the United States Government have—to use their own language—"expressed their desire to share in the work of aid and rescue." [Cheers.] As to the exact manner in which this offer can best be accepted, the governor of the Windward Islands is being consulted. With regard to Martinique, Lord Lansdowne, on May 12, telegraphed to our ambassador at Paris to say that "it would give His Majesty's Government pleasure to afford assistance in any manner which might be found convenient to the sufferers by the Martinique calamity. If we can do this by the loan of medical officers or by gift of such supplies or medical comforts as can be provided from British possessions in the neighborhood, we are prepared to act at once." To this the French Government have replied that they "accept with gratitude the offer of His Majesty's Government to send provisions and medical comforts to Martinique from neighboring British possessions."

Mr. DILLON. Do I understand that the governor of the Windward Islands has been authorized to expend public money to any extent he may think necessary? I would ask the right honorable gentleman also to state whether that expenditure will apply both to Martinique and St. Vincent? I think it would be a very unfortunate thing if a distinction were drawn.

Mr. BALFOUR. In the nature of the case there must be a distinction drawn between our own colonies and the colonies of other countries. We are prepared, as I have said, to give assistance by the loan of medical officers and the gift of medical comforts and of provisions to the sufferers of Martinique. As regards the first question, the honorable gentleman has accurately interpreted the answer I gave.

[Inclosure 3.]

Mr. Villiers to Mr. White.

Immediate.]

FOREIGN OFFICE, *May 15—7 p. m.*

MY DEAR MR. WHITE: I inclose, for the information of the ambassador, extract of a letter just received from the colonial office. Lord Lansdowne will, of course, address an official note to his excellency.

Yours, sincerely,

F. H. VILLIERS.

[Subinclosure.]

Extract.

At the moment of writing the information received is so scanty that it is difficult for Mr. Chamberlain to state what form of assistance is most required, but he is communicating the substance of Mr. Choate's letter to the governor of the Windward Islands by telegraph, and is requesting him to state what are the most immediate needs.

On the receipt of a reply he hopes to be in a position to take advantage of this generous offer.

In the meantime the governor of the Windward Islands, at St. Vincent, will gladly receive and distribute any gifts sent to his care.

[Inclosure 4.]

Mr. Choate to Lord Lansdowne.

AMERICAN EMBASSY,
London, May 13, 1902.

MY LORD: By a dispatch received last evening from the Secretary of State, of which I had the honor to send you at once a copy informally, I was instructed to express to His Majesty's Government the sympathy of the President and the people of the United States in the affliction which has befallen the people of St. Vincent, and their desire to share in the work of aid and rescue.

My Government naturally deplores the appalling calamity which has fallen upon His Majesty's distant colonists as sincerely as if it had happened to a portion of our own people, and has, I believe, already taken steps for their relief. If your lordship can indicate any aid or service which, by reason of our proximity to the scene of disaster, we may render it will give me great pleasure immediately to communicate it to the President.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure 5.]

Lord Lansdowne to Mr. Choate.

FOREIGN OFFICE, May 14, 1902.

YOUR EXCELLENCY: I have laid before the King your excellency's note of the 13th instant, conveying, under instructions from your Government, the sympathy of the President and people of the United States in the affliction which has befallen the people of St. Vincent, and their desire to share in the work of aid and rescue.

His Majesty has commanded me to inform you that he has been deeply touched by this message and by the sympathy shown by the President and people of the United States on the occasion of the great calamity which has overtaken one of the British colonies.

I would ask your excellency to be good enough to convey to the President His Majesty's message, together with the heartfelt thanks of His Majesty's Government and the assurance that the feelings to which your excellency has given expression will be most highly appreciated in this country and by the community which has suffered so much.

I have communicated to the secretary of state for the colonies the inquiry contained in your excellency's note, and have requested him to indicate any aid or service which would be acceptable to the distressed colony.

On the receipt of Mr. Chamberlain's reply I shall have the honor to address a further communication to your excellency.

I have, etc.,

LANSDOWNE.

Mr. Choate to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
London, May 22, 1902.

(Mr. Choate, referring to his dispatch No. 861, of May 17, reports that a telegram from the governor of the Windward Islands to the colonial secretary has been communicated to him, as follows:

All immediate wants are now supplied. Have ordered timber for houses through ambassador at Washington and Governor-General of Canada, which will cost £5,000. Please instruct those officers to cooperate and arrange for payment. Question of resettlement of the people is under my consideration. One new township has been settled up to the present time. Engaged in completing arrangements for relief of wounded and other sufferers.

Mr. Choate is informed that as the Canadian government have made a substantial grant toward the relief of distress in St. Vincent, to be supplied either in money or in kind, the bulk of the timber which is required will probably be provided by and shipped from Canada. Regarding, however, such part of the order as it may be desired to execute in the United States, the British Government feels confident, and Lord Pauncefote has been so informed, that the United States Government will give ready facilities for purchasing timber and for expediting its shipment in accordance with the offer conveyed in the Department's telegram of May 12.)

Mr. Choate to Mr. Hay.

No. 862.]

AMERICAN EMBASSY,
London, May 22, 1902.

SIR: With reference to my dispatch, No. 861, of May 17, in relation to your cable of the 12th instant in connection with the disaster at St. Vincent, I have the honor to confirm herewith my telegram to you of this date, which was based upon a note, dated May 20, 1902, received this day from Lord Lansdowne, a copy of which is herewith inclosed.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

Lord Lansdowne to Mr. Choate.

FOREIGN OFFICE, *May 20, 1902.*

YOUR EXCELLENCY: In continuation of my note of the 16th instant, I have the honor to acquaint your excellency that the secretary of state for the colonies has to-day received the following telegram from the governor of the Windward Islands:

"All immediate wants are now supplied; have ordered timber for houses through His Majesty's ambassador at Washington and the Governor-General of Canada, which will cost £5,000. Please instruct those officers to cooperate and arrange for payment. Question of resettlement of the people is under my consideration; one new township has been settled up to the present time. Engaged in completing arrangements for relief of wounded and other sufferers."

Mr. Chamberlain states that as the Canadian government have made a substantial

grant toward the relief of distress in St. Vincent, to be applied either in money or in kind, the bulk of the timber which is required will probably be provided by and shipped from Canada. In regard, however, to such part of the order as it may be desired to execute in the United States, I have informed Lord Pauncefote that I feel confident that the United States Government will give ready facilities for purchasing the timber and for expediting its shipment, in accordance with the friendly offer conveyed in your excellency's note of the 13th instant.

I have, etc.,

LANSDOWNE.

Mr. Raikes to Mr. Hay.

No. 171.]

BRITISH EMBASSY,
Washington, July 7, 1902.

SIR: In accordance with instructions which I have received from the Marquis of Lansdowne, I have the honor to convey to you the most sincere thanks of His Majesty's Government for the generous assistance rendered by your Government and the United States authorities at Porto Rico to the inhabitants of St. Vincent on the occasion of the recent disastrous eruption in that island, by the dispatch of the U. S. Navy collier *Sterling* from San Juan with a cargo of provisions, tents, clothing, and other necessaries, and by the transportation of lumber on board the U. S. collier *Leonidas* from this country to St. Vincent.

I have, etc.,

ARTHUR S. RAIKES.

PROTECTION BY UNITED STATES OFFICIALS OF BRITISH INTERESTS IN BOLIVIA.

Mr. Raikes to Mr. Hay.

No. 122.]

BRITISH EMBASSY,
Washington, May 13, 1902.

SIR: I have the honor to inform you, by direction of the Marquis of Lansdowne, that Dr. Bridgman, the United States minister at La Paz, who is in charge of British interests in Bolivia, has, at his lordship's request, investigated the circumstances attending the death of Mr. Martindale, a British subject, who was killed while felling trees in a rubber forest in the Mapiri district of Bolivia.

Dr. Bridgman has, at his personal expense, made careful inquiries into the matter and has furnished His Majesty's Government with a report based on such details as were available. The arrangements for the disposal of the deceased man's effects were also made by Dr. Bridgman.

Lord Lansdowne desires me to request you to be good enough to convey to Dr. Bridgman the thanks of His Majesty's Government for all the care and trouble which he has taken in investigating this case.

I have, etc.,

ARTHUR S. RAIKES.

Mr. Raikes to Mr. Adee.

No. 245.]

BRITISH EMBASSY,
Washington, October 1, 1902.

SIR: I have the honor to state that His Majesty's principal secretary of state for foreign affairs has received a letter from Mr. George H. Bridgman stating that he has resigned his appointment as United States minister at La Paz.

His lordship has instructed me to inform you that His Majesty's Government cordially acknowledge the friendly action of the United States Government in allowing their minister to take charge of British interests in Bolivia, and that they appreciate the able manner in which Mr. Bridgman discharged the duties which thus devolved upon him.

I am to add that His Majesty's Government hope that the United States Government will be good enough to give a similar authorization to Mr. Bridgman's successor.

I have, etc.,

ARTHUR S. RAIKES.

Mr. Hay to Mr. Raikes.

No. 2538.]

DEPARTMENT OF STATE,
Washington, October 4, 1902.

SIR: In reply to your note of the 1st instant, I have the honor to say that the Department has taken pleasure in communicating to Mr. George H. Bridgman the thanks of His Majesty's Government for his action in behalf of British interests while serving as United States minister at La Paz.

In compliance with your request, Mr. William R. Sorsby has been instructed, with the consent of the Bolivian Government, to use his good offices in behalf of British subjects in Bolivia until His Majesty's Government shall appoint its own representative in that Republic.

I have, etc.,

JOHN HAY.

Mr. Raikes to Mr. Hay.

No. 278.]

BRITISH EMBASSY,
Washington, November 10, 1902.

SIR: I have the honor to inform you that Mr. Raikes duly brought to the knowledge of His Majesty's principal secretary of state for foreign affairs the purport of your note, No. 2538, of the 4th ultimo, in which you were good enough to state that, in accordance with the wish expressed by His Majesty's Government, instructions had been sent to Mr. William R. Sorsby, the newly appointed minister of the United States at La Paz, to use his good offices on behalf of British subjects in Bolivia, with the consent of the Government of that Republic, until the appointment there of a representative of His Majesty.

I am now instructed by the Marquis of Lansdowne to convey to your Government the thanks of His Majesty's Government for their courtesy in this matter.

I have, etc.,

ARTHUR S. RAIKES.

DEATH OF LORD PAUNCEFOTE, BRITISH AMBASSADOR TO THE UNITED STATES.

Mr. Raikes to Mr. Hay.

BRITISH EMBASSY,
Washington, May 24, 1902.

SIR: It is my sad duty to inform you that Lord Pauncefote, His Britannic Majesty's ambassador to this country, died this morning at half past 5 o'clock.

I have, etc.,

ARTHUR S. RAIKES.

Mr. Hay to Mr. Raikes.

DEPARTMENT OF STATE,
Washington, May 24, 1902.

DEAR MR. RAIKES: The President would be glad if we were allowed to testify our respect for the memory of Lord Pauncefote by sending his remains home to England in a national vessel.

Yours, faithfully,

JOHN HAY.

Mr. Raikes to Mr. Hay.

BRITISH EMBASSY,
Washington, May 24, 1902.

DEAR MR. HAY: I have informed Lord Lansdowne by telegraph of the offer which the President has made to send home the remains of Lord Pauncefote in a vessel of the American Navy as a testimony of respect, and I have asked him whether I may accept his offer on behalf of Lady Pauncefote.

Yours, very sincerely,

ARTHUR S. RAIKES.

Mr. Hay to Marquis of Lansdowne.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 24, 1902.

Permit me to express our deep sympathy and sorrow at the death of Lord Pauncefote. His Majesty's Government have lost a most able and faithful servant, and this country a valued friend.

JOHN HAY.

Lord Lansdowne to Mr. Hay.

[Telegram.]

FOREIGN OFFICE,
London, May 25, 1902.

His Majesty's Government thank you for your kind and sympathetic message. They have sustained an irreparable loss, and they are glad to know that its extent is understood by the Government of the United States, and that Lord Pauncefote's great qualities were appreciated by your country not less than by his own.

LANSDOWNE.

Mr. Raikes to Mr. Hay.

BRITISH EMBASSY,
Washington, May 25, 1902.

DEAR MR. HAY: I have just received an answer from Lord Lansdowne in which he desires me to say that His Majesty's Government highly appreciate the offer which has been made by the President, through you, to convey the remains of Lord Pauncefote to England in a United States vessel, and that they do not hesitate to accept it on Lady Pauncefote's behalf.

Yours, very sincerely,

ARTHUR S. RAIKES.

Mr. Raikes to Mr. Hay.

No. 138.]

WASHINGTON, May 31, 1902.

SIR: I have received the commands of the King, my gracious sovereign, to convey to the President His Majesty's high appreciation of the signs of respect which the President himself as well as the United States Government showed to the memory of Lord Pauncefote during the recent ceremonies at this capital.

* * * * *

I have, etc.,

ARTHUR S. RAIKES.

Mr. Raikes to Mr. Adee.

No. 215.]

BRITISH EMBASSY,
Bar Harbor, Me., August 30, 1902.

SIR: I have the honor to inform you that I have received a dispatch from His Majesty's principal secretary of state for foreign affairs, stating that he has read with great interest the dispatches in which I reported the military honors accorded by the United States Government on the occasion of the funeral service for His Majesty's late ambassador at Washington and the naval preparations made for the conveyance of Lord Pauncefote's remains to England.

In order to afford a fitting reception of the *Brooklyn* on her arrival in British waters, H. M. S. *Australia* and *Apollo* met her outside the Isle of Wight and escorted her to Southampton, while the commander in chief at Portsmouth, Admiral Sir Charles Hotham, G. C. V. O., K. C. B., proceeded to Southampton in H. M. S. *Fire Queen* and there awaited the arrival of the *Brooklyn*.

I am now desired by the Marquis of Lansdowne to convey to your Government the expression of the deep sense entertained by His Majesty's Government of the respect paid to Lord Pauncefote's memory, and their sincere appreciation of the signal honor shown to him in the conveyance of his remains to England on board one of the public ships of the United States.

I have, etc.,

ARTHUR S. RAIKES.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Choate to Mr. Hay.

[Telegram.]

AMERICAN EMBASSY,
London, June 6, 1902.

Referring to your telegram of May 24,^a Government have had much pleasure in agreeing to arrangement suggested with regard to Cuban representation by American consular officers.

CHOATE.

Mr. Choate to Mr. Hay.

No. 874.]

AMERICAN EMBASSY,
London, June 7, 1902.

SIR: With reference to your telegram of the 24th of May, requesting that permission should be granted for United States consular officers within the jurisdiction of Great Britain to use their good offices in representing the interests of the new Cuban Republic and its citizens until Cuban consuls shall have been appointed, I have the honor to inclose herewith a copy of a note from the foreign office, dated the 3d instant, stating that His Majesty's Government had much pleasure in agreeing to the proposed arrangement.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

Lord Lansdowne to Mr. Choate.

FOREIGN OFFICE, *June 3, 1902.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of 26th ultimo requesting that permission may be granted for United States consular officers, within the jurisdiction of Great Britain, to use their good offices in representing the interests of the new Cuban Republic and its citizens until Cuban consuls shall have been appointed.

In reply I beg to inform your excellency that his Majesty's Government have much pleasure in agreeing to this arrangement. The secretaries of state for the home department, for the colonies, and for India have been duly notified.

I have, etc.,

LANSDOWNE.

SCHOLARSHIPS UNDER THE WILL OF CECIL JOHN RHODES.

Mr. Choate to Mr. Hay.

No. 883.]

AMERICAN EMBASSY,
London, June 19, 1902.

SIR: I have the honor to report that I have received from the trustees, under the will of the right honorable Cecil John Rhodes, and herewith transmit a printed extract from his will relating to the scholarships to be established from the States and Territories of the United States, accompanied by a letter from Mr. Hawksley, one of the trustees, of which I inclose a copy.

By this it appears that the trustees are desirous of making regulations with regard to the method by which qualifications of candidates are to be ascertained, and as to the examinations, and have asked me to bring the matter to the notice of the Government of the United States, and to request on their behalf that the views of the chief officials having the control of education in the various States and Territories may be ascertained and communicated to the trustees. This is as suggested by Mr. Rhodes. How far the Government of the United States can act in the matter, except as to the Territories concerned, I am not sure, as it seems to pertain to the States individually; but as it is a matter of first-rate importance to the whole country, I think you may find a way to communicate with the governors of the several States and ascertain and transmit to the trustees their views and those of the chief officials having control of education. I will myself transmit copies of the "extract" to the presidents of the leading universities named in the letter, as requested by Mr. Hawksley.

You will observe that it is the hope of the trustees that the students can be elected in time to go into residence in Oxford in 1903, so that it is desirable that the matter should be promptly laid before the officials referred to, and if you think that it is not for you to act in any way as to the States, but that the trustees should apply directly to each of them, I shall be obliged if you will promptly advise me.

The trustees naturally desire to act in the light of the best advice which they can get from the communities particularly concerned, and from the best authorities upon the subject of education.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

Mr. Hawksley to Mr. Choate.

30 MINCING LANE, E. C.,
London, June 16, 1902.

DEAR SIR: At the request of my colleagues, trustees of the will of the late Mr. C. J. Rhodes, I send you an extract from his testamentary dispositions relating to scholarships to be established for students from certain colonies and from the United States of America.

Your excellency will note the qualifications which Mr. Rhodes desired should be sought for in the candidates, and his suggestion that before election the trustees should consult with the ministers having the control of education in the various colonies, States, or Territories to which his dispositions apply.

The trustees are desirous of making regulations with regard to the method by which qualifications of candidates are to be ascertained and as to the examinations.

They will therefore be obliged if you will be so good as to bring the scholarship provisions of Mr. Rhodes's will to the notice of your Government, with a request on their behalf that the views of the chief officials having the control of education in the various States and Territories of the Union may be ascertained and communicated to the trustees.

It would further be of great assistance to the trustees if they could be furnished through your kindness with the opinion of the leading educational authorities in the United States, especially the heads of Harvard, Yale, Columbia, and other universities, with regard generally to the election of qualifying students and the best mode of giving practical effect to the scholarship trust.

It is hoped that the students can be elected in time to go into residence at Oxford in 1903.

I am, etc.,

BOURCHIER F. HAWKSLEY.

[Subinclosure.]

The Right Honorable Cecil John Rhodes.

The following are the provisions in the testamentary dispositions of the late Mr. Rhodes relating to the establishment of scholarships at Oxford for students from the colonies and the United States of North America:

"Whereas I consider that the education of young colonists at one of the universities in the United Kingdom is of great advantage to them for giving breadth to their views, for their instruction in life and manners, and for instilling into their minds the advantage to the colonies as well as to the United Kingdom of the retention of the unity of the Empire; and

"Whereas in the case of young colonists studying at a university in the United Kingdom I attach very great importance to the university having a residential system, such as is in force at the universities of Oxford and Cambridge; for without it those students are at the most critical period of their lives left without any supervision; and

"Whereas there are at the present time fifty or more students from South Africa studying at the University of Edinburgh, many of whom are attracted there by its excellent medical school, and I should like to establish some of the scholarships hereinafter mentioned in that university, but owing to its not having such a residential system as aforesaid I feel obliged to refrain from doing so; and

"Whereas my own university, the University of Oxford, has such a system, and I suggest that it should try and extend its scope so as if possible to make its medical school at least as good as that at the University of Edinburgh; and

"Whereas I also desire to encourage and foster an appreciation of the advantages which I implicitly believe will result from the union of the English speaking people throughout the world and to encourage in the students from the United States of North America who will benefit from the American scholarships to be established for the reason above given at the University of Oxford under this my will an attachment to the country from which they have sprung, but without, I hope, withdrawing them or their sympathies from the land of their adoption or birth.

"Now, therefore, I direct my trustees as soon as may be after my death and either simultaneously or gradually as they shall find convenient, and if gradually, then in such order as they shall think fit, to establish for male students the scholarships hereinafter directed to be established, each of which shall be of the yearly value of £300 and be tenable at any college in the University of Oxford for three consecutive academical years.

"I direct my trustees to establish certain scholarships and these scholarships I sometimes hereinafter refer to as 'the colonial scholarships.'

"The appropriation of the colonial scholarships and the numbers to be annually filled up shall be in accordance with the following table:

Total number appropriated.	To be tenable by students of or from—	Number of scholarships to be filled up in each year.
9	Rhodesia.....	3 and no more.
3	The South African College School in the colony of the Cape of Good Hope.....	1 and no more.
3	The Stellenbosch College School, in the same colony.....	Do.
3	The Diocesan College School of Rondebosch, in the same colony.....	Do.
3	St. Andrews College School, Grahamstown.....	Do.
3	The colony of Natal, in the same colony.....	Do.
3	The colony of New South Wales.....	Do.
3	The colony of Victoria.....	Do.
3	The colony of South Australia.....	Do.
3	The colony of Queensland.....	Do.
3	The colony of Western Australia.....	Do.
3	The colony of Tasmania.....	Do.
3	The colony of New Zealand.....	Do.
3	The Province of Ontario, in the Dominion of Canada.....	Do.
3	The Province of Quebec, in the Dominion of Canada.....	Do.
3	The colony or island of Newfoundland and its dependencies.....	Do.
3	The colony or islands of the Bermudas.....	Do.
3	The colony or island of Jamaica.....	Do.

"I further direct my trustees to establish additional scholarships sufficient in number for the appropriation in the next following clause hereof directed, and those scholarships I sometimes hereinafter refer to as 'the American scholarships.'

"I appropriate two of the American scholarships to each of the present States and Territories of the United States of North America, provided that if any of the said Territories shall in my lifetime be admitted as a State the scholarships appropriated to such Territory shall be appropriated to such State, and that my trustees may in their uncontrolled discretion withhold for such time as they shall think fit the appropriation of scholarships to any Territory.

"I direct that of the two scholarships appropriated to a State or Territory not more than one shall be filled up in any year, so that at no time shall more than two scholarships be held for the same State or Territory.

"The scholarships shall be paid only out of income, and in event at any time of income being insufficient for payment in full of all the scholarships for the time being payable I direct that (without prejudice to the vested interests of holders for the time being of scholarships) the following order of priority shall regulate the payment of the scholarships:

"(I) First, the scholarships of students of or from Rhodesia shall be paid;

"(II) Secondly, the scholarships of students from the said South African Stellenbosch Rondebosch and St. Andrews schools shall be paid;

"(III) Thirdly, the remainder of the colonial scholarships shall be paid, and if there shall not be sufficient income for the purpose such scholarships shall abate proportionately; and

"(IV) Fourthly, the American scholarships shall be paid, and if there shall not be sufficient income for the purpose such scholarships shall abate proportionately.

"My desire being that the students who shall be elected to the scholarships shall not be merely bookworms, I direct that in the election of a student to a scholarship regard shall be had to (I) his literary and scholastic attainments; (II) his fondness for and success in manly outdoor sports, such as cricket, football, and the like; (III) his qualities of manhood, truth, courage, devotion to duty, sympathy for the protection of the weak, kindness, unselfishness, and fellowship, and (IV) his exhibition during school days of moral force of character and of instincts to lead and to take an interest in his schoolmates, for those latter attributes will be likely in after life to guide him to esteem the performance of public duties as his highest aim. As mere suggestions for the guidance of those who will have the choice of students for the scholarships, I record that (I) my ideal qualified student would combine these four qualifications in the proportions of three-tenths for the first, two-tenths for the second, three-tenths for the third, and two-tenths for the fourth qualification, so that according to my ideas if the maximum number of marks for any scholarship were 200 they would be apportioned as follows: Sixty to each of the first and third qualifications, and 40 to each of the second and fourth qualifications. (II) The marks for the several qualifications would be awarded independently, as follows (that is to say): The marks for the first qualification by examination, for the second and third qualifications, respectively, by ballot by the fellow-students of the candidates, and for the fourth qualification by the head master of the candidate's school, and (III) the results of the awards (that is to say the marks obtained by each candidate for each qualification) would be sent as soon as possible for consideration to the trustees or to some person or persons appointed to receive the same, and the person or persons so appointed would ascertain by averaging the marks in blocks of 20 marks each of all candidates the best ideal qualified students.

"No student shall be qualified or disqualified for election to a scholarship on account of his race or religious opinions.

"Except in the cases of the four schools hereinbefore mentioned, the election to scholarships shall be by the trustees after such (if any) consultation as they shall think fit with the minister having the control of education in such colony, province, State, or Territory.

"A qualified student who has been elected as aforesaid shall within six calendar months after his election, or as soon thereafter as he can be admitted into residence or within such extended time as my trustees shall allow, commence residence as an undergraduate at some college in the University of Oxford.

"The scholarships shall be payable to him from the time when he shall commence such residence.

"28. I desire that the scholars holding the scholarships shall be distributed among the colleges of the University of Oxford and not resort in undue numbers to one or more colleges only.

"29. Notwithstanding anything hereinbefore contained, my trustees may in their uncontrolled discretion suspend for such time as they shall think fit or remove any scholar from his scholarship.

"30. My trustees may from time to time make, vary, and repeal regulations either general or affecting specified scholarship only with regard to all or any of the following matters, that is to say:

“(I) The election, whether after examination or otherwise, of qualified students to the scholarships, or any of them, and the method, whether by examination or otherwise, in which their qualifications are to be ascertained;

“(II) The tenure of the scholarships by scholars;

“(III) The suspension and removal of scholars from their scholarships;

“(IV) The method and times of payment of the scholarships;

“(V) The method of giving effect to my wish expressed in clause 28 hereof; and

“(VI) Any and every other matter with regard to the scholarships, or any of them, with regard to which they shall consider regulations necessary or desirable.

“31. My trustees may from time to time authorize regulations with regard to the election, whether after examination or otherwise, of qualified students for scholarships and to the method, whether by examination or otherwise, in which their qualifications are to be ascertained to be made:

“(I) By a school in respect of the scholarships tenable by its students; and

“(II) By the minister aforesaid of a colony, province, State, or Territory in respect of the scholarships tenable by students from such colony, province, State, or Territory.

“32. Regulations made under the last preceding clause hereof, if and when approved of, and not before, by my trustees, shall be equivalent in all respects to regulations made by my trustees.

“No regulations made under clause 30 or made and approved of under clauses 31 and 32 hereof shall be inconsistent with any of the provisions herein contained.

“In order that the scholars past and present may have opportunities of meeting and discussing their experiences and prospects, I desire that my trustees shall annually give a dinner to the past and present scholars able and willing to attend, at which I hope my trustees, or some of them, will be able to be present, and to which they will, I hope, from time to time invite as guests persons who have shown sympathy with the views expressed by me in this, my will.”

The trustees are the Earl of Rosebery, Earl Grey, Lord Milner, Mr. Alfred Beit, Dr. Leander Starr Jameson, Mr. Lewis Loyd Mitchell, and Mr. Bouchier Francis Hawksley.

Mr. Hay to Mr. Choate.

No. 952.]

DEPARTMENT OF STATE,
Washington, July 9, 1902.

SIR: I have to acknowledge the receipt of your No. 883, of the 19th ultimo, inclosing copy of a letter from Mr. Hawksley, one of the trustees of the will of the late Cecil John Rhodes, together with the provisions of the will relating to the establishment of scholarships at Oxford for students from the British colonies and the United States.

* * * * *

I have caused the inclosures to your dispatch to be printed, and have communicated them to the governors of the States and Territories, to the end that the views of the chief officials having control of education in the various States and Territories may be obtained and communicated to the trustees, as requested by Mr. Hawksley.

I have also sent a copy of the print to the Commissioner of Education for an expression of his views.

* * * * *

I am, etc.,

JOHN HAY.

CONDOLENCES ON ILLNESS OF KING EDWARD VII.*President Roosevelt to King Edward VII.*

[Telegram.]

WHITE HOUSE,
Washington, June 24, 1902.

I ask Your Majesty to accept my sincere assurance of sympathy and wishes for speedy convalescence.

THEODORE ROOSEVELT.

Queen Alexandra to President Roosevelt.

[Telegram.]

LONDON, July 4, 1902.

The King is most grateful for kind sympathy; is, thank God, going on very favorably now.

ALEXANDRA.

Mr. Raikes to Mr. Hill.

No. 184.]

BRITISH EMBASSY,
Bar Harbor, Me., July 21, 1902.

SIR: The King, my august sovereign, has been greatly moved by the numerous expressions of good will on the part of foreign nations and Governments which have reached him during his illness.

The Marquis of Lansdowne has accordingly directed me, by His Majesty's command, to assure you that His Majesty and the Queen are very sensible of the interest displayed in his condition throughout the world, and deeply appreciate the sympathetic inquiries after his health which have been addressed to his representatives abroad as well as those which have been made by the representatives of the powers at his own court.

It was with profound regret that His Majesty was compelled to allow the special envoys who had been sent at great trouble to represent their countries at His Majesty's coronation to leave England without offering them his thanks in person for the compliment which their appointment conveyed. His Majesty feels this all the more as the postponement of the ceremony renders it unlikely that they will be able to take a part in it.

I have, etc.,

ARTHUR S. RAIKES.

**PROTECTION BY UNITED STATES CONSUL OF BRITISH INTERESTS
AT MARTINIQUE.***Mr. Raikes to Mr. Hay.*

No. 165.]

BRITISH EMBASSY,
Washington, June 27, 1902.

SIR: I have the honor to inform you that I have received a dispatch from the Marquis of Lansdowne stating that the United States consul

at Guadeloupe, who is now at Martinique, has undertaken the protection of British interests at that place in the absence of any representative of His Majesty's Government.

I have the honor, by direction of the Marquis of Lansdowne, to express to your Government the cordial thanks of His Majesty's Government for this friendly action, and to request that you will be so good as to convey them to the United States consul at Martinique.

I have, etc.,

ARTHUR S. RAIKES.

Mr. Hay to Mr. Raikes.

No. 2485.]

DEPARTMENT OF STATE,
Washington, July 3, 1902.

SIR: I have the honor to acknowledge the receipt of your note, No. 165, of the 27th ultimo, and to say in reply that it has given the Department pleasure to forward to the United States consul at Martinique a copy of your note expressing the thanks of His Majesty's Government for Mr. Aymé's action in undertaking, during the absence of any representative of His Majesty's Government at that place, to protect British interests there.

I have, etc.,

JOHN HAY.

Mr. Hill to Mr. Raikes.

No. 2502.]

DEPARTMENT OF STATE,
Washington, July 25, 1902.

SIR: I have the honor to inclose for your information a copy of a dispatch (written in Washington) from the consul of the United States in Guadeloupe, giving a general account of his acts performed for British subjects after the distressing death of His Majesty's consul at Martinique; the late James Japp.

I have, etc.,

DAVID J. HILL,
Acting Secretary.

[Inclosure.]

Mr. Aymé to the Department of State.

CONSULATE OF THE UNITED STATES, GUADELOUPE,
Washington, July 21, 1902.

SIR: I have the honor to report that while assuming charge of British interests in Martinique, from May 11 to June 9, in the absence of any diplomatic or consular officer of Great Britain in that colony, consul Japp having perished in the catastrophe of May 8, which destroyed St. Pierre, I performed the following official acts and services:

I viséed manifests and gave vessels bound for British ports certificates to take the place of bills of health. These services were rendered gratis, no fee being charged or collected.

May 17, with a guide, I went to the ruins of the British consulate, and there found remains believed to be those of Consul James Japp. I provided a metallic casket, incased in wood, and an attempt was made May 19 to recover the body. Captain Campbell, of H. B. M. cruiser *Indefatigable*, accompanied the expedition, and has doubtless reported fully to his Government in the matter.

I endeavored to assist and ameliorate the condition of such British subjects as I found in the hospitals, particularly C. C. Evans, of Montreal, Canada, and little Margaret Stokes and her nurse, Clara King, both of Barbados. Mr. Evans was taken to New York, May 31, on the U. S. S. *Dixie*, through the kindness of Captain Berry and the officers of that vessels, who assumed all expenses connected therewith, mess bills, etc.

Margaret Stokes, a 9-year old child, was the sole surviving member of a family of four, her mother, sister, and brother having perished on the *Roraima*. That she was saved was due first to the devotion of her nurse, Clara King, and subsequently to the bravery and devotion of Lieutenant Du Plessis of the French vessel of war *Suchet*. This gentleman personally rescued both child and nurse from the blazing wreck of the *Roraima*; he gave them his cabin and was assiduous in his attentions to them; when they were transferred to the hospice at Fort de France he made daily visits there, devoting his whole shore leave to these visits, as the hospice is a considerable distance from the landing pier. He brought them fruit and other delicacies, and all of these acts were performed so modestly and quietly that I did not learn of them for many days. When the little girl's uncle, Mr. J. S. Croney, of Barbados, came to take her away I took him on board the *Suchet*. In addition to Mr. Croney's thanks I, as acting British representative, had Lieutenant Du Plessis summoned to the captain's cabin and formally thanked him for his kindly and gracious conduct, adding that, if possible for me so to do, I would communicate my action to His British Majesty's Government, which would doubtless amply confirm and approve it.

I must also report that Mr. Croney was called upon to pay hospital expenses amounting to \$64; \$1 a day for child and nurse, each, for twenty-eight days and \$8 for a special English-speaking attendant I found it necessary to employ. Mr. Croney was much annoyed at being called upon to pay the hospital bill. The following day the mayor of Fort de France returned the money with an ample explanation and many regrets that the error of charging anything should have occurred. I have forwarded the money to Mr. Croney, who is a very well to do, if not wealthy, merchant and Government contractor of Barbados.

When leaving Martinique I informed the acting governor that until His Britannic Majesty's Government should act there was no official or acting representative thereof in the colony.

It is a matter of deep regret to me that I could not succeed in rescuing the remains of our late consul nor any of the archives of the consulate. All were buried under many feet of volcanic mud and ejecta.

The courteous message of the governor of the Windward Islands, and still more the appreciative note forwarded to me from the Marquis of Lansdowne through His Britannic Majesty's embassy in this capital, are ample reward for the slight services I may have been able to render.

I have, etc.,

LOUIS H. AYMÉ, *United States Consul.*

Mr. Raikes to Mr. Hill.

BRITISH EMBASSY,
Bar Harbor, July 30, 1902.

SIR: I have the honor to acknowledge the receipt of your note No. 2502, of the 25th instant, in which you are good enough to forward a copy of a dispatch addressed to you by the United States consul at Guadeloupe, giving a general account of the acts performed by him for British subjects on the occasion of the late disaster at Martinique, in the absence of any British representative in that island.

I have the honor to express to you my sincere thanks for this interesting communication, a copy of which I have forwarded to His Majesty's principal secretary of state for foreign affairs.

I have, etc.,

ARTHUR S. RAIKES.

PROTECTION OF AN AMERICAN CITIZEN BY BRITISH VICE-CONSUL AT VAN, TURKEY.

Mr. Hay to Mr. Choate.

No. 953.]

DEPARTMENT OF STATE,
Washington, July 11, 1902.

SIR: I inclose copies of two dispatches from the consul of the United States at Erzerum, setting forth that Mr. H. E. Satow, His Majesty's acting vice-consul at Van, kindly undertook to look after the interests of Dr. C. D. Ussher, an American citizen at Van, who, after treating a corporal of the Hamidieh Cavalry, was charged with hastening the corporal's death, the latter having died on account of no fault of the doctor.

You will bring this to the attention of His Majesty's Government and express this Government's appreciation of Mr. Satow's kindness and efficient aid.

I am, etc.,

JOHN HAY.

[Inclosure 1.]

Mr. Bergholz to the Department of State.

No. 190.]

CONSULATE OF THE UNITED STATES,
Erzerum, Turkey, May 24, 1902.

SIR: I have the honor to forward, for your information, a copy of a communication received last evening from Mr. H. E. Satow, the British acting vice-consul at Van, stating that Dr. C. D. Ussher, of the American mission at Van, had been summoned before the examining court on the criminal charge of having hastened the death of a corporal of Hamidieh Cavalry. The man was brought to Dr. Ussher suffering from an affliction of the brain, caused by a blow from a stone. The operation of trepanning was successfully performed, and all would have gone well had the man not persisted in thrusting his hand underneath the bandages. This caused suppuration, and death resulted.

The charge of hastening the natural causes of death, which has been brought by the relatives of the deceased, being entirely without foundation, as Mr. Satow writes, I thought that the governor-general might, upon receiving a full explanation of the case, order the action quashed, as he can legally do, and I therefore telegraphed Mr. Satow as follows:

"Action Ussher case heartily approved. Since no ground for complaint exists, would vali not quash action upon receiving full explanation of case? If not, kindly send me certified copy of charge."

From Dr. Ussher I have heard nothing.

A copy of Mr. Satow's dispatch I have forwarded to the consulate-general for transmission to the legation.

I am, etc.,

LEO BERGHOLZ, *Consul.*

[Subinclosure.]

Mr. Satow to Mr. Bergholz.

VAN, May 12, 1902.

SIR: I have the honor to inform you that an American citizen, Dr. C. D. Ussher, of the American mission, has been summoned to appear before the Istintak court of this town on a criminal charge.

The facts of the case are as follows: Last summer a corporal of Hamidieh Cavalry, by name Tahir, son of Aziz, resident in the village of Rikava, in the Norduz Nahieh

of the Shattak Kaza of this vilayet, was brought to Dr. Ussher for treatment. He was suffering from an affliction of the brain, caused by a blow from a stone. The operation of trepanning was successfully performed, and all would have gone well had he not persisted in thrusting his hand underneath the bandages. This caused suppuration and death resulted. The charge of hastening the natural causes of death which has been brought by the relatives of the deceased is entirely without foundation, and is, I fancy, made at the instigation of the former municipal doctor, Fathe Bey, who has now left this town. He was no friend of Dr. Ussher and wished to place difficulties in his way.

I have informed the local authorities that the case must be referred to the Sublime Porte, and have also notified His Majesty's embassy for the information of the United States legation.

I have, etc.,

H. E. SATOW.

His Britannic Majesty's Acting Vice-Consul.

[Inclosure 2.]

Mr. Bergholz to the Department of State.

No. 191.]

CONSULATE OF THE UNITED STATES,
Erzerum, Turkey, June 10, 1902.

SIR: Referring to my dispatch No. 190, of the 24th ultimo, including a copy of a communication from Mr. H. E. Satow, the acting British vice-consul at Van, informing me that Dr. Ussher, of the American mission at Van, had been summoned before the examining court on the criminal charge of having hastened the death by trepanning of one Tahir, a corporal of Hamidieh Cavalry, and that he had refused to serve the warrant and had advised the authorities that the case must be referred to the Sublime Porte, I have now the honor to inclose a copy of my answering dispatch expressing my appreciation of his attitude and giving him at the same time for his future guidance, as his good offices may again be needed in judicial matters affecting Americans, the understanding held by the legation of the capitulations in judicial actions as communicated to me by a former minister to Turkey, Mr. James B. Angel, in a dispatch numbered 13 and dated November 6, 1897. I may here add that British consular officers at Van are recognized by the authorities as representing American interests. I forward also a copy of a second communication from Mr. Satow in reply to my telegram to him of May 24, which is quoted in my dispatch No. 190 to the Department, suggesting that since there is no ground for the complaint, the governor-general might quash the action against Dr. Ussher upon receiving a full explanation of the case, stating that the governor-general had declared his inability to order the withdrawal of the charge, as the proceedings had been instituted under instructions from the ministry of justice, acting upon the advice of the medical council. His excellency added, however, that if he were to be asked from Constantinople for his opinion in this matter, he would immediately report that the action was entirely groundless.

The several inclosures to Mr. Satow's dispatch will be found attached.

From a perusal of Mr. Satow's communications of May 12 and 30, it would appear that the attack upon Dr. Ussher was made by Fathe Bey, late municipal doctor at Van, in a report to the medical council at Constantinople, which accepted the report and advised the ministry of justice to institute proceedings against him. Since, however, Mr. Satow quite properly refused to serve the summons issued by the examining judge, the case is closed as far as the judicial authorities at Van are concerned, who will undoubtedly refer it back to the ministry of justice at Constantinople.

I am, etc.,

LEO BERGHOLZ.

[Subinclosure 1.]

Mr. Bergholz to Mr. Satow.

CONSULATE OF THE UNITED STATES,
Erzerum, May 29, 1902.

SIR: I have the honor to acknowledge the receipt of your dispatch of the 12th instant regarding the criminal charge against Dr. Ussher, a copy of which has been forwarded to the legation of the United States, and to confirm my telegram of the 24th instant, as follows:

"Action Ussher case heartily approved. Since no ground for complaint exists,

would Vali not quash action upon receiving full explanation of case? If not, kindly send me certified copy of charge."

I desire to express my appreciation of your attitude in this matter, and to thank you for the assistance you have always been so prompt to render American interests.

In view of the fact that your good offices may again be needed in judicial matters in which American citizens are concerned, I beg to give, for your guidance, our view of the capitulations in judicial actions. If a consul is asked to summon an American citizen as defendant to appear in a Turkish court, he should demand the exact charge against the citizen. If the complaint shows that it is a civil case, such, for instance, as a question of contract, of debt, etc., then the summons should be served, and the consular dragoman sent to court with the defendant.

If the case is a criminal one under Turkish law, then the American is not to be summoned, but the authorities are to be referred to the legation and the Porte. We claim jurisdiction in such cases.

If an American is summoned as a witness, he should be informed of the nature of the case in which he is asked to testify; but he should then respond to a summons, and the dragoman should accompany him to court.

If the American is distant more than nine hours' travel from the consular residence, he may be asked, in actions not exceeding 1,000 piasters, for the offenses entailing a fine of 500 piasters at the maximum, to respond to the summons of the Turkish court through Turkish officials, but should, if possible, secure the friendly aid of some consular dragoman.

In every case all proper efforts should be made to settle cases out of court.

I have, etc.,

LEO BERGHOLZ.

[Subinclosure 2.]

Mr. Satow to Mr. Bergholz.

VAN, *May 30, 1902.*

SIR: In reply to your telegram of the 24th instant, I have the honor to inform you that the Vali has declared to me that he is unable to quash the charge against Dr. Ussher, as the proceedings were instituted by order of the ministry of justice, acting on the advice of the medical council. If he were to be asked from Constantinople for his opinion in this matter, he would immediately report that the action was entirely groundless.

Certified copies of the summons to the Istintak court and of the reply received in answer to my request for details of the charge are inclosed, together with copy of a letter received from the Vali on this subject, which may be of interest.

I have, etc.,

H. E. SATOW.

[Subinclosure 3.]

Translation of summons.

VAN, *April 23, 1902.*

To the honorable the ENGLISH VICE-CONSUL:

Dr. Ussher, who has been in Bitlis, but has now returned to Van, we request to attend the examining department to give evidence in his case. This is judged to be necessary by the assistant procurator.

(Seal of the governor-general.)

[Subinclosure 4.]

Translation of complaint.

VAN, *April 27, 1902.*

To the honorable the ENGLISH VICE-CONSUL:

In reply to your dispatch dated April 4, 1902, concerning the charge brought against Dr. Ussher for the death of one Tahir, son of Aziz, corporal of Hamidieh, of the district of Nordouse, who, it is claimed, died from an operation performed on him by the said Dr. Ussher, we would say that the degree of the charge will be decided after the examination into the case is made by the assistant procurator of the appellate court.

(Seal of the governor-general.)

[Subinclosure 5.]

The governor-general to Mr. Satow, British vice-consul.

VAN, May 15, 1902.

In reply to your dispatch of May 14, 1902, we can testify that Dr. Ussher is a good doctor and is permitted to carry on his profession in our land. His ability we recognized during my son's sickness, when I called him and saw the good results of his treatment. I would not hesitate to testify to his ability, and, furthermore, his excellency the military commander testifies that he had been suffering for many years with a bad cough and other ailments, of which he had been unable to rid himself. One day, taking his wife's doctor, he called upon Dr. Ussher at his dispensary and received relief by the treatment and medicines Dr. Ussher had given him.

These are facts that none can deny, but the province can not say anything in regard to the report handed in by the municipality doctor and his associates.

(Seal of the governor-general.)

PROTECTION OF AMERICAN INTERESTS AT HABANA BY BRITISH CONSUL-GENERAL.

Mr. Hay to Mr. Choate.

No. 956.]

DEPARTMENT OF STATE,

Washington, July 12, 1902.

SIR: The minister of the United States at Habana, in his No. 45, of the 28th ultimo, writes that Mr. Lionel Carden, His British Majesty's minister resident at that city, and formerly consul-general there, acted for this Government at the request of the War Department during the period of intervention by the United States and also since the establishment of the Cuban Republic.

You are instructed to express to His Majesty's Government this Government's appreciation of and thanks for Mr. Carden's kindness and courtesy in the matter.

I am, etc.,

JOHN HAY.

INTERVIEW IN LONDON OF UNITED STATES SPECIAL AMBASSADOR REID WITH PRINCE CHEN, CHINESE SPECIAL ENVOY.

Mr. Reid to Mr. Hay.

No. 2.]

AMERICAN SPECIAL EMBASSY,

Brook House, London, July 14, 1902.

SIR: Our official calls on the other special embassies were interrupted when nearly concluded by the news of the operation on the King and the indefinite postponement of the coronation. The call on the Chinese special ambassador had not yet been made.

On Wednesday afternoon, however, His Imperial Highness Prince Chen called in person at Brook House, accompanied by a secretary and interpreter and other members of his suite. After the preliminary greetings Prince Chen explained through the interpreter that it had been his special desire to make this call, notwithstanding the interruption caused by the postponement of the coronation. He added very cordial expressions of the particular friendliness felt by the Emperor and his country toward the United States on account of our action in the late disturbances.

The next day, having ascertained at what hour the Prince would find it convenient to receive a return call, I presented myself at the Hotel Cecil, accompanied by Rear-Admiral Watson, General Wilson, Commander Cowles, Mr. Morgan, Mr. Baylies, and other members of the suite. We were shown immediately into the Prince's apartments and received by him with dignity and cordiality. We found that he was at that moment receiving the Japanese special ambassador, Prince Komatsu, accompanied by his suite, and that it was at the request of both the princes that we had been shown in before the Japanese call was finished. General conversation followed, and the Japanese soon took their leave.

The Prince then made inquiries as to the health of both the Emperor and the Empress Dowager. Some brief reference of mine to the services of General Wilson and Admiral Watson led to the Prince's expressing his warm gratification and that of his Government with the conduct of the United States forces in China in upholding order and repressing outrages; and he dwelt particularly on their great usefulness in preserving the palace. He remembered also with gratitude the conduct of our Navy when the forts were bombarded. He said the Emperor had learned to look upon the United States as the true friend of himself and his countrymen. The Prince explained that, while he could not enter upon questions of domestic politics, he desired at any rate to say that undoubtedly his sovereign had not always been able to carry out his own policy or enforce his personal wishes. The Emperor had earnestly forbidden many of the regrettable acts that had occurred and had once gone so far as to declare that if the armed forces continued to disobey him and fire on the legations he would ask them rather to turn their fire upon himself.

In reply I ventured to express the opinion that the Government of the United States certainly desired the prosperity and territorial integrity of China; that it believed the interests of both countries would be equally served by peace and good order, and that it asked only the "open door."

The conversation covered considerable ground, the Prince being apparently desirous of impressing us with the special good will of China. He spoke fluently in Chinese, asking and replying rapidly to questions with keen intelligence. A member of his suite, who spoke excellent English, acted as interpreter, and it is possible that he and his chief expressed themselves with more freedom because it had happened that I met him in the diplomatic service years before.

The interview lasted for over half an hour and was followed by friendly and cordial farewells between the members of the two suites, the Prince and the interpreter in the end accompanying us to the staircase.

These two calls and the substance of the conversation seemed out of the usual course of interviews on this purely ceremonious occasion, and in such contrast with the attitude understood to have been usually held heretofore by members of the Chinese imperial family toward foreigners, that I have thought it perhaps my duty to present this brief report of the facts.

I have, etc.,

WHITELAW REID.

RELEASE OF BRITISH SUBJECT FROM INVOLUNTARY MILITARY SERVICE IN VENEZUELA SECURED BY UNITED STATES NAVAL OFFICIALS.

Mr. Adee to Mr. Raikes.

DEPARTMENT OF STATE,
Washington, August 22, 1902.

MY DEAR MR. CHARGÉ: The Navy Department informed me on the 20th instant that the commanding officer of the U. S. S. *Cincinnati* at La Guaira had, on the day before, sent a telegram from which it gives me pleasure to quote as follows:

At Barcelona I obtained release of British subject from involuntary service in revolutionary force.

I am, etc.,

ALVEY A. ADEE.

Mr. Adee to Mr. Raikes.

Personal.]

DEPARTMENT OF STATE,
Washington, September 6, 1902.

MY DEAR MR. CHARGÉ: Confirming my note to you of the 22d ultimo, I now take pleasure in quoting what follows from a report made by the commanding officer of the U. S. S. *Cincinnati* at La Guaira and forwarded by the Secretary of the Navy on the 2d instant:

Having learned that a British subject was being held in involuntary service in the revolutionary army, I requested the general, Pablo Guzman, to release him, which was done.

I am, etc.,

ALVEY A. ADEE.

Mr. Raikes to Mr. Adee.

WASHINGTON, *October 1, 1902.*

DEAR MR. ADEE: I did not fail to bring to Lord Lansdowne's notice, in an official dispatch, the contents of your personal note of August 22 last, in which you were good enough to quote from a telegram received by the Navy Department from the commanding officer of the U. S. S. *Cincinnati* at La Guaira, stating that he had obtained the release of a British subject who was serving against his will in the revolutionary forces at Barcelona, Venezuela.

I have now received a dispatch from Lord Lansdowne instructing me to request you to convey to the commander of the *Cincinnati* the thanks of His Majesty's Government for his friendly action, and I accordingly venture to request you to be good enough to take the necessary action in the matter.

I am, etc.,

ARTHUR S. RAIKES.

DISCOURTESY TO BRITISH FLAG AT SKAGWAY, ALASKA. (CANADIAN CUSTOMS FLAGS NOT TO BE DISPLAYED IN UNITED STATES TERRITORY, NOR UNITED STATES CUSTOMS FLAGS IN CANADIAN TERRITORY.)

Mr. Lowther to Mr. Adee.

No. 241.]

BRITISH EMBASSY,
Newport, R. I., September 2, 1901.

SIR: By the instruction of His Majesty's principal secretary of state for foreign affairs, I have the honor to bring the following circumstance to your notice:

The governor-general of Canada has reported that on the 22d of June last the Canadian customs special officer at Skagway, with the object of better indicating his office to persons engaged in the shipment of goods from and through Skagway into the Yukon territory and points beyond, raised over it the Canadian customs flag.

A similar course is, I understand, followed by special officers of the United States customs service stationed in Canada, who are furnished with United States customs flags, which they display over their offices at Montreal and Toronto, while in London, Ontario, such flag is daily flown over the office of the United States customs in the Grand Trunk station.

On the same day that the Canadian customs flag was hoisted at Skagway it was cut down by Mr. George Miller, a lawyer from Juneau. The Canadian customs office at once brought the matter in writing to the notice of Capt. J. G. Jenks, the officer commanding the United States troops at Skagway.

Having thus brought the above circumstances to the notice of the Government of the United States, I feel assured that you will cause the necessary steps to be taken with a view to an inquiry being instituted, and in the event of the facts proving to be as stated above I feel convinced that the offender will be brought to justice, and I venture to express the hope that due reparation will be made for an act of discourtesy to a British flag on territory in the temporary administration of the United States.

I have, etc.,

GERARD LOWTHER.

Mr. Adee to Mr. Lowther.

No. 2251.]

DEPARTMENT OF STATE,
Washington, September 7, 1901.

SIR: I have the honor to acknowledge the receipt of your note of the 2d instant, in which you state that you are advised by the governor-general of Canada that on June 22 last the Canadian customs special officer at Skagway raised over his office the Canadian customs flag, with the object of better indicating that office to persons engaged in the shipment of goods from and through Skagway into the Yukon territory and points beyond.

You add that on the same day the flag was cut down by Mr. George Miller, a lawyer from Juneau.

You express your assurance that this Government will cause an

inquiry to be made as to the facts alleged and your conviction that the offender will be brought to justice.

You also express the hope that due reparation will be made for an act of discourtesy to a British flag on territory in the temporary administration of the United States.

In reply I have the honor to say that this Department in July last brought the incident to the notice of the Secretary of the Treasury, who detailed a special agent to investigate and report the facts bearing upon it.

The agent reported from Skagway as follows:

I stopped here to collect the facts and circumstances in connection with a suit at law against a citizen of the United States for cutting and pulling down the customs revenue flag of Canada, which had been hoisted for the first time over the Canadian custom-house located at the railroad depot building at the port of Skagway, an incident which occurred on the 22d ultimo.

For some days before its happening it had been rumored around town that Mr. E. S. Busby, who is stationed here in the capacity of supervising officer of Canadian customs, was about to fly the British flag from the top of the office building of the White Pass and Yukon Railway, the most conspicuous place in the city. The pretense of the border Canadians hereabout that Great Britain is soon to take possession of Skagway as a British port, which is the most important shipping port in Alaska and within the line of military defense of the Territory, being a subject on which the people in this community have intense feelings, the story circulated naturally produced considerable excitement.

On the morning when a red banner was seen waving from the flagstaff of the railroad building, many persons supposed that it was the "Union Jack" of England, as it had a red field and the cross of St. George as ensign, the revenue designation being an obscure yellow spot in the lower right-hand corner, of which no one knew the meaning and few observed. Shortly after it was hoisted a mining man named George E. Miller, from the Porcupine district, near the temporary boundary, was passing the building, and when he espied the flag he cut the rope and hauled it down and threw it into the railroad office. Mr. Busby immediately wrote a letter to Captain Jinks, the commandant of the military post here, complaining of the outrage, and asked for assistance in protecting his colors. At the instance of Mr. Busby the general manager of the White Pass and Yukon route to Dawson, Mr. E. C. Hawkins, filed a complaint against Miller, who was arrested and brought back to Skagway and held on a charge of willful and malicious destruction of private property. When the case was called in the United States commissioner's court on July 17 the complaint was dismissed on motion of the plaintiff's attorney, who paid the costs. It is understood here, and there is little doubt, that the action against Miller was dismissed by instructions from Ottawa.

Mr. Busby's authority for putting up the flag is a letter from his superior officer at Ottawa, shown to Deputy Collector C. L. Andrews, to fly it during office hours.

The published dispatch stated that Transit Officer Busby had been instructed by his government not to "insist on the display of the British flag contrary to popular feelings." Deputy Collector Andrews advised Mr. Busby not to display his flag, but otherwise the customs officials of the port were not privy to nor in any way connected with its removal.

It appears from this report that criminal proceedings for the malicious destruction of property were instituted against the offender, but that they were dismissed at the instance and cost of the prosecutor, and, according to general understanding at Skagway, in view of instructions from Ottawa.

The Department has no hesitation in expressing the regret felt by the Government of the United States at the offense committed against the flag of a friendly power.

With a view to prevent the recurrence of such untoward incidents, it is suggested that it might be found advisable to mutually discontinue the practice of customs officers flying their customs flags within the jurisdiction of the other party.

I have, etc.,

ALVEY A. ADEE,
Acting Secretary.

Lord Pauncefote to Mr. Hay.

No. 3.]

BRITISH EMBASSY,
Washington, January 2, 1902.

SIR: I have the honor to inform you that Mr. Lowther duly brought to the knoweldge of the government of Canada the contents of Mr. Adee's note, No. 2251, of September 7 last, relative to the removal of a British red ensign which had been hoisted over the office of the Canadian customs officer at Skagway, and that I have now received a dispatch from the governor-general in reply to that communication, stating that his excellency's government note with due appreciation the expression of the regret felt by your Government for the offense committed against the flag of a friendly power, that they concur in the suggestion made in Mr. Adee's note that in future the practice of flying flags over the custom-houses of the one power which are situated within the jurisdiction of the other should be discontinued, and that they consider the incident closed.

The Canadian government further call attention to the statements made in the report of the United State's agent at Skagway referred to in Mr. Adee's note, to the effect that it is generally understood there that the criminal proceedings instituted by the general manager of the White Pass and Yukon Railway against Mr. Miller, the person who cut down the flag, were discontinued in accordance with instructions from Ottawa, and though attaching no special importance to this subordinate question, observe that no instructions relative to these proceedings were, in fact, issued by them.

I have, etc.,

PAUNCEFOTE.

Mr. Hay to Lord Pauncefote.

No. 2330.]

DEPARTMENT OF STATE,
Washington, January 7, 1902.

EXCELLENCY: I have the honor to acknowledge the receipt of your note, No. 3, of the 2d instant, and to inform you in reply that I have made known to the Secretary of the Treasury that the government of Canada concurs in the suggestion that the practice of flying flags over the custom-houses of the United States in Canada and of Canada in the United States be discontinued, and I suggested that the Treasury Department's officers stationed in Canada be instructed in that sense.

I have, etc.,

JOHN HAY.

Mr. Hay to Lord Pauncefote.

No. 2343.]

DEPARTMENT OF STATE,
Washington, January 25, 1902.

EXCELLENCY: In further reply to your note of the 2d instant, I have now the honor to inform you that the Secretary of the Treasury wrote, on the 21st idem, that all the United States customs officers on the northern frontier had been instructed not hereafter to display official flags if their offices are located on British North American territory.

I have, etc.,

JOHN HAY.

Lord Pauncefote to Mr. Hay.

No. 39.]

BRITISH EMBASSY,
Washington, February 11, 1902.

SIR: I have the honor to inform you that I duly communicated to the governor-general of Canada the contents of your note, No. 2330, of the 7th ultimo, in which you informed me that you had suggested to the Secretary of the Treasury that the officials of his Department stationed in Canada should be instructed to discontinue the practice of flying flags over United States custom-houses there.

I have now the honor to inform you that I have received a dispatch from the Earl of Minto, forwarding copy of an approved minute of the privy council for Canada, which I have the honor to inclose herewith, intimating that similar instructions are being issued to Canadian customs officers stationed in the United States with regard to the flying of the British flag.

I have, etc.,

PAUNCEFOTE.

[Inclosure.]

Extract from a report of the committee of the honorable the privy council, approved by his excellency on the 30th January, 1902.

The committee of the privy council have had under consideration a dispatch, hereto annexed, dated January 2, 1902, from His Majesty's ambassador to the United States, relative to the removal of the British red ensign which had been hoisted over the office of the Canadian customs officer at Skagway; also another dispatch, herewith, dated January 9, 1902, from the ambassador on the same subject, intimating that the Secretary of State of the United States has suggested to the Secretary of the Treasury that the officials of his Department stationed in Canada should be instructed to discontinue the practice of flying flags over United States custom-houses there.

The minister of customs, to whom the said dispatches were referred, states he concurs in this, and recommends that His Majesty's ambassador to the United States be informed that Canadian customs officers located in the United States are being instructed to refrain from the flying of flags over their offices in the United States.

The committee advise that his excellency be moved to transmit a certified copy of this minute to His Majesty's ambassador to the United States.

All which is respectfully submitted for his excellency's approval.

JOHN J. MCGEE, *Clerk of the Privy Council.*

JEWS IN ROUMANIA—DISCRIMINATIONS AGAINST—CONDITION OF HELPLESSNESS TO WHICH THEY ARE REDUCED, AND OBJECTIONS OF UNITED STATES GOVERNMENT TO IMMIGRATION OF SUCH PERSONS.^a

Mr. Choate to Mr. Hay.

No. 933.]

AMERICAN EMBASSY,
London, September 3, 1902.

SIR: With reference to your separate instruction^b of the 11th ultimo on the subject of the condition of the Jews in Roumania, I have the honor to inclose herewith a note which I have received from the for-

^a See also under Austria, France, Germany, Italy, Russia, and Turkey.

^b Printed, page 42.

ign office, stating that His Majesty's Government join with the Government of the United States in deploring the depressed condition of the Roumanian Jews and in regarding with apprehension the results of their enforced emigration, and that His Majesty's Government will place themselves in communication with the other powers signatory of the treaty of Berlin, with a view to a joint representation to the Roumanian Government on the subject.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

Mr. Bertie to Mr. Choate.

FOREIGN OFFICE, *September 2, 1902.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 23d ultimo, inclosing a copy of a dispatch from Mr. Secretary Hay on the subject of the condition of the Jews in Roumania.

His Majesty's Government join with the United States Government in deploring the depressed condition of the Roumanian Jews and in regarding with apprehension the results of their enforced emigration.

His Majesty's Government will place themselves in communication with the other powers signatory of the treaty of Berlin, with a view to a joint representation to the Roumanian Government on the subject.

I have, etc.,

FRANCIS BERTIE,
(*In the absence of the Marquis of Lansdowne.*)

ACCIDENT TO PRESIDENT ROOSEVELT.

Mr. Raikes to Mr. Adee.

[Telegram.]

BRITISH EMBASSY,
Bar Harbor, Me., September 5, 1902.

Lord Lansdowne desires me to express on behalf of His Majesty's Government their heartfelt congratulations on the President's merciful escape from serious injury.

RAIKES.

Mr. Adee to Mr. Raikes.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 5, 1902.

Lord Lansdowne's congratulations on behalf of His Majesty's Government have been conveyed to the President, who directs me to express, through you, his cordial acknowledgments.

ALVEY A. ADEE,
Acting Secretary.

**TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN
CONCERNING THE ESTABLISHMENT OF IMPORT DUTIES IN
ZANZIBAR.**

Signed at Washington May 31, 1902.

Ratification with amendment advised by the Senate June 30, 1902.

Ratified by the President July 22, 1902.

Ratified by Great Britain August 27, 1902.

Ratifications exchanged at Washington October 17, 1902.

Proclaimed October 17, 1902.

THEODORE ROOSEVELT, PRESIDENT OF THE UNITED STATES OF
AMERICA.

To all to whom these Presents shall come, Greeting:

Know Ye, that whereas a Convention between the United States of America and Great Britain, concerning the establishment of import duties in that portion of the Dominions of His Highness the Sultan of Zanzibar which is under the protection of Great Britain, was concluded at Washington on the 31st of May, one thousand, nine hundred and two, the original of which Convention is, as amended by the Senate of the United States, 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, acting in the name of His Highness the Sultan of Zanzibar, have, for the purposes herein-after stated, appointed their respective Plenipotentiaries, namely:

The President of the United States of America, the Honorable John Hay, Secretary of State of the United States of America; and

His Britannic Majesty, Arthur Stewart Raikes, Esquire, his Britannic Majesty's Chargé d'Affaires.

Who, after having communicated each to the other their respective full powers in good and due form, have agreed upon the following Articles:

ARTICLE I.

Recognizing that it is just and necessary to facilitate to that portion of the dominions of His Highness the Sultan of Zanzibar which is under the protection of Great Britain, and which is situated in the basin of the Congo, as defined by the General Act of the African Conference at Berlin of February 26th, 1885, the accomplishment of the obligations which it has contracted by virtue of the General Act of Brussels of July 2nd, 1890, the United States waives any objection on its part to the collection of import duties upon merchandise imported into that Protectorate.

The tariff of these duties, as provided in the Declaration of Brussels bearing the same date as the said General Act of Brussels, for the period of fifteen years next ensuing from that date, is not to exceed ten per centum of the value of the merchandise at the port of importation, except for spirits and for firearms and ammunition, which are regulated by the General Act of Brussels.

At the expiration of the said period of fifteen years, and in default of a new agreement, the United States will, with respect to this subject, be restored to the relations with the said Protectorate which

existed prior to the Conclusion of this Convention, the right to impose thereafter import duties to a maximum of ten per centum upon merchandise imported into the said Protectorate remaining acquired to the latter so long only as it shall continue to comply with the conditions and limitations stated in this Convention.

ARTICLE II.

The United States shall enjoy in the said Protectorate as to import duties all the advantages accorded to the most favored nation.

Neither differential treatment nor transit duty shall be established in said Protectorate.

In the application of the tariff régime of the said Protectorate, the formalities and operations of commerce shall be simplified and facilitated so far as possible.

ARTICLE III.

Considering the fact that in Article I of this Convention the United States has given its assent under certain conditions to the establishment of import duties in that portion of the Dominions of His Highness the Sultan of Zanzibar which is under the protection of Great Britain, it is well understood that the said Protectorate assures to the flag, to the vessels, to the commerce, and to the citizens and inhabitants of the United States, in all parts of the territory of that Protectorate, all the rights, privileges and immunities concerning import and export duties, tariff régime, interior taxes and charges and, in a general manner, all commercial interests, which are or shall be accorded to the signatory Powers of the Act of Berlin, or to the most favored nation.

This Convention shall be ratified, and the ratifications shall be exchanged at Washington as soon as may be and within twelve months from the date hereof.

Done in duplicate at Washington this thirty-first day of May, in the year of our Lord one thousand nine hundred and two.

JOHN HAY [SEAL.]
ARTHUR S RAIKES [SEAL.]

And whereas the Convention has been duly ratified, as amended, on both parts, and the ratifications of the two Governments were exchanged in the city of Washington on the 17th day of October, one thousand, nine hundred and two:

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention, as amended, 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 seventeenth day of October, in the year of Our Lord one thousand nine hundred and two
[SEAL] and of the Independence of the United States, the one hundred and twenty-seventh.

THEODORE ROOSEVELT

By the President:

JOHN HAY
Secretary of State.

**PROTECTION OF AMERICAN INTERESTS BY BRITISH VICE-CONSUL
AT BITLIS, TURKEY.^a**

Mr. Hay to Mr. Choate.

No. 1034.]

DEPARTMENT OF STATE,
Washington, October 18, 1902.

SIR: The Department has corresponded with the American legation at Constantinople and the United States consul at Erzerum with reference to the protection of American interests at Bitlis. The upshot of this correspondence is that the British vice-consul at Bitlis has been authorized by the British ambassador in Turkey to use his good offices on behalf of American interests in his consular district. In his No. 282, of the 30th ultimo, the chargé d'affaires ad interim of the United States to the Ottoman Porte writes that he has received the customary ministerial letter authorizing His Britannic Majesty's vice-consul to protect American interests as requested.

You will express to Lord Lansdowne this Government's appreciation of the courtesy shown in permitting the vice-consul to assume charge of those interests.

I am, etc.,

JOHN HAY.

**TEXT OF COMMERCIAL TREATY BETWEEN GREAT BRITAIN AND
CHINA.**

Mr. Carter to Mr. Hay.

No. 959.]

AMERICAN EMBASSY,
London, October 22, 1902.

SIR: I have the honor to inclose for your information copies of a Parliamentary publication which has just been received from the foreign office containing a dispatch from His Majesty's special commissioner inclosing the treaty between Great Britain and China, signed at Shanghai, September 5, 1902.

I have, etc.,

JOHN RIDGELY CARTER
(For the Ambassador).

[Inclosure.]

Dispatch from His Majesty's special commissioner, inclosing the treaty between Great Britain and China, signed at Shanghai, September 5, 1902.

No. 1.

Sir J. Mackay to the Marquis of Lansdowne.

SHANGHAI, *September 8, 1902.* (Received October 13.)

MY LORD: I have now the honor to transmit to your lordship the original signed copies, in English and Chinese, of the new treaty which under your lordship's instructions has been made between Great Britain and China. The treaty was signed on the 5th instant.

I have, etc.

JAS. L. MACKAY.

^a See also under Turkey.

[Inclosure in No. 1.]

Treaty between Great Britain and China, signed at Shanghai September 5, 1902.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Majesty the Emperor of China, having resolved to enter into negotiations with a view to carrying out the provision contained in article 11 of the final protocol, signed at Peking on the 7th September, 1901, under which the Chinese Government agreed to negotiate the amendments deemed useful by the foreign governments to the treaties of commerce and navigation and other subjects concerning commercial relations, with the object of facilitating them, have for that purpose named as their plenipotentiaries, that is to say:

His Majesty the King of Great Britain and Ireland, His Majesty's special commissioner, Sir James Lyle Mackay, knight commander of the Most Eminent Order of the Indian Empire, a member of the council of the secretary of state for India, etc.;

And His Majesty the Emperor of China, the imperial commissioners, Lü Hai-huan, president of the board of public works, etc., and Shêng Hsüan-huai, junior guardian of the heir apparent, senior vice-president of the board of public works, etc.;

Who, having communicated to each other their respective full powers and found them to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I.

Delay having occurred in the past in the issue of drawback certificates, owing to the fact that those documents have to be dealt with by the superintendent of customs at a distance from the customs office, it is now agreed that drawback certificates shall hereafter in all cases be issued by the imperial maritime customs within three weeks of the presentation to the customs of the papers entitling the applicant to receive such drawback certificates.

These certificates shall be valid tender to the customs authorities in payment of any duty upon goods imported or exported (transit dues excepted), or shall, in the case of drawbacks on foreign goods reexported abroad within three years from the date of importation, be payable in cash without deduction by the customs bank at the place where the import duty was paid.

But if, in connection with any application for a drawback certificate, the customs authorities discover an attempt to defraud the revenue, the applicant shall be liable to a fine not exceeding five times the amount of the duty whereof he attempted to defraud the customs, or to a confiscation of the goods.

ARTICLE II.

China agrees to take the necessary steps to provide for a uniform national coinage which shall be legal tender in payment of all duties, taxes, and other obligations throughout the Empire by British as well as Chinese subjects.

ARTICLE III.

China agrees that the duties and likin combined levied on goods carried by junks from Hongkong to the treaty ports in the Canton province, and vice versa, shall together not be less than the duties charged by the imperial maritime customs on similar goods carried by steamer.

ARTICLE IV.

Whereas questions have arisen in the past concerning the rights of Chinese subjects to invest money in non-Chinese enterprises and companies, and whereas it is a matter of common knowledge that large sums of Chinese capital are so invested, China hereby agrees to recognize the legality of all such investments, past, present, and future.

It being, moreover, of the utmost importance that all shareholders in a joint stock company should stand on a footing of perfect equality as far as mutual obligations are concerned, China further agrees that Chinese subjects who have or may become shareholders in any British joint stock company shall be held to have accepted, by the very act of becoming shareholders, the charter of incorporation or memorandum and articles of association of such company, and regulations framed thereunder as interpreted by British courts, and that Chinese courts shall enforce compliance therewith by such Chinese shareholders if a suit to that effect be entered, provided always

that their liability shall not be other or greater than that of British shareholders in the same company.

Similarly the British Government agree that British subjects investing in Chinese companies shall be under the same obligations as the Chinese shareholders in such companies.

The foregoing shall not apply to cases which have already been before the courts and been dismissed.

ARTICLE V.

The Chinese Government undertake to remove within the next two years the artificial obstructions to navigation in the Canton River. The Chinese Government also agree to improve the accommodation for shipping in the harbor of Canton, and to take the necessary steps to maintain that improvement, such work to be carried out by the imperial maritime customs, and the cost thereof to be defrayed by a tax on goods landed and shipped by British and Chinese alike according to a scale to be arranged between the merchants and customs.

The Chinese Government are aware of the desirability of improving the navigability by steamer of the waterway between Ichang and Chungking, but are also fully aware that such improvement might involve heavy expense, and would affect the interests of the population of the provinces of Szechuen, Hunan, and Hupeh. It is therefore mutually agreed that until improvements can be carried out steamship owners shall be allowed, subject to approval by the imperial maritime customs, to erect, at their own expense, appliances for hauling through the rapids. Such appliances shall be at the disposal of all vessels, both steamers and junks, subject to regulations to be drawn up by the imperial maritime customs. These appliances shall not obstruct the waterway or interfere with the free passage of junks. Signal stations and channel marks where and when necessary shall be erected by the imperial maritime customs. Should any practical scheme be presented for improving the waterway and assisting navigation without injury to the local population or cost to the Chinese Government it shall be considered by the latter in a friendly spirit.

ARTICLE VI.

The Chinese Government agree to make arrangements to give increased facilities at the open ports for bonding and for repacking merchandise in bond, and, on official representation being made by the British authorities, to grant the privilege of a bonded warehouse to any warehouse which it is established to the satisfaction of the customs authorities affords the necessary security to the revenue.

Such warehouses will be subject to regulations, including a scale of fees according to commodities, distance from custom-house, and hours of working, to be drawn up by the customs authorities, who will meet the convenience of merchants so far as is compatible with the protection of the revenue.

ARTICLE VII.

Inasmuch as the British Government afford protection to Chinese trade-marks against infringement, imitation, or colorable imitation by British subjects, the Chinese Government undertake to afford protection to British trade-marks against infringement, imitation, or colorable imitation by Chinese subjects.

The Chinese Government further undertake that the superintendents of northern and of southern trade shall establish offices within their respective jurisdictions under control of the imperial maritime customs, where foreign trade-marks may be registered on payment of a reasonable fee.

ARTICLE VIII.

PREAMBLE.

The Chinese Government, recognizing that the system of levying likin and other dues on goods at the place of production, in transit, and at destination, impedes the free circulation of commodities and injures the interests of trade, hereby undertake to discard completely these means of raising revenue with the limitation mentioned in section 8.

The British Government, in return, consent to allow a surtax in excess of the tariff rates for the time being in force to be imposed on foreign goods imported by British subjects and a surtax in addition to the export duty on Chinese produce destined for export abroad or coastwise.

It is clearly understood that, after likin barriers and other stations for taxing goods

in transit have been removed, no attempt shall be made to revive them in any form or under any pretext whatsoever; that in no case shall the surtax on foreign imports exceed the equivalent of one and a half times the import duty leviable in terms of the final protocol signed by China and the powers on the 7th day of September, 1901; that payment of the import duty and surtax shall secure for foreign imports, whether in the hands of Chinese or non-Chinese subject, in original packages or otherwise, complete immunity from all other taxation, examination, or delay; that the total amount of taxation leviable on native produce for export abroad shall under no circumstances exceed $7\frac{1}{2}$ per cent ad valorem.

Keeping these fundamental principles steadily in view, the high contracting parties have agreed upon the following methods of procedure:

SECTION 1. The Chinese Government undertake that all barriers of whatsoever kind, collecting likin or such like dues or duties, shall be permanently abolished on all roads, railways, and waterways in the eighteen provinces of China and the three eastern provinces. This provision does not apply to the native custom-houses at present in existence on the seaboard or waterways, at open ports, on land routes, and on land frontiers of China.

SEC. 2. The British Government agree that foreign goods on importation, in addition to the effective 5 per cent import duty, as provided for in the protocol of 1901, shall pay a special surtax equivalent to one and a half times the said duty to compensate for the abolition of likin, of transit dues in lieu of likin, and of all other taxation on foreign goods, and in consideration of the other reforms provided for in this article; but this provision shall not impair the right of China to tax salt, native opium, and native produce as provided for in sections 3, 5, 6, and 8.

The same amount of surtax shall be levied on goods imported into the eighteen provinces of China and the three eastern provinces across the land frontiers as on goods entering China by sea.

SEC. 3. All native custom-houses now existing, whether at the open ports, on the seaboard, on rivers, inland waterways, land routes, or land frontiers, as enumerated in the Hu Pu and Kung Pu Tse Li (regulations of the boards of revenue and works) and Ta Ch'ing Hui Tien (dynastic institutes), may remain; a list of the same, with their location, shall be furnished to the British Government for purposes of record.

Wherever there are imperial maritime custom-houses, or wherever such may be hereafter placed, native custom-houses may be also established, as well as at any points either on the seaboard or land frontiers.

The location of native custom-houses in the interior may be changed as the circumstances of trade seem to require, but any change must be communicated to the British Government, so that the list may be corrected; the originally stated number of them shall not, however, be exceeded.

Goods carried by junks or sailing vessels trading to or from open ports shall not pay lower duties than the combined duties and surtax on similar cargo carried by steamers.

Native produce, when transported from one place to another in the interior, shall, on arrival at the first native custom-house after leaving the place of production, pay duty equivalent to the export surtax mentioned in section 7.

When this duty has been paid, a certificate shall be given which shall describe the nature of the goods, weight, number of packages, etc., amount of duty paid, and intended destination. This certificate, which shall be valid for a fixed period of not less than one year from date of payment of duty, shall free the goods from all taxation, examination, delay, or stoppage at any other native custom-house passed en route.

If the goods are taken to a place not in the foreign settlements or concessions of an open port, for local use, they become there liable to the consumption tax described in section 8.

If the goods are shipped from an open port, the certificate is to be accepted by the custom-house concerned in lieu of the export surtax mentioned in section 7.

Junks, boats, or carts shall not be subjected to any taxation beyond a small and reasonable charge, paid periodically at a fixed annual rate. This does not exclude the right to levy, as at present, tonnage (chuan chao) and port dues (chuan liao) on junks.

SEC. 4. Foreign opium duty and present likin—which latter will now become a surtax in lieu of likin—shall remain as provided for by existing treaties.

SEC. 5. The British Government have no intention whatever of interfering with China's right to tax native opium, but it is essential to declare that, in her arrangements for levying such taxation, China will not subject other goods to taxation, delay, or stoppage.

China is free to retain at important points on the borders of each province—either on land or water—offices for collecting duty on native opium, where duties or contributions leviable shall be paid in one lump sum; which payment shall cover taxation of all kinds within that province. Each cake of opium will have a stamp affixed as evidence of duty payment. Excise officers and police may be employed in connection with these offices, but no barriers or other obstructions are to be erected, and the excise officers or police of these offices shall not stop or molest any other kinds of goods, or collect taxes thereon.

A list of these offices shall be drawn up and communicated to the British Government for record.

SEC. 6. Likin on salt is hereby abolished and the amount of said likin and of other taxes and contributions shall be added to the salt duty, which shall be collected at place of production or at first station after entering the province where it is to be consumed.

The Chinese Government shall be at liberty to establish salt-reporting offices at which boats conveying salt which is being moved under salt passes or certificates may be required to stop for purposes of examination, and to have their certificates viséd, but at such offices no likin or transit taxation shall be levied and no barriers or obstructions of any kind shall be erected.

SEC. 7. The Chinese Government may recast the export tariff with specific duties, as far as practicable, on a scale not exceeding 5 per cent ad valorem, but existing export duties shall not be raised until at least six months' notice has been given.

In cases where existing export duties are above 5 per cent they shall be reduced to not more than that rate.

An additional special surtax of one-half the export duty payable for the time being, in lieu of internal taxation and likin, may be levied at time of export on goods exported either to foreign countries or coastwise.

In the case of silk, whether hand or filature reeled, the total export duty shall not exceed a specific rate equivalent to not more than 5 per cent ad valorem. Half of this specific duty may be levied at the first native custom-house in the interior which the silk may pass, and in such case a certificate shall be given as provided for in section 3, and will be accepted by the custom-house concerned at place of export in lieu of half the export duty. Cocoons passing native custom-houses shall be liable to no taxation whatever. Silk not exported, but consumed in China, is liable to the consumption tax mentioned, and under conditions mentioned, in section 8.

SEC. 8. The abolition of the likin system in China and the abandonment of all other kinds of internal taxation on foreign imports and on exports will diminish the revenue materially. The surtax on foreign imports and exports and on coastwise exports is intended to compensate in a measure for this loss of revenue, but there remains the loss of likin revenue on internal trade to be met, and it is therefore agreed that the Chinese Government are at liberty to impose a consumption tax on articles of Chinese origin not intended for export.

This tax shall be levied only at places of consumption, and not on goods while in transit, and the Chinese Government solemnly undertake that the arrangements which they may make for its collection shall in no way interfere with foreign goods or with native goods for export. The fact of goods being of foreign origin shall of itself free them from all taxation, delay, or stoppage after having passed the custom-house.

Foreign goods which bear a similarity to native goods shall be furnished by the custom-house, if required by the owner, with a protective certificate for each package, on payment of import duty and surtax, to prevent the risk of any dispute in the interior.

Native goods brought by junks to open ports, if intended for local consumption—irrespective of the nationality of the owner of the goods—shall be reported at the native custom-house only, where the consumption tax may be levied.

China is at liberty to fix the amount of this (consumption) tax, which may vary according to the nature of the merchandise concerned, that is to say, according as the articles are necessaries of life or luxuries; but it shall be levied at a uniform rate on goods of the same description, no matter whether carried by junk, sailing vessel, or steamer. As mentioned in section 3, the consumption tax is not to be levied within foreign settlements or concessions.

SEC. 9. An excise equivalent to double the import duty as laid down in the protocol of 1901 is to be charged on all machine-made yarn and cloth manufactured in China, whether by foreigners at the open ports or by Chinese anywhere in China.

A rebate of the import duty and two-thirds of the import surtax is to be given on raw cotton imported from foreign countries, and of all duties, including consumption tax, paid on Chinese raw cotton used in mills in China.

Chinese machine-made yarn or cloth having paid excise is to be free of export duty,

export surtax, coast-trade duty, and consumption tax. This excise is to be collected through the imperial maritime customs.

The same principle and procedure are to be applied to all other products of foreign type turned out by machinery, whether by foreigners at the open ports or by Chinese anywhere in China.

This stipulation is not to apply to the outturn of the Hanyang and Ta Yeh Iron Works in Hupeh and other similar existing Government works at present exempt from taxation; or to that of arsenals, Government dockyards, or establishments of that nature for Government purposes which may hereafter be erected.

SEC. 10. A member or members of the imperial maritime customs foreign staff shall be selected by each of the governors-general and governors, and appointed, in consultation with the inspector-general of the imperial maritime customs, to each province for duty in connection with native custom affairs, consumption tax, salt, and native opium taxes. These officers shall exercise an efficient supervision of the working of these departments, and in the event of their reporting any case of abuse, illegal exaction, obstruction to the movement of goods, or other cause of complaint, the governor-general or governor concerned will take immediate steps to put an end to same.

SEC. 11. Cases where illegal action as described in this article is complained of shall be promptly investigated by an officer of the Chinese Government of sufficiently high rank, in conjunction with a British officer and an officer of the imperial maritime customs, each of sufficient standing; and in the event of its being found by a majority of the investigating officers that the complaint is well founded and loss has been incurred, due compensation is to be at once paid from the surtax funds, through the imperial maritime customs at the nearest open port. The high provincial officials are to be held responsible that the officer guilty of the illegal action shall be severely punished and removed from his post.

If the complaint turns out to be without foundation, complainant shall be held responsible for the expenses of the investigation.

His Britannic Majesty's minister will have the right to demand investigation where, from the evidence before him, he is satisfied that illegal exactions or obstructions have occurred.

SEC. 12. The Chinese Government agree to open to foreign trade, on the same footing as the places opened to foreign trade by the treaties of Nankin and Tientsin, the following places, namely:

Ch'angsha, in Hunan;
Wanhsien, in Szechuen;
Nganking, in Anhui;
Waichow (Huichow), in Kuangtung; and
Kongmoon (Chiangmen), in Kuangtung.

Foreigners residing in these open ports are to observe the municipal and police regulations on the same footing as Chinese residents, and they are not to be entitled to establish municipalities and police of their own within the limits of these treaty ports, except with the consent of the Chinese authorities.

If this article does not come into operation, the right to demand under it the opening of these ports, with the exception of Kongmoon, which is provided for in Article X, shall lapse.

SEC. 13. Subject to the provisions of section 14, the arrangements provided for in this article are to come into force on the 1st January, 1904.

By that date all likin barriers shall be removed, and officials employed in the collection of taxes and dues prohibited by this article shall be removed from their posts.

SEC. 14. The condition on which the Chinese Government enter into the present engagement is that all powers entitled to most-favored-nation treatment in China enter into the same engagements as Great Britain with regard to the payment of surtaxes and other obligations imposed by this article on His Britannic Majesty's Government and subjects.

The conditions on which his Britannic Majesty's Government enter into the present engagements are:

(1) That all powers who are now or who may hereafter become entitled to most-favored-nation treatment in China enter into the same engagements.

(2) And that their assent is neither directly nor indirectly made dependent on the granting by China of any political concession or of any exclusive commercial concession.

SEC. 15. Should the powers entitled to most-favored-nation treatment by China have failed to agree to enter into the engagements undertaken by Great Britain under this article by the 1st January, 1904, then the provisions of the article shall only come into force when all the powers have signified their acceptance of these engagements.

SEC. 16. When the abolition of likin and other forms of internal taxation on goods as provided for in this article has been decided upon and sanctioned, an imperial edict shall be published in due form on yellow paper and circulated, setting forth the abolition of all likin taxation, likin barriers, and all descriptions of internal taxation on goods, except as provided for in this article.

The edict shall state that the provincial high officials are responsible that any official disregarding the letter or spirit of its injunction shall be severely punished and removed from his post.

ARTICLE IX.

The Chinese Government, recognizing that it is advantageous for the country to develop its mineral resources, and that it is desirable to attract foreign as well as Chinese capital to embark in mining enterprises, agree within one year from the signing of this treaty to initiate and conclude the revision of the existing mining regulations. China will, with all expedition and earnestness, go into the whole question of mining rules, and selecting from the rules of Great Britain, India, and other countries regulations which seem applicable to the condition of China, she will recast her present mining rules in such a way as, while promoting the interests of Chinese subjects and not injuring in any way the sovereign rights of China, shall offer no impediment to the attraction of foreign capital or place foreign capitalists at a greater disadvantage than they would be under generally accepted foreign regulations.

Any mining concession granted after the publication of these new rules shall be subject to their provisions.

ARTICLE X.

Whereas in the year 1898 the inland waters of China were opened to all such steam vessels, native or foreign, as might be especially registered for that trade at the treaty ports, and whereas the regulations dated the 28th July, 1898, and supplementary rules dated September, 1898, have been found in some respects inconvenient in working, it is now mutually agreed to amend them and to annex such new rules to this treaty. These rules shall remain in force until altered by mutual consent.

It is further agreed that Kongmoon shall be opened as a treaty port, and that, in addition to the places named in the special article of the Burmah convention of the 4th February, 1897, British steamers shall be allowed to land or ship cargo and passengers, under the same regulations as apply to the "ports of call" on the Yangtze River, at the following "ports of call": Pak Tau Hau (Pait'u k'ou), Lo Ting Hau (Loting k'ou), and Do Sing (Touch'eng); and to land or discharge passengers at the following 10 passenger landing stages on the West River: Yung Ki (Jungchi), Mah Ning (Maning), Kau Kong (Chiuchiang), Kulow (Kulao), Wing On (Yungan), How Lik (Houli), Luk Pu (Lupu), Yuet Sing (Yuehch'eng), Luk To (Lutu), and Fung Chuen (Fengch'uan).

ARTICLE XI.

His Britannic Majesty's Government agree to the prohibition of the general importation of morphia into China, on condition, however, that the Chinese Government will allow of its importation, on payment of the tariff import duty and under special permit, by duly qualified British medical practitioners and for the use of hospitals, or by British chemists and druggists, who shall only be permitted to sell it in small quantities and on receipt of a requisition signed by a duly qualified foreign medical practitioner.

The special permits above referred to will be granted to an intending importer on his signing a bond before a British consul guaranteeing the fulfillment of these conditions. Should an importer be found guilty before a British consul of a breach of his bond, he will not be entitled to take out another permit. Any British subject importing morphia without a permit shall be liable to have such morphia confiscated.

This article will come into operation on all other treaty powers agreeing to its conditions, but any morphia actually shipped before that date will not be affected by this prohibition.

The Chinese Government, on their side, undertake to adopt measures at once to prevent the manufacture of morphia in China.

ARTICLE XII.

China having expressed a strong desire to reform her judicial system and to bring it into accord with that of Western nations, Great Britain agrees to give every assist-

ance to such reform, and she will also be prepared to relinquish her extraterritorial rights when she is satisfied that the state of the Chinese laws, the arrangement of their administration, and other considerations warrant her in so doing.

ARTICLE XIII.

The missionary question in China being, in the opinion of the Chinese Government, one requiring careful consideration, so that, if possible, troubles such as have occurred in the past may be averted in the future, Great Britain agrees to join in a commission to investigate this question, and, if possible, to devise means for securing permanent peace between converts and nonconverts, should such a commission be formed by China and the treaty powers interested.

ARTICLE XIV.

Whereas under Rule V, appended to the treaty of Tientsin of 1858, British merchants are permitted to export rice and all other grain from one port of China to another under the same conditions in respect of security as copper "cash," it is now agreed that in cases of expected scarcity or famine, from whatsoever cause, in any district, the Chinese Government shall, on giving twenty-one days' notice, be at liberty to prohibit the shipment of rice and other grain from such district.

Should any vessel specially chartered to load rice or grain previously contracted for have arrived at her loading port prior to or on the day when a notice of prohibition to export comes into force she shall be allowed an extra week in which to ship her cargo.

If, during the existence of this prohibition, any shipment of rice or grain is allowed by the authorities, the prohibition shall, ipso facto, be considered canceled, and shall not be reimposed until six weeks' notice has been given.

When a prohibition is notified it will be stated whether the Government have any tribute or army rice which they intend to ship during the time of prohibition, and, if so, the quantity shall be named.

Such rice shall not be included in the prohibition, and the customs shall keep a record of any tribute or army rice so shipped or landed.

The Chinese Government undertake that no rice, other than tribute or army rice belonging to the Government, shall be shipped during the period of prohibition.

Notifications of prohibitions and of the quantities of army or tribute rice for shipment shall be made by the governors of the provinces concerned.

Similarly, notifications of the removals of prohibitions shall be made by the same authorities.

The export of rice and other grain to foreign countries remains prohibited.

ARTICLE XV.

It is agreed that either of the high contracting parties to this treaty may demand a revision of the tariff at the end of ten years; but if no demand be made on either side within six months after the end of the first ten years, then the tariff shall remain in force for ten years more, reckoned from the end of the preceding ten years, and so it shall be at the end of each successive ten years.

Any tariff concession which China may hereafter accord to articles of the produce or manufacture of any other State shall immediately be extended to similar articles of the produce or manufacture of His Britannic Majesty's dominions by whomsoever imported.

Treaties already existing between the United Kingdom and China shall continue in force in so far as they are not abrogated or modified by stipulations of the present treaty.

ARTICLE XVI.

The English and Chinese texts of the present treaty have been carefully compared, but in the event of there being any difference of meaning between them, the sense as expressed in the English text shall be held to be the correct sense.

The ratifications of this treaty, under the hand of His Majesty the King of Great Britain and Ireland and of His Majesty the Emperor of China respectively, shall be exchanged at Peking within a year from this day of signature.

In token whereof the respective plenipotentiaries have signed and sealed this treaty—two copies in English and two in Chinese.

Done at Shanghae this 5th day of September, in the year of our Lord 1902, corresponding with the Chinese date the 4th day of the 8th moon of the 28th year of Kwang Hsü.

[L. s.]

JAS. L. MACKAY.

[Signature of His Excellency Lü Hai-huan.]

[Signature of His Excellency Shêng Hsüan-huai.]

[Seal of the Chinese plenipotentiaries.]

ANNEX A (1).

[Translation.]

Lü, president of the board of works; Shêng, junior guardian of the heir apparent, vice-president of the board of works; imperial Chinese commissioners for dealing with the questions connected with the commercial treaties, to Sir James Mackay, His Britannic Majesty's special commissioner for the discussion of treaty matters.

SHANGHAE, K. H. xxviii, 7th moon, 11th day—(Received August 15, 1902).

We have the honor to inform you that we have received the following telegram from His Excellency Liu, governor-general of the Liang Chiang, on the subject of clause 2, mutually agreed upon by us:

“As regards this clause, it is necessary to insert therein a clear stipulation to the effect that, no matter what changes may take place in the future, all customs duties must continue to be calculated on the basis of the existing higher rate of the haikwan tael over the treasury tael, and that the ‘touch’ and weight of the former must be made good.”

As we have already arranged with you that a declaration of this kind should be embodied in an official note, and form an annex to the present treaty, for purposes of record, we hereby do ourselves the honor to make this communication.

[Seal of the imperial commissioners for dealing with questions connected with treaty revision.]

ANNEX A (2).

SHANGHAE, August 18, 1902.

GENTLEMEN: I have the honor to acknowledge the receipt of your dispatch of the 14th instant, forwarding copy of a telegram from His Excellency Liu, governor-general of the Liang Chiang, on the subject of Article II of the new treaty, and, in reply, I have the honor to state that his excellency's understanding of the article is perfectly correct.

I presume the Chinese Government will make arrangements for the coinage of a national silver coin of such weight and touch as may be decided upon by them. These coins will be made available to the public in return for a quantity of silver bullion of equivalent weight and fineness, plus the usual mintage charge.

The coins, which will become the national coinage of China, will be declared by the Chinese Government to be legal tender in payment of customs duty and in discharge of obligations contracted in haikwan taels, but only at their proportionate value to the haikwan tael, whatever that may be.

I have, etc.,

JAS. L. MACKAY.

Their Excellencies LÜ HAI-HUAN and SHÊNG HSÜAN-HUAI, etc.

ANNEX B (1).

[Translation.]

Lü, president of the board of works; Shêng, junior guardian of the heir apparent, vice-president of the board of works; imperial Chinese commissioners for dealing with questions connected with the commercial treaties; to Sir James L. Mackay, His Britannic Majesty's special commissioner:

SHANGHAI, September 2, 1902.

We have the honor to inform you that on the 22d August we, in conjunction with the governors-general of the Liang Chiang and the Hukuang provinces, their Excellencies Liu and Chang addressed the following telegraphic memorial to the Throne:

“Of the revenue of the different provinces derived from *likin* of all kinds, a por-

tion is appropriated for services of the foreign loans, a portion for the Pekin Government, and the balance is reserved for the local expenditure of the provinces concerned.

"In the negotiations now being conducted with Great Britain for the amendment of the commercial treaties a mutual arrangement has been come to providing for the imposition of additional taxes in compensation for the abolition of all kinds of likin and other imposts on goods prohibited by Article VIII. After payment of interest and sinking fund on the existing foreign loan to the extent to which likin is thereto pledged, these additional taxes shall be allocated to the various provinces to make up deficiencies and replace revenue, in order that no hardships may be entailed on them. With a view to preserving the original intention underlying the proposal to increase the duties in compensation for the loss of revenue derived from likin and other imposts on goods, it is further stipulated that the surtaxes shall not be appropriated for other purposes, shall not form part of the imperial maritime customs revenue proper, and shall in no case be pledged as security for any new foreign loan.

"It is therefore necessary to memorialize for the issue of an edict giving effect to the abovestipulations and directing the board of revenue to find out what proportion of the provincial revenues derived from likin of all kinds, now about to be abolished, each province has hitherto had to remit, and what proportion it has been entitled to retain, so that when the article comes into operation due apportionment may be made accordingly, thus providing the provinces with funds available for local expenditure and displaying equitable and just treatment toward all."

On the 1st instant an imperial decree, "Let action, as requested, be taken," was issued, and we now do ourselves the honor reverently to transcribe the same for your information.

[Seal of the imperial commissioners for dealing with questions connected with treaty revision.]

ANNEX B (2).

SHANGHAI, *September 5, 1902.*

GENTLEMEN: I have the honor to acknowledge the receipt of your dispatch of the 2d instant forwarding the text of the memorial and decree dealing with the disposal of the surtaxes.

I understand that the surtaxes, in addition to not being pledged for any new foreign loan, are not to be pledged to, or held to be security for, liabilities already contracted by China, except in so far as likin revenue has already been pledged to an existing loan.

I also understand from the memorial that the whole of the surtaxes provided by Article VIII of the new treaty goes to the provinces in proportions to be agreed upon between them and the board of revenue, but that out of these surtaxes each province is obliged to remit to Pekin the same contribution as that which it has hitherto remitted out of its likin collections, and that the provinces also provide as hitherto out of these surtax funds whatever may be necessary for the service of the foreign loan to which likin is partly pledged.

I hope your excellencies will send me a reply to this dispatch, and that you will agree to this correspondence forming part of the treaty as an annex.

I have, etc.,

JAS. L. MACKAY.

Their Excellencies LÜ HAI-HUAN and SHÈNG HSÜAN-HUAL, etc.

ANNEX B (3).

[Translation.]

Lü, president of the board of works; Shêng, junior guardian of the heir apparent, vice-president of the board of works; imperial Chinese commissioners for dealing with questions connected with the commercial treaties; to Sir James L. Mackay, His Britannic Majesty's special commissioner.

SHANGHAI, *September 5, 1902.*

We have the honor to acknowledge the receipt of your communication of to-day's date with regard to the allocation of the surtax funds allotted to the provinces, and to inform you that the views therein expressed are the same as our own.

We would, however, wish to point out that, were the whole amount of the allocation due paid over to the provinces, unnecessary expense would be incurred in the retransmission by them of such portions thereof as would have to be remitted to Peking in place of the contributions hitherto payable out of likin revenue. The amount, therefore, of the allocation due to the provinces, arranged between them and the board of revenue, will be retained in the hands of the maritime customs, who will await the instructions of the provinces in regard to the remittance of such portion thereof as may be necessary to fulfill their obligations, and (on receipt of these instructions) will send forward the amount direct. The balance will be held to the order of the provinces.

In so far as likin is pledged to the service of the 1898 loan, a similar method of procedure will be adopted.

As you request that this correspondence be annexed to the treaty, we have the honor to state that we see no objection to this being done.

[Seal of the imperial commissioners for dealing
with questions connected with treaty revision.]

ANNEX C.

Inland waters steam navigation.

ADDITIONAL RULES.

1. British steamship owners are at liberty to lease warehouses and jetties on the banks of waterways from Chinese subjects for a term not exceeding twenty-five years, with option of renewal on terms to be mutually arranged. In cases where British merchants are unable to secure warehouses and jetties from Chinese subjects on satisfactory terms, the local officials, after consultation with the minister of commerce, shall arrange to provide these on renewable lease, as above mentioned, at current equitable rates.

2. Jetties shall only be erected in such positions that they will not obstruct the inland waterway or interfere with navigation, and with the sanction of the nearest commissioner of customs; such sanction, however, shall not be arbitrarily withheld.

3. British merchants shall pay taxes and contributions on these warehouses and jetties on the same footing as Chinese proprietors of similar properties in the neighborhood. British merchants may only employ Chinese agents and staff to reside in warehouses so leased at places touched at by steamers engaged in inland traffic to carry on their business; but British merchants may visit these places from time to time to look after their affairs. The existing rights of Chinese jurisdiction over Chinese subjects shall not by reason of this clause be diminished or interfered with in any way.

4. Steam vessels navigating the inland waterways of China shall be responsible for loss caused to riparian proprietors by damage which they may do to the banks or works on them, and for the loss which may be caused by such damage. In the event of China desiring to prohibit the use of some particular shallow waterway by launches, because there is reason to fear that the use of it by them would be likely to injure the banks and cause damage to the adjoining country, the British authorities, when appealed to, shall, if satisfied of the validity of the objection, prohibit the use of that waterway by British launches, provided that Chinese launches are also prohibited from using it.

Both foreign and Chinese launches are prohibited from crossing dams and weirs at present in existence on inland waterways where they are likely to cause injury to such works, which would be detrimental to the water service of the local people.

5. The main object of the British Government in desiring to see the inland waterways of China opened to steam navigation being to afford facilities for the rapid transport of both foreign and native merchandise, they undertake to offer no impediment to the transfer to a Chinese company and the Chinese flag of any British steamer which may now or hereafter be employed on the inland waters of China, should the owner be willing to make the transfer.

In the event of a Chinese company registered under Chinese law being formed to run steamers on the inland waters of China, the fact of British subjects holding shares in such a company shall not entitle the steamers to fly the British flag.

6. Registered steamers and their tows are forbidden, just as junks have always been forbidden, to carry contraband goods. Infraction of this rule will entail the penalties prescribed in the treaties for such an offense, and cancellation of the inland-

waters navigation certificate carried by the vessels, which will be prohibited from thereafter plying on inland waters.

7. As it is desirable that the people living inland should be disturbed as little as possible by the advent of steam vessels to which they are not accustomed, inland waters not hitherto frequented by steamers shall be opened as gradually as may be convenient to merchants, and only as the owners of steamers may see prospect of remunerative trade.

In cases where it is intended to run steam vessels on waterways on which such vessels have not hitherto run, intimation shall be made to the commissioner of customs at the nearest open port, who shall report the matter to the ministers of commerce. The latter, in conjunction with the governor-general or the governor of the province, after careful consideration of all the circumstances of the case, shall at once give their approval.

8. A registered steamer may ply within the waters of a port, or from one open port or ports to another open port or ports, or from one open port or ports to places inland, and thence back to such port or ports. She may, on making due report to the customs, land or ship passengers or cargo at any recognized places of trade passed in the course of the voyage, but may not ply between inland places exclusively except with the consent of the Chinese Government.

9. Any cargo and passenger boats may be towed by steamers. The helmsman and crew of any boat towed shall be Chinese. All boats, irrespective of ownership, must be registered before they can proceed inland.

10. These rules are supplementary to the inland steam-navigation regulations of July and September, 1898. The latter, where untouched by the present rules, remain in full force and effect, but the present rules hold in the case of such of the former regulations as the present rules affect. The present rules and the regulations of July and September, 1898, to which they are supplementary, are provisional and may be modified, as circumstances require, by mutual consent.

Done at Shanghai this 5th day of September, in the year of our Lord 1902, corresponding with the Chinese date the 4th day of the 8th moon of the 28th year of Kwang Hsü.

[L.S.]

JAS. L. MACKAY.

[Signature of His Excellency Lü Hai-huan.]

[Signature of His Excellency Shêng Hsüan-huai.]

[Seal of the Chinese plenipotentiaries.]

GREECE.

COURTESIES AT PIRÆUS TO EUROPEAN SQUADRON OF THE UNITED STATES NAVY.

Mr. Francis to Mr. Hay.

No. 53, Greek series.] LEGATION OF THE UNITED STATES,
Athens, February 1, 1902.

SIR: I have the honor to report that the European squadron of the U. S. Navy, consisting of the U. S. S. *Chicago*, *Albany*, and *Nashville*, under command of Rear-Admiral Cromwell, arrived at Piræus January 23 and remained at that port until to-day, when it sailed for Palermo.

The visit of the American war ships to Greek waters elicited much favorable comment, and Admiral Cromwell and his officers were the recipients of marked social attentions during their stay here. They were formally presented by me to their majesties the King and Queen of Greece on January 27. The following evening the annual dinner was given at the palace in honor of the United States legation, to which Admiral Cromwell and nine of his officers were invited. The King and Queen, accompanied by Prince Andreas, visited the flagship *Chicago* on January 31.

In conversation with the American minister Their Majesties expressed great pleasure at the presence of United States war vessels in the harbor of Piræus and said they hoped similar visits by representatives of our Navy would be more frequent in the future than they had been in the past.

I have, etc.,

CHARLES S. FRANCIS.

Mr. Francis to Mr. Hay.

No. 56, Greek series.] LEGATION OF THE UNITED STATES,
Athens, February 6, 1902.

SIR: The recent visit of the European squadron of United States war ships to Hellenic waters has produced much favorable comment among the Greeks, whose sentiments have been widely published in the press of Athens. The general tenor of such expression may be understood from the following translation of a leading editorial that appeared in the *Embros* of February 1:

The American squadron, which has been for some days our guest at Piræus, leaves to-day. It is the first time that the Stars and Stripes have waved in Greece over so many war ships. The sailors on these ships, as well as the millions of their compatriots who live beyond the seas, may be sure their glorious flag never waved in a more friendly port than Piræus. Our nation has welcomed with great pleasure the American officers and their men, and as they depart bestows upon them their

best wishes. We Greeks can not forget the enthusiastic reception accorded our cruiser *Admiral Miaoulis* when it recently visited United States ports, nor can we forget that thousands of our brothers gain an honest livelihood under the protection of the laws of the great and powerful Republic.

Therefore the honors conferred upon the officers of the American fleet by our King were the expression of the actual sentiments of this entire nation. Greece and America are separated by thousands of miles, but distance can not lessen the friendship and admiration we have for the vigorous and magnanimous American people. We to-day are little and weak, while they are big and strong; nevertheless, the noble ideals of the two nations are the same in the main points, and both rise to the same level of moral strength in the work of civilization. In taking leave of us to-day the Americans may rest assured that they are parting with most sincere friends.

I have, etc.,

CHARLES S. FRANCIS.

Mr. Hay to Mr. Francis.

No. 21, Greek series.]

DEPARTMENT OF STATE,
Washington, February 21, 1902.

SIR: I inclose a copy of a letter from the Secretary of the Navy, with inclosure, reporting the courtesy extended by Their Majesties the King and Queen of the Hellenes to the officer commanding the United States naval force on the European Station.

The Department is gratified at the kind reception accorded to Rear-Admiral Cromwell and his staff.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Long to Mr. Hay.

NAVY DEPARTMENT, *Washington, February 17, 1902.*

SIR: I have the honor to inclose herewith for the information of the Department of State a copy of a letter this day received from the commander in chief, United States naval force on the European Station, with regard to his visit to Piræus, Greece.

Very respectfully,

J. W. LONG, *Secretary.*

[Subinclosure.]

Rear-Admiral Cromwell to Mr. Long.

U. S. NAVAL FORCE ON EUROPEAN STATION, FLAGSHIP CHICAGO,
Piræus, Greece, January 31, 1902.

SIR: 1. I have the honor to inform the Department that in reply to inquiry made by the American minister, Mr. Charles S. Francis, Their Majesties the King and Queen of Greece fixed upon Monday, the 27th instant, as the day when it would be agreeable to them to receive a visit from myself and the officers of my staff. Accompanied by the American minister, the commanding officers of the squadron, my fleet and personal staff, in all numbering eleven, we arrived at the palace from Piræus at the appointed time, and were cordially received with all honors by Their Majesties, His Majesty paying us the additional compliment of wearing the uniform of an admiral. We were also presented to Prince George, the governor of Crete, who appeared in the uniform of a vice-admiral.

2. His Majesty invited me to dine at the palace, and the invitation was afterwards formally extended to all the officers who accompanied me and to the American minister and the ladies of his family.

3. The dinner took place on Tuesday, the 28th instant. There were present Their Majesties the Princes Nicholas and Andreas, the ladies in waiting, the marechal, and the chamberlain, the American minister and ladies, the wife and daughter of the American professor, Richardson, the commander in chief and staff, and the commanding officers of the American squadron.

4. Their Majesties in turn accepted my invitation to visit the *Chicago*, and they, accompanied by Prince Andreas and the officials and ladies of the court, were received on board to-day with the prescribed honors, and appropriately entertained. They seemed especially pleased at the formation, drill, and marching of the battalion.

5. Their Majesties expressed their great pleasure at the reception given them, and it was manifestly apparent that they, as well as all others who were present, enjoyed their visit.

Very respectfully,

B. J. CROMWELL,
Rear-Admiral, U. S. Navy, Commander in Chief.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.^a

Mr. Wilson to Mr. Hay.

No. 77, Greek series.] LEGATION OF THE UNITED STATES,
Athens, June 21, 1902.

SIR: I have the honor to inform you that I have received permission from the Greek Government for the United States consular officers in that country to use their good offices in the representation of Cuba and of its citizens until Cuban consuls shall have been appointed, and I have notified the United States consuls in Greece to that effect.

I am, etc.,

CHARLES S. WILSON,
Chargé d'Affaires ad interim.

COURTESIES TO U. S. S. HARTFORD AT PIRÆUS.

Mr. Francis to Mr. Hay.

No. 104, Greek series.] LEGATION OF THE UNITED STATES,
Athens, December 13, 1902.

SIR: I have the honor to report the arrival of the U. S. S. *Hartford* at Piræus, Saturday, December 6, and its departure for Villefranche, Saturday, December 13.

It afforded me pleasure, at a special audience accorded for that purpose on the 10th instant, to present Commander Reeder and his staff to Their Majesties the King and Queen of Greece. On Friday, December 12, the King and Queen, accompanied by the Crown Prince and the Crown Princess and Prince Andreas, visited the *Hartford*. The royal party evidently enjoyed very much inspecting that historic American war ship and accepting the polite attentions and generous hospitality of Commander Reeder and his officers.

The visit of the *Hartford* to Greece made an excellent impression upon the citizens of Athens. The members of the crew and the apprentice boys who enjoyed shore leave behaved in a way that elicited most favorable comment.

I am, etc.,

CHARLES S. FRANCIS.

^aSee instruction, printed, page 6.

Mr. Hay to Mr. Jackson.

No. 4.]

DEPARTMENT OF STATE,
Washington, January 6, 1903.

SIR: With reference to your predecessor's No. 104, of the 13th ultimo, reporting the visit of the U. S. S. *Hartford* to the Piræus, I now inclose for your information the report of that visit as made by the commanding officer of the vessel.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Darling to Mr. Hay.

NAVY DEPARTMENT,
Washington, January 2, 1903.

SIR: I have the honor to inclose, for your information, a copy of part of a letter received from the commanding officer of the U. S. S. *Hartford* relative to a visit of that ship to Athens and Piræus, Greece.

Very respectfully,

CHAS. H. DARLING,
Acting Secretary.

[Subinclosure.]

Commander Reeder to Mr. Moody.

U. S. S. HARTFORD,
At sea, December 16, 1902.

SIR: I have the honor to report that I arrived at Piræus, the seaport of Athens, on the 6th instant. On the 7th, with six officers, I proceeded to Athens and called upon Hon. C. S. Francis, our minister plenipotentiary. On the 8th, the minister called on board and was received with the customary honors. On the 10th instant, with six officers, I was received at the palace by Their Majesties the King and Queen of Greece, and had a most pleasant reception, the King wearing an admiral's uniform. Upon my invitation, Their Majesties said they would be very glad to visit the *Hartford*, as they both knew and remembered Admiral Farragut, and it was arranged that their reception should take place on board at 3.30 p. m., the 12th instant.

2. Our ambassador to the Court of St. James, who was spending a few days in Athens, having expressed a desire to see this famous old ship, I invited him with his family, together with Minister and Mrs. Francis, to take luncheon with me on the 11th instant. The ambassador was received with the usual honors, and expressed himself as very much pleased with his visit to the ship. On the 12th instant, at 3.30 p. m., I received Their Majesties the King and Queen, Crown Prince and Crown Princess, and Prince Ferdinand with full honors; the ship being in full dress, yards manned, and usual salutes fired. Their Majesties made a thorough inspection of the ship and the crew at quarters, evincing the greatest interest in the apprentices and all the details connected with their training and life on board. They remained on board one hour and a half, and upon leaving expressed their appreciation of their reception on board and of having visited a ship so intimately connected with the history of our country, together with the hope that they would see us again in the port of Piræus next year. Minister and Mrs. Francis were present on board during the reception of Their Majesties.

3. Frequent liberty was given in Piræus, and I arranged that all apprentices should have twenty-four hours in Athens, in charge of the chaplain. They enjoyed visiting all the historic places, and behaved themselves in such commendable manner as to elicit favorable notices from the daily papers of Athens and Piræus.

* * * * *

Very respectfully,

W. H. REEDER,
Commander, U. S. Navy, Commanding.

GUATEMALA AND HONDURAS.

FOREIGN DEBT OF GUATEMALA—THE UNITED STATES DECLINES TO JOIN WITH OTHER POWERS IN COERCIVE ACTION, BUT WILL RESERVE FOR UNITED STATES CITIZENS ALL RIGHTS SECURED BY SUCH ACTION.^a

Mr. Hunter to Mr. Hay.

No. 629.]

LEGATION OF THE UNITED STATES,
Guatemala, February 26, 1902.

SIR: I have the honor to inform you that the Governments of Belgium, England, France, Germany, and Italy, through their respective diplomatic representatives here, addressed a joint note to the Government of Guatemala on September 4 last, regarding the bonds of Guatemala, known as the external debt, approximating £1,600,000, now controlled by a committee in London.

The diplomatic representatives here of the powers on this continent were neither asked to join in the note, nor were they consulted regarding it.

Not being able to obtain from these representatives any information regarding their note, I intimated to the President that a copy of the correspondence on the subject for transmission to Washington would be gratifying to me. He at once ordered that a copy be sent me, the original of which and translation of same you will please find hereto attached.

I should add that not only this external debt, but internal obligations of about \$60,000,000 (silver) as well, existed when President Cabrera came into power. An earnest effort is now being made by him to effect an honorable arrangement of the entire debt, and I am quite sure that he will soon succeed if not menaced by unreasonable demands.

I have, etc.,

W. GODFREY HUNTER.

[Inclosure 1.—Translation.]

The German minister to the Guatemalan minister of foreign affairs.^b

LEGATION OF GERMANY, *Guatemala, September 4, 1901.*

MR. MINISTER: In the year 1895 the Government of Guatemala had entered into arrangements with the corporation of foreign bondholders which actuated in union with the committee of the Guatemalan external-debt bondholders and for which the exportation duties on coffee "*irrevocably fixed at \$1.50 gold per quintal for ten*

^a See also under Germany.

^b Identical communications sent by representatives in Guatemala of France, Great Britain, Belgium, and Italy.

years," was assigned to the bondholders with full approval of the legislature as a guaranty for the payment of the debt.

This was not the first occasion in which the bondholders had submitted their just claims to considerable reductions, with the view of obtaining surer guaranties for the debt; for in 1887, after an omission of eleven years, Guatemala agreed that a part of the maritime duties should be paid to a committee of the representatives of the creditors; yet, after the lapse of another six years, the Government of Guatemala was at fault with its pledges, and in 1895 the new arrangement was entered upon, as above mentioned.

By an ulterior agreement had in 1896, the Government of Guatemala pledged itself to deliver the bonds representing the coffee duties directly to the Banco de Guatemala, agent of the bondholders of the debt, who had to keep the bonds, to send them to the Deutsche Bank in London, and to collect from the sale in property the required amounts.

In December, 1897, the Government of Guatemala, without consulting the bondholders, entered into a contract with the new German syndicate of Hamburg for an advance upon the coffee bonds (already engaged to the bondholders of the debt), the syndicate taking the charge of setting aside part of the product of the sale of said bonds to satisfy the amount necessary for the service of the external debt. But as a consequence of a decree of April, 1898, by which the Government of Guatemala reduced the duties on coffee by two-thirds—that is to say, from \$1.50 gold to \$1 silver, the German syndicate notified that it found it impossible to continue attending the service of the debt, and another arrangement was entered into with the Government of Guatemala and the bondholders by which the interest of the external debt was reduced for a period of three years from 4 per cent per annum cash, to 2 per cent per annum in certificates, under the guaranty of a bankinghouse accepted by the committee of bondholders. In this arrangement, the bondholders again submitted to such a considerable reduction in the outset, having reduced the required amount for the payment of the interest on the debt and its sinking fund from about £75,000 to £30,000 annually.

The coupons corresponding to December 31, 1898, and June, 1899, were paid off according the settlement of 1898, but those of December 31, 1899, etc., have not yet been canceled.

The state of affairs is to-day as follows:

I. As the Government of Guatemala has only paid since November 18, 1898, 2 per cent in gold, it remains owing for the interest on the external debt £1,480,800—4 per cent cash, 6 per cent certificates, being changeable on the 1st of July, 1901, for new definitive titles of the external debt.

II. The coupons payable on the 31st of December, 1901, and all the subsequent coupons shall be paid cash at the rate of 4 per cent complete per annum.

III. During the seven years which commence on the 1st of July, 1901, and end on the 30th of June, 1908, the sinking fund must be at the rate of £6,000 per annum; after June 30, 1908, the same fund increases to £15,000 per annum.

IV. According to article 7 of the agreement had on November 8, 1898, the rights granted to the bondholders by another of July 11, 1895, will remain subsistent. It is therefore plain that from July 1, 1901, the article 9 of said agreement which says: "That during ten years counted from July 1, 1895, the actual duty of \$1.50 gold (6 shillings English money) shall be maintained," came again in vigor; these were to be applied to the payment of the interest and sinking fund of the external debt.

The German Government together with those of Belgium, France, Great Britain, and Italy (sic) has recommended me to seriously call the attention of the Guatemalan Government to the urgent necessity of taking, without delay, measures to fulfill its pledges toward the external debt bondholders.

Begging your excellency to communicate the above to His Excellency the President of the Republic, and inform me as soon as possible of the result obtained from the same, I avail myself of the opportunity, etc.

VON VOIGTS RHETZ.

[Inclosure 2.—Translation.]

The Guatemalan minister for foreign affairs to the German minister.^a

OFFICE OF MINISTER OF FOREIGN AFFAIRS,
Guatemala, September 6, 1901.

MR. MINISTER: I have the honor to acknowledge receipt of your excellency's communication dated 4th instant, and delivered to me yesterday, referring to the instruc-

^aIdentical communications sent to representatives of Belgium, France, Great Britain, and Italy.

tions sent to your excellency by your Government to the effect of calling jointly with the representatives of France, Belgium, Great Britain, and Italy, the attention of the Guatemalan Government to the urgent necessity to take without delay measures to fulfill its pledges with the bondholders of the English debt.

In order to comply with your excellency's wishes, I will have the honor to expose your said communication to the President of the Republic, and I am pleased to express to your excellency that the Government will give preferent attention to this claim, and after the careful examination which it deserves I will, within a short time, have the satisfaction to give your excellency corresponding answer.

Accept, etc.,

JUAN BARRIOS M.

[Inclosure 3.—Translation.]

The Guatemalan minister for foreign affairs to the German minister.^a

MINISTRY FOR FOREIGN AFFAIRS,
Guatemala, September 16, 1901.

MR. MINISTER: Opportunely I received your favor of the 4th instant, in which your excellency, in representation of the German Government and in accordance with those of Belgium, France, Great Britain, and Italy, calls the attention of Guatemala to the urgent necessity of taking without delay measures to fulfill the pledges contracted with the bondholders of the English debt.

Please, your excellency, allow me, that, without entering into details of the numerical operations it embraces, as it is contained in settlements which have been converted into that of November 18, 1898; and occupying myself, in first place, with the principal point of the claim, I have the honor to expose to your excellency, in answer to your referred communication, so that you may be pleased to impart the same to your illustrious Government, that Guatemala, whose acts bear in all cases the stamp of honor, is in the best disposition, as it always has been, to fulfill all and every one of its engaged pledges, and accordingly is taking the proper measures to arrive at a satisfactory settlement of the question, as public conscience may well aver, the instructions having already been sent by cable to-day to our envoy extraordinary before the courts of Europe, Dr. Fernando Cruz, advising him to go to London and make an arrangement with the bondholders; and, moreover, this mail will convey to Dr. Cruz full particulars in the way to enter into negotiations which may put an end to the actual economical difficulties, besides of the subsequent steps the Government will accord to this respect.

The nearly universal crisis which has, in a great part, affected the American countries has weighed upon the financial situation of Guatemala, but notwithstanding, though at a cost of painful sacrifices, large amounts owed to foreigners have been paid off, as your excellency will please to acknowledge, since for that object \$8,520,274.99 have been paid within the last two years and a half of Mr. Estrada Cabrera's Presidency. The memorandum which I have the honor to adjoin will certify to the assertion.

The Government of Guatemala has, therefore, made and will continue to make the greatest efforts to satisfy, as soon as possible, the debts owed to foreigners, and the high justification of the Government which your excellency so worthily represents being granted, I flatter myself to hope that with the measures taken the wishes expressed in the important communication of your excellency will be entirely satisfied.

I avail, etc.,

JUAN BARRIOS M

[Inclosure 4.—Translation.]

The Guatemalan minister for foreign affairs to the minister of France.^b

SECRETARY OF FOREIGN RELATIONS,
Guatemala, September 16, 1901.

MR. MINISTER: I had the honor to receive the favor of your excellency dated the 4th instant, in which, together with the Governments of Germany, Belgium, Great Britain, and Italy, you call the attention of Guatemala toward the urgent necessity

^a Identical note sent to representative of Great Britain.

^b Identical note sent to representatives of Belgium and Italy.

to dictate without delay measures in order to fulfill the pledges contracted with the bondholders of the English debt.

My Government believes, sir, that the fact of your excellency having associated yourself with the worthy representatives of Germany and His Britannic Majesty for the above-mentioned claim has only in view the idea, worthy of praise, that by your interposition the matter would come to a prompt and satisfactory solution which both Governments pursue, earnestly thanking your excellency for the same.

Guatemala, which has always been guided by the firm intention to fulfill its pledges, has never in the least entertained the idea that your excellency and your Government should ever give signs of opposition to this country, and much less that the friendly steps taken by your excellency in regard to this question might bear distinct character.

The Government of Guatemala hopes that, with the information made this day to the honorable representatives of Germany and England to the effect that immediate instructions were sent to the Guatemalan minister before the European courts, Dr. Fernando Cruz, advising him to make an arrangement with the bondholders of the English debt in the most satisfactory manner for both parties, will meet with the friendly wishes expressed by your excellency and those of the nation which you so worthily represent.

Please accept, etc.,

JUAN BARRIOS M.

[Inclosure 5.—Translation.]

The Guatemalan minister for foreign affairs to the German minister.

SECRETARY OF FOREIGN RELATIONS,
Guatemala, September 16, 1901.

MR. MINISTER: I have the honor to answer the favor of your excellency dated the 4th instant, relative to the payment to German citizens by the national treasury of Guatemala.

A decree which orders the conversion into bonds of certain debts, therein comprised those of certain German citizens, was issued by the legislature, and the Government of Guatemala has been and is in the unavoidable necessity to duly abide by such a resolution which comes from one of the state powers, a resolution which, according to the fundamental law, there is no faculty for altering.

Moreover, allow me to say that the Government, though at a cost of painful sacrifices, and notwithstanding the sad financial situation of the country, has, in the measure of its capacities, been paying off to German citizens amounts owed to them and which are not converted into bonds; and so it is that only to the German syndicate, with whom a short time ago an agreement was signed, was paid during the last two years and a half the amount of \$4,505,681.60, the Government having in the same period canceled on account of foreign claims a total of \$8,520,274.90.

Therefore the Government is confident that it has not in any manner failed to comply in the course of its proceedings with the principles of equity and observe the rights which the treaty of 1887 guaranties to the German Empire; and then, it can not be said that the clause relative to the nation more favored has been neglected; the credit of R. H. May, of the United States, which is being paid, coming from an arbitral decision pronounced against Guatemala after said legislative decree was issued and whose adverse resolution was not possibly expected.

However it may be, the Government, desiring to pay all legitimate claims that are pending, is actually taking the necessary steps for the settlement of its economical difficulties in order to extinguish as soon as possible the debts not included in the above referred legislative decree.

I avail, etc.,

JUAN BARRIOS M.

[Inclosure 6.—Translation.]

The Italian minister to the Guatemalan minister for foreign affairs.^a

ITALIAN LEGATION,
Guatemala, September 18, 1901.

MR. MINISTER: I was honored with the receipt of the favor of your excellency dated 16th instant.

Referring myself to the paragraph in which your excellency explains the views of

^a Identical notes sent by ministers of France and Belgium.

his Government with regard to the fact of my having joined with my colleagues of Germany and Great Britain in the collective note to suggest to the Government of Guatemala the urgent necessity of adopting adequate measures to fulfill its pledges with the bondholders of the "external debt," I am compelled to call the attention of your excellency to this particular, viz, that I have not only associated myself with the representatives of Germany and Great Britain, but, really, in the collective action taken by the same, together with those of Belgium and France, and that in accordance with an understanding to which our respective Governments have come to that effect.

It seems to me, therefore, that your excellency has misunderstood the true meaning of the notes of the 4th instant addressed to your excellency by the representatives of Belgium, France, Germany, and Great Britain. Each one of these powers, together with Italy, has not certainly taken into consideration the more or less important question of the interests that its citizens might have in the external debt of Guatemala, but chiefly had in view the question of international interest, greatly injured by the fact that the Government of Guatemala has failed to fulfill its pledges in regard to the debt which is now under consideration.

The question appearing now on its real ground, the action taken by the representative of Italy, jointly with his colleagues of the other interested powers, remains clearly explained and justified; that is to say, to insist upon the Government of Guatemala arriving at a prompt and satisfactory settlement, in the briefest delay possible, of this question of the external debt, abstraction being made of any particular nationality.

In view of the foregoing I am compelled to ask from your excellency a reply identical to that given to the representatives of Germany and Great Britain.

Please, your excellency, accept, etc.,

R. DI VILLANOVA

[Inclosure 7.—Translation.]

The German minister to the Guatemalan minister for foreign affairs.

GERMAN LEGATION,
Guatemala, September 20, 1901.

MR. MINISTER: I have received the favor of your excellency dated 16th instant, in which I am informed that your excellency's Government, wishing to pay all legitimate credits, is actually taking the necessary steps for the arrangement of its economical difficulties, and so as to be able, as soon as possible, to pay the debts not included in the legislative decree No. 440 with reference to conversion into bonds.

Hoping to receive from your excellency definite indications of the period upon which the Government intends to arrange said claims, I find myself compelled, together with my colleagues of Belgium, France, and England, to renew the protest which this legation has sent to your Government and to insist that the German credits be at last excepted from the determinations of the above-mentioned law.

Also, the doubts alluded to by your excellency will have no effect, and I must say again that the situation has considerably changed since your Government has commenced paying, in the month of May last, the pro rata of R. H. May, recognized on November 16, 1900, by arbitration, following with the payment of interests.

A deplorable state of affairs has been then created to the German credits which had been recognized prior to that of R. H. May against citizens of the United States of America, and I feel compelled to reaffirm that such proceedings are offensive, not only to the principles of equity, but also to the rights of the nation more favored, guaranteed to the German Empire by the treaty of friendship, commerce, and navigation and consular convention signed on September 20, 1887, with the Republic of Guatemala. Taking them as a base, I feel it my duty to claim at least equal treatment of the German credits: Furrer & Hastedt, Lorens Eyssen, and others.

Calling once more the attention of the Government of Guatemala toward said points, I pray your excellency to enable me as soon as possible to inform my Government that my representation has succeeded in obtaining a favorable solution.

This occasion affords me the honor to remain, etc.,

VOIGTS-RHETZ.

[Inclosure 8.—Translation.]

*The Belgian minister to the Guatemalan minister for foreign affairs. a*BELGIAN LEGATION,
Guatemala, September 20, 1901.

MR. MINISTER: I have the honor to acknowledge receipt of the favor of your excellency dated 16th instant, in which you communicate to me that your Government, being desirous to pay all the legitimate debts which stand against it, is actually endeavoring to arrive at a final arrangement of its economical difficulties, and thereby be able to cancel, as soon as possible, "the debts not comprehended in legislative decree No. 440 upon conversion into bonds."

Though hoping that your excellency will afford me the information of the precise time at which your Government intends to arrive at such a desired settlement of its credits, and that as soon as practicable, and for which I will thank you, I am compelled to join in with my colleagues of Germany, England, and France in the serious renewal of the protests which this legation has made to the Government of Guatemala, and to insist, once more for the last, upon the exclusion of my cocitizens' credits from the legislative measure above referred.

Calling once more the attention of Guatemala toward this point, I trust that your excellency will place me, within the briefest delay, in the capacity of informing my Government that a satisfactory reply was given to this my present communication.

Please accept, etc.

J. WOLTERS.

[Inclosure 9.—Translation.]

*The Guatemalan minister for foreign affairs to the chargé d'affaires of Belgium. b*SECRETARY OF FOREIGN AFFAIRS,
Guatemala, September 30, 1901.

HONORABLE SIR: I had the pleasure to receive your favor dated 18th instant, in which your excellency refers himself to a paragraph of my note of the 16th explaining that since he acts according to the instructions received from his Government, equal to those received by the honorable representatives of Germany, France, Great Britain, and Italy, your excellency desires an answer conceived in the same terms as that addressed to his above-mentioned colleagues.

I regret, honorable sir, that on reading your worthy note of the 4th instant, I failed to fully realize the importance of its contents, judging by your attentive communication to which I have had the honor to answer.

Believing, then, since no allusion on the subject is made in your note of the 4th instant, that the Government of His Majesty the King of Belgium had no direct interest in the case, since no citizens of that country were participants, I had to accept the communication of your excellency simply as a measure in which he friendly associated himself jointly with his honorable colleagues of Germany, France, Great Britain, and Italy.

On the strength of this belief I judged that my first answer, complying with international courtesy, was sufficiently explicative to satisfy the parties directly interested as those who were not, and I also was conscious that I had complied in two instances with the wishes of your excellency, since I anticipated them by supplying all the information I was pleased to submit to your honorable colleagues. Such, then, would appear to be the origin of the difference between the notes I addressed to the representatives of Germany, France, Great Britain, and Italy and your excellency.

Now that your excellency, through the communication I have pleasure to answer, has deemed convenient to rectify the idea of having joined with apparently equal interest to those of Great Britain, etc., and on the other hand my own Government viewing the interposition of your excellency and that of your honorable colleagues as a friendly indication to urge Guatemala in taking the necessary steps in order to arrive at a prompt and equitable settlement with the bondholders of the English debt; and, moreover, I am glad to inform your excellency that my Government, always guided by the intention of ever filling its obligations in an honorable manner, is now acting in conformity with all the exigencies of the question pending.

^a Identical notes sent by ministers of Germany, France, and Great Britain.

^b Identical communications sent to French, and Italian legations.

To this effect, special instructions have been sent to our representative in Europe, advising him to repair to London and enter into arrangements with the bondholders of said debt.

Hoping that I have succeeded in complying with the wishes expressed by your excellency, I am, etc.,

JUAN BARRIOS M.

[Inclosure 10.—Translation.]

The British minister to the Guatemalan minister for foreign affairs.^a

BRITISH LEGATION,
Guatemala, September 23, 1901.

MR. MINISTER: I have the honor to acknowledge the receipt of the note of your excellency dated 16th instant, in which you inform me that instructions have been sent to Señor Cruz to the effect that he might repair to London, with the view of meeting and negotiating with the committee of foreign bondholders and, moreover, with the object of making arrangements which would place the Government of Guatemala in position to face its pledges.

Although I shall communicate without delay this information to His British Majesty's Government, I can not refrain from calling your attention, in agreement with my colleagues of Belgium, France, Germany, and Italy, to the fact that, no specified time being mentioned as to when the Government of Guatemala will fulfill its pledges, this would entail an indefinite latitude, which fails to answer the purposes of a definite arrangement, and therefore a special reserve should be made in regard to a fixed time for the same.

Consequently, I would venture to suggest to the Government of your excellency that the payment obtained under the action taken by Señor Cruz should be made no later than the 31st of December of the present year, and I shall submit this date to the Government of His British Majesty with the object of receiving further instructions.

As to the list inclosed in the note of your excellency, which shows that since 1899 \$8,500,000 have been paid by the Government of Guatemala to foreigners, it does not follow that because such disbursements have been made the fact should be taken into consideration when the credits of others who are entitled to the same nature of payments have failed to be canceled.

I avail, etc.,

RALPH PAGET.

[Inclosure 11.—Translation.]

The Guatemalan minister for foreign affairs to the German minister.^b

OFFICE OF SECRETARY OF FOREIGN AFFAIRS,
Guatemala, September 30, 1901.

MR. MINISTER: I have the honor to answer the most esteemed note of your excellency, addressed to me under date of the 20th instant, in which, making reference to mine of the 16th, you are pleased to ask my Government to furnish you with definite indications of the time necessary to arrive at a final settlement of the fiscal debts which your honorable legation alluded to in the note of the 4th, and also make certain suggestions with regard to the credits which were subject to conversion in bonds by a law of the Republic, and among which appear several belonging to German citizens.

The very nature of the measures taken by my Government, as I have had the honor to state to you, in order to arrive at a final settlement of its external debt and all other credits, do not afford it to fix a precise time in which to carry out such well wished for designs, as such results do not only lie within the domain of its own will, but also in the concurrence of that of a great many; as it happens in cases of the same nature, the Executive would endanger his own dignity, pledging himself to the ful-

^aIdentical communications sent by legations of Germany, France, Belgium, and Italy.

^bSimilar notes sent legations of Great Britain, France, Italy, and Belgium, with the exception of the parts referring to the R. H. May affair and the treaty with the German Empire.

fillment of a contract at a defined time when circumstances independent of his will, would find him unable to meet his engagements at the time specified; notwithstanding, I take pleasure to inform your excellency that my Government is still pursuing with energy the course it has followed and to which I referred in my note of the 16th instant, and I can add that if, before the assembling of the legislature, it is possible to meet with your excellency's desire, my Government will feel highly satisfied, as it always has been, to comply with the requirements of your excellency.

Your excellency also deems convenient to insist on the point that the credits of the German citizens against Guatemala should be excluded from the effects of the laws couched in the decree No. 440, and also appears to believe that, in setting aside such an exclusion, the principles of equity and justice would be offended.

May I be permitted to observe to your excellency that, in so doing, the very fact of admitting such an exclusion would become a real offense against those principles?

When the conversion into bonds of some fiscal debts was decreed, an act which obeys unavoidable necessities of the treasury and not issued taking into account the persons individually, but only the nature of the debt, it resulted, as a logical consequence not to be eluded, that among the creditors were a number of foreigners and Guatemalans. To make an exception in favor of individuals of a nationality to the prejudice of those of another would certainly be unjustifiable to the principles of equity. To establish such an exception in favor of individuals of a foreign colony, however worthy of consideration it may be, as the German undoubtedly is, overlooking the national creditors subject to said law, not only would be unjustifiable before the principles of equity, but in so doing a violation of the laws of public rights would then exist. According to said law, the foreigners residing in a country can arrive with regard to franchises and rights at a point of equal standing with the citizens of that country without being entitled to any further prerogatives.

But above all that has been said on the subject I feel a great pleasure in assuring your excellency that my Government will do its utmost, without any further indications on your part, to urge the means that are being taken for the general arrangement of the financial situation of the country and as a consequence be able to include in such arrangement the credits above mentioned, without injuring a legislative disposition by which my Government must be the first to abide.

Concerning the payment made to R. H. May, to which you have reference, allow me to say that, in my judgment, it does not entail any violation of the clause regarding the rights of the nation more favored, stipulated in the treaty with the German Empire, signed on September 30, 1887, as I briefly bring it to the recollection of your excellency.

My Government did not recognize any debt owed to R. H. May when he presented his claim to such, and he having proposed to submit it to an arbitration, Guatemala accepted, inasmuch as the circumstances created no objection to arbitration and also that it was a decorous means to avoid any difficulty with a friendly country. The decision favored May, and the Government found itself compelled to submit to an obligatory judgment which implied an indemnity to the claimant.

So it is, then, your excellency will be pleased to agree, that while the clause of the nation more favored can be applied when related with commercial transactions between both countries and are voluntary acts of contracting governments; but not so in acts where commerce is not interested and that are independent from the voluntary action of said Governments, hence outside of the regular and normal proceedings.

May I be allowed to entertain the hope that your excellency, seconded by his illustrated wisdom, will duly appreciate the foregoing exposition of the facts and remain firmly convinced of the honorable conduct observed by my Government in this question?

Please accept, etc.,

JUAN BARRIOS, M.

[Inclosure 12.]

The British minister to the Guatemalan minister for foreign affairs.

BRITISH LEGATION,
Guatemala, October 5, 1901.

MR. MINISTER: Your excellency informs me in your note of the 30th ultimo that the Government of Guatemala, independent of its own will, is unable to fix the date for the arrangement (or payment) of the external debt and others, but, notwithstanding, will persevere in the measures taken for this purpose, as expressed in your

excellency's communication of the 16th, and with the intention of complying with my wishes, before the opening of the session of the national assembly.

Your excellency also states that your Government will exert all its efforts in order to arrive at a general settlement of the financial difficulties of the country, more insistence on my part being unnecessary, and doubtless that the debts in question shall be included in said arrangement without any infringement against the legislative measure which your Government is the first to guard and respect.

With satisfaction I take for granted the assurances offered by your excellency, but, nevertheless, and at the proper time, I deplore that the contents of my note of the 20th failed to entirely convince your excellency, and I must fully maintain the protests of my Government against the application of legislative laws Nos. 440 and 494 to British creditors.

I therefore reserve for myself the right of arguing this question again at the required time.

I shall duly communicate your excellency's note to my Government.

Availing myself of this opportunity, etc.,

RALPH PAGET.

[Inclosure 13.—Translation.]

The Belgian chargé d'affaires to the Guatemalan minister for foreign affairs.^a

BELGIAN LEGATION,
Guatemala, December 17, 1901.

MR. MINISTER: Referring to my notes of September 28 and October 5 last, I have the honor to ask of your excellency to favor me with the information as to the dispositions taken by the Government of Guatemala on the two following points: First, about the final resolution on the payment of the external-debt bondholders; and second, on the subject of satisfying the claims of a certain number of my cocitizens.

Being compelled to send to my Government, prior to the last of this month, information upon those two particulars, I would thank very much your excellency for a reply as soon as possible.

Please accept, etc.,

J. WOLTERS.

[Inclosure 14.—Translation.]

The Guatemalan minister for foreign affairs to the German minister.^b

OFFICE OF FOREIGN AFFAIRS,
Guatemala, December 27, 1901.

MR. MINISTER: I have had the honor to receive the esteemed note of your excellency, dated 17th instant, relative to the information you desire concerning the measures that have been taken by my Government regarding the two following points: First, upon the final dispositions tending to the payment to be made to the foreign bondholders; and second, about the canceling of other credits owed to German subjects.

I feel really pleased to comply with the wishes of your excellency, stating that according to instructions sent to our representative in Europe, Dr. Fernando Cruz, corresponding steps are being duly taken toward a final agreement with the bondholders and also with the claims you have reference to.

Moreover, I am able to inform you, Mr. Minister, that my Government is studying some proposals which have been submitted to it with the view of reaching the best results possible, but such business involves so complex a problem my Government is bound to have them under a serious and prolonged examination, as their high importance and the interests of the State demand; hence, the Government of Guatemala intimately hopes that the foregoing explanations, though briefly exposed, will satisfy the friendly wishes of your excellency and the Government you so deservedly represent.

I renew, etc.,

JUAN BARRIOS, M.

^a Identical notes sent by legations of Great Britain, Germany, France, and Italy.

^b Similar communications sent to legations of Great Britain, France, Belgium, and Italy, no reference being made in the latter to Italian credits, as none are claimed by that country.

Mr. Hay to Mr. Hunter.

No. 363.]

DEPARTMENT OF STATE,
Washington, March 22, 1902.

SIR: I have to acknowledge the receipt of your dispatch, No. 629, of the 26th ultimo, reporting that the Governments of Belgium, Great Britain, France, Germany, and Italy addressed a joint note to the Government of Guatemala on September 4 last regarding the failure of the Guatemalan Government to fulfill its pledges to the holders of the bonds representing the external debt of Guatemala, approximating £1,600,000 and now controlled by a committee in London.

You inclose a copy of the note and of the resulting correspondence.

The Department has carefully noted the contents of your dispatch and its inclosures. The fact that the European Governments named sent to the Guatemalan Government the joint note calls for no action or comment on the part of the Government of the United States, inasmuch as it is within the right of the creditor nations to require payment of debts due to their nationals.

You will therefore simply keep the Department advised of the course of the negotiations on the subject and of any action taken in pursuance thereof.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Hunter.

No. 365.]

DEPARTMENT OF STATE,
Washington, April 10, 1902.

SIR: I inclose herewith for your information a copy of a promemoria^a left at the Department by the German ambassador on the 3d instant, stating that the council of foreign bondholders in London which is seeking to make a new arrangement with the Government of Guatemala respecting the foreign debt of that country has suggested that the proposed arrangement ought to be acknowledged by the most interested powers—Germany, the United States, and England—in order to induce the Government of Guatemala to adhere to the new arrangement, and asking whether the Government of the United States would be inclined to join in a proceeding of the above-mentioned kind should it be adopted by the German and English Governments.

I also inclose a copy of the Department's memorandum^a in reply, dated the 5th instant, stating that while the Government of the United States is indisposed to join in any collective act which might have the aspect of coercive pressure upon Guatemala, this Government would reserve for its citizens equal benefits with those which might be obtained for creditors of any other nationality in the adjustment of the Guatemalan foreign debt, and that you would be instructed to advise the Guatemalan Government of this attitude on the part of the United States.

You will advise the Government of Guatemala of the attitude of this Government in the matter.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Bailey.

No. 373.]

DEPARTMENT OF STATE,
Washington, July 3, 1902.

SIR: Referring to instruction No. 365, of April 10 last, to Mr. Hunter, in relation to the new arrangement that the council of foreign bondholders in London was seeking to make with the Government of Guatemala respecting the foreign debt of Guatemala, I have now to instruct you to report to the Department the correspondence between the legation and the Guatemalan Government in pursuance of said instruction.

I am, etc.,

JOHN HAY.

Mr. Bailey to Mr. Hay.

No. 645.]

LEGATION OF THE UNITED STATES,
Guatemala, July 24, 1902.

SIR: I have the honor to transmit herewith inclosed, for the information of the Department, extract and translation of same which appeared in the *Diario de Centro America*, an official organ of this Government, on the 22d instant, giving a list of individual foreign claims that have recently been paid.

Very reliable information discloses the fact that collective coercive pressure was resorted to by the respective diplomatic representatives here of England, France, Germany, and Belgium in order to bring about the payment of said claims. It appears that they as a body notified this Government that if arrangements were not made to satisfy their respective creditors on a specific date a man-of-war would take possession of each of the principal ports of the Republic of Guatemala.

Although I had previously advised this Government of the attitude of the United States Government in the matter, as instructed in Department's No. 365 of April 10 last, no arrangement has yet been made to meet the just demands of American creditors. I recently, however, responded to a call from the minister of foreign affairs for a private conference, at which he expressed a very high appreciation for the friendly attitude of the Government of the United States respecting the adjustment of the Guatemalan foreign debt, and said that it is not the intention of this Government to discriminate between foreign creditors and especially against those of a friendly nation that had always demonstrated a spirit of leniency in the matter, and that the Government of Guatemala would try and satisfy the American creditors at an early date.

I have, etc.,

JAMES G. BAILEY,
Chargé d'Affairs ad interim.

[Inclosure.—Translation.]

List of the individual foreign claims that have been paid through their diplomatic representatives, and the amount of each draft given by the Government of Guatemala in payment of said claims, in the order indicated below.

THE MINISTER OF FRANCE, HIS EXCELLENCY POURTALES GORGIER.

	Francs.	Pesos of Guatemala.
Mr. Bodin.....		1,447.38
Mr. Briault.....	250,000.00	
Pector & Doucout.....	77,429.00	
Mr. Gueroult.....	38,296.35	7,245.64
Mr. Chaluleu.....		5,109.61
Mr. Costallat.....	26,238.60	
Mr. Frary.....		3,560.00
Mr. Leroy.....	6,462.00	
Mr. Lire.....		507.75
Mr. Loudy.....		863.00
Mr. Menard.....	16,673.80	
Société Cont. de Prod. Chin.....	9,947.60	
Total.....	425,047.35	18,733.38

THE MINISTER OF GERMANY, HIS EXCELLENCY DR. A. VON VOIGTS RHETZ.

	Francs.	Marks.	Pesos of Guatemala.
L. Eyssen & Co.....	90,207.07	56,872.18	87,916.90

THE CHARGÉ D'AFFAIRES OF ENGLAND, HON. RALPH PAGET.

	Francs.	Pesos of Guatemala.
Dr. J. H. Arton.....		2,000.00
Miller & Co.....		30,000.00
W. C. Lambert.....		20,000.00
Do.....		5,136.48
Do.....		179.63
W. C. Lambert (Labbe).....		2,622.50
Maduro & Ahrens.....		422.50
Sr. Cipriani.....		121.28
Chalmers Guthrie & Co.....		90,117.48
Rabone Brothers.....	6,840.36	
Total.....	6,840.36	150,599.87

THE CHARGÉ D'AFFAIRES OF BELGIUM, HON. JOSÉ WOLTERS.

	Francs.	Pesos of Guatemala.
Sr. Amerlink.....	1,500.00	1,200.00
Sr. Courteoux.....		1,150.00
Julio Vaszux.....		36,217.31
Leopold Vaszux (public employee).....		1,390.00
Sr. Siegne.....		1,308.92
Sr. Daras.....		6,036.21
Total.....	1,500.00	47,302.44

Mr. Bailey to Mr. Hay.

No. 646.]

LEGATION OF THE UNITED STATES,
Guatemala, July 30, 1902.

SIR: In compliance with Department's instruction No. 373, of the 3d instant, respecting the adjustment of the foreign debt of Guatemala, I have the honor to transmit herewith inclosed copy of the correspondence between this legation and the Guatemalan Government relative to the matter, as follows: Copy of my note to the minister of foreign affairs; reply thereto by the subsecretary of foreign affairs and translation of same; supplementary reply by the minister of foreign affairs and translation of same.

I have, etc.,

JAMES G. BAILEY.

[Inclosure 1.]

Mr. Bailey to Guatemalan minister of foreign affairs.

LEGATION OF THE UNITED STATES,
Guatemala, June 6, 1902.

SIR: I have the honor to inform your excellency that I have received a note from the Department of State at Washington, instructing me to advise the Government of your excellency that, while the Government of the United States is indisposed to join in any collective act with foreign powers which might have the aspect of coercive pressure upon the Government of Guatemala respecting the payment of its foreign debt, it would reserve for its citizens equal benefits with those which might be obtained for creditors of any other nationality in the adjustment of said debt.

I embrace the opportunity to renew, etc.,

JAMES G. BAILEY.

[Inclosure 2.—Translation.]

Señor Mendez to Mr. Bailey.

MINISTRY OF FOREIGN AFFAIRS,
Guatemala, June 12, 1902.

HONORABLE SIR: I have the honor to acknowledge the receipt of your esteemed favor of the 6th instant, in which you inform me that you have been instructed by the Government of the United States to notify this Government that it refuses to unite with the other powers, collectively, against the Republic of Guatemala in the execution of acts having a semblance of coercion for the payment of its foreign debt.

I thank you for having imparted to me the views and intentions of the distinguished Government which you so worthily represent, and am pleased to reassure you of my highest respect, etc.

JOAQUIN MENDEZ, *Subsecretary.*

[Inclosure 3.—Translation.]

Mr. Barrios to Mr. Bailey.

MINISTRY OF FOREIGN AFFAIRS,
Guatemala, July 24, 1902.

HONORABLE SIR: Referring to the esteemed note of your excellency addressed to this office on the 6th ultimo, and adding to the reply to said note sent to your legation on the 12th ultimo, I now have the honor to manifest to your excellency that

the Government of Guatemala willingly assents to the reservation which the Government of the United States makes of its right to claim for American creditors benefits equal to those that may be acquired by the citizens of other countries in the adjustment of the foreign debt of the Republic of Guatemala, the Government which I represent being in duty bound to accept such reservation in recognition of the friendly attitude which the United States has always assumed toward Guatemala.

With assurances, etc.

JUAN BARRIOS, M.

**CONVENTION BETWEEN THE UNITED STATES AND GUATEMALA
FOR THE RECIPROCAL PROTECTION OF TRADE-MARKS AND
TRADE LABELS.**

Signed at Guatemala City, April 15, 1901.

Ratification advised by Senate, January 27, 1902.

Ratified by the President, February 1, 1902.

Ratified by Guatemala, April 5, 1902.

Ratifications exchanged at Guatemala City, April 3, 1902.

Proclaimed, April 11, 1902.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA,

A PROCLAMATION.

Whereas a Convention between the United States of America and Guatemala providing for the reciprocal protection of Trade-Marks and Trade-Labels, was concluded and signed by their respective Plenipotentiaries at Guatemala City on the fifteenth day of April, one thousand nine hundred and one, the original of which Convention, being in the English and Spanish languages is word for word as follows:

With a view to secure for the manufacturers of the United States of America, and those in the Republic of Guatemala, the reciprocal protection of their Trade-Marks and Trade-Labels, the Undersigned, duly authorized to that effect, have agreed on the following dispositions:

ARTICLE I.

The citizens of each of the High Contracting Parties shall in the Dominions and Possessions of the other have the same rights as belong to native citizens, in everything relating to Trade-Marks and Trade-Labels of every kind.

Provided, always, that in the United States the citizens of Guatemala, and in Guatemala, the citizens of the United States of America, cannot enjoy these rights to a greater extent or for a longer period of time than in their native country.

ARTICLE II.

Any person in either country desiring protection of his Trade-Mark in the Dominions of the other must fulfil the formalities required by the law of the latter; but no person, being a citizen of one of the contracting States, shall be entitled to claim protection in the other by virtue of the provisions of this convention, unless he shall have first secured protection in his own country in accordance with the laws thereof.

ARTICLE III.

This arrangement shall go into effect immediately on or after the exchange of the ratifications and shall be in force until a year after it has been recalled by one or the other of the two High Parties.

ARTICLE IV.

The present convention shall be ratified by the President of the United States by and with the consent of the Senate thereof and by the President of the Republic of Guatemala, and the ratifications shall be exchanged at Guatemala as soon as may be within twelve months from the date hereof.

In witness whereof the Undersigned have signed the present convention and have affixed thereto the seal of their arms, in Guatemala the fifteenth day of April of one thousand nine hundred and one.

W. GODFREY HUNTER [SEAL.]
JUAN BARRIOS M. [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 Guatemala, on the third day of April, one thousand nine hundred and two;

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 eleventh day of April, in the year of our Lord one thousand nine hundred and two,
[SEAL.] and of the Independence of the United States, the one hundred and twenty-sixth.

THEODORE ROOSEVELT.

By the President:

DAVID J. HILL,
Acting Secretary of State.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Bailey to Mr. Hay.

No. 644.]

LEGATION OF THE UNITED STATES,
Guatemala and Honduras, Guatemala, June 5, 1902.

SIR: I have the honor to confirm the Department's cablegram^a of May 24, 1902.

Permission has been granted in accordance with the request made in the above cable by the Governments of Guatemala and Honduras.

I have notified United States consuls.

I have, etc.,

JAMES G. BAILEY.

ACCIDENT TO PRESIDENT ROOSEVELT.

The President of Guatemala to the President of the United States.

[Telegram.—Translation.]

GUATEMALA, *September 4, 1902.*

I regret the accident, and am glad that it was not grave.

M. ESTRADA,
President of Guatemala.

President Roosevelt to President Estrada.

[Telegram.]

WHITE HOUSE,
Washington, September 5, 1902.

I esteem your kindly greeting.

THEODORE ROOSEVELT.

**CONVENTION BETWEEN THE UNITED STATES AND GUATEMALA,
RELATING TO THE TENURE AND DISPOSITION OF REAL AND
PERSONAL PROPERTY.**

Signed at Guatemala, August 27, 1901.

Ratification advised by the Senate, January 30, 1902.

Ratified by the President, February 6, 1902.

Ratified by Guatemala, September 12, 1902.

Ratifications exchanged at Guatemala, September 16, 1902.

Proclaimed September 18, 1902.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the Republic of Guatemala, relating to the tenure and disposition of real and personal property, was concluded at the City of Guatemala on the 27th day of August, one thousand nine hundred and one, the original of which Convention, being in the English and Spanish languages, is word for word as follows:

The United States of America and the Republic of Guatemala, desiring to improve the condition of the citizens of each of the respective countries in relation to the tenure and disposition of real and personal property situated or being within the territories of the other, as well as to authorize the representation of deceased persons by the Consuls of their respective nations in the settlement of estates, have resolved to conclude a convention for those purposes and have named as their Plenipotentiaries:

The President of the United States of America the Honorable W. Godfrey Hunter, Envoy Extraordinary and Minister Plenipotentiary of the United States of America in Guatemala; and

The President of Guatemala the Licentiate Juan Barrios M., Secretary of State in the Department of Foreign Affairs,

Who having exchanged their said full powers, found in due and proper form have agreed to and signed the following articles:

ARTICLE I.

Where on the death of any person holding real property (or property not personal), within the territories of one of the Contracting Parties, such real property would, by the laws of the land, pass to a citizen of the other, were he not disqualified by the laws of the country where such real property is situated, such citizen shall be allowed a term of three years, in which to sell the same, this term to be reasonably prolonged if circumstances render it necessary, and to withdraw the proceeds thereof, without restraint or interference, and exempt from any succession probate or administrative duties or charges other than those which may be imposed in like cases upon the citizens of the country from which such proceeds may be drawn.

ARTICLE II.

The citizens of each of the Contracting Parties shall have full power to dispose of their personal property within the territories of the other, by testament, donation, or otherwise; and their heirs, legatees, and donees, being citizens of the other Contracting Party, whether resident or non-resident, shall succeed to their said personal property, and may take possession thereof either by themselves or by others acting for them, and dispose of the same at their pleasure, paying such duties only as the citizens of the country where the property lies shall be liable to pay in like cases.

ARTICLE III.

In case of the death of any citizen of the United States of America in Guatemala, or of any citizen of Guatemala in the United States, without having in the country of his decease any known heirs or testamentary executors by him appointed, the competent local authorities shall at once inform the nearest consular officer of the Nation to which the deceased person belonged of the circumstance in order that the necessary information may be immediately forwarded to persons interested.

The said consular officer shall have the right to appear personally or by delegate in all proceedings on behalf of the absent heirs or creditors, until they are otherwise represented.

ARTICLE IV.

The present Convention shall come into effect ten days after the day upon which the ratifications are exchanged, and shall remain in force for ten years after such exchange. In case neither of the Contracting Parties shall have given notice to the other, twelve months before the expiration of the said period of ten years, of the intention to terminate the present Convention, it shall remain in force until the expiration of one year from the day on which either of the High Contracting Parties shall have given such notice.

ARTICLE V.

The present convention shall be duly ratified by the President of the United States, by and with the approval of the Senate thereof, and by the President of Gautemala, by and with the approval of the National Legislative Assembly thereof, and the ratifications shall be exchanged in Washington or in Guatemala.

In faith whereof, we, the respective Plenipotentiaries, have signed this Treaty and have hereunto affixed our seals.

Done in duplicate at Gautemala, this twenty-seventh day of August, one thousand nine hundred and one.

W. GODFREY HUNTER [SEAL.]
JUAN BARRIOS M. [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 Guatemala on the 16th day of September, one thousand nine hundred and two:

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 witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this eighteenth day of September in the year of our Lord one thousand nine hundred and two and of the Independence of the United States, the one hundred and twenty-seventh.

THEODORE ROOSEVELT

By the President:

ALVEY A. ADEE,
Acting Secretary of State.

HAITI.

REVOLUTION IN HAITI.^a

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, May 11, 1902.

(Mr. Powell reports that the situation at Port au Prince is extremely interesting, it being reported that the President will probably leave on May 12, in which event bloodshed is feared; that the south demands the Presidency; that Firmin and Leconte are candidates from the north.)

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, May 12, 1902.

(Mr. Powell reports that the President of Haiti has resigned and is to leave the Republic; and requests the presence of a naval vessel to protect American interests.)

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, May 12, 1902.

(Mr. Powell reports that the Chambers were fired upon and closed by the populace; that one deputy was mortally wounded; that the palace and arsenal were attacked on the night of May 11, when several were killed and wounded; that the diplomatic corps is to embark the President of Haiti at noon, May 12; that the minister for foreign relations and the minister for war are at the United States legation; that Firmin, with an army is marching on Port au Prince; and that business is for the present suspended.)

^aUnder this topic are treated questions arising out of the request made by the Provisional Government of Haiti that the *Crête à Pierrot*, a Haitian naval vessel under command of Admiral Killick, formerly of the Haitian navy, but subsequently in revolt against the Provisional Government, be treated as a pirate, and the attempted blockade of Haitian ports by decree of the Provisional Government; from both of which propositions the United States Government dissented.

Particulars concerning the causes of, progress of events during, and termination of the revolution, together with an account of the sinking of the *Crête à Pierrot*, are also included.

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, May 15, 1902.

(Mr. Powell reports that a committee of eleven, with ex-President Canal as chairman, has been named to conduct affairs at Port au Prince, and that a similar committee has been named in all cities of the Republic; that the admiral in command of naval vessels is to leave for the north, and that all is quiet.)

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, May 15, 1902.

(Mr. Powell states that the presence at Port au Prince of a United States naval vessel is urgently needed, and requests to be informed when one may be expected.)

Mr. Hill to Mr. Powell.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 16, 1902.

(Mr. Hill states that the U. S. S. *Topeka* sailed from Port Royal, S. C., for Port au Prince on the morning of May 16.)

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, May 16, 1902.

(Mr. Powell reports the appointment of a committee styled the "committee of safety," which committee has addressed a communication to the diplomatic corps, and inquires if he shall recognize the committee.)

Mr. Hill to Mr. Powell.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 16, 1902.

(Mr. Hill directs Mr. Powell to carefully avoid taking sides in the existing contentions in Haiti, but to enter into necessary business relations with the de facto government.)

Mr. Powell to Mr. Hay.

No. 1092.]

LEGATION OF THE UNITED STATES,
Port au Prince, May 17, 1902.

SIR: I have the honor to state to the Department that events within the past week have moved very rapidly. Since the date of my arrival, May 11, General Sam, the President, has resigned his office, the people have compelled both Chambers (Senate and House of Deputies) to close before they could elect a President to take the place of General Sam, who has left the country to reside in the future in France; and lastly, have compelled the late cabinet to seek asylum at the several legations, and have also selected a committee, styled a "committee of safety," in each city of the Republic to protect the various interests therein, such committee to form a central committee, who are to elect a provisional government, who in their turn are to order elections for members of the House of Deputies, who will elect the members of the Senate, and both Houses will thereafter elect the President. At the present moment the Republic is without an executive and a legislative branch of the Government, except the committee above named; yet one arriving here would scarcely believe that a violent revolution had occurred, a government driven from power, almost, one might say, without bloodshed. So quietly has this been done that business has resumed its normal functions.

I will briefly give to the Department a detailed report of these events as they have occurred. While the climax was rapid, the events leading to it were slow. In order that the Department may be fully aware of this condition of affairs, it is necessary to state that General Sam was elected President April 1, 1896, by the National Chamber upon the sudden death of General Hypolite. At the time he was elected Congress enacted a law requiring him to enter upon the duties of the Presidential office at once, and to remain in office until May 15, 1903.

This law, it seems now, was not constitutional, as the constitution states:

That upon the death, resignation, malfeasance in office, or removal therefrom of the President before the 15th of May (in any year) the cabinet or council of ministers is charged with these functions until the 15th of May, when the newly elected President shall assume the duties of the Presidency; but if a President should accept office or enter upon the duties of the same prior to this time (15th of May), then his term of office must expire on the 15th of May of the year preceding the time that it actually expired, thus not allowing the incumbent to remain in office the full seven years, the time for which he was elected.

For some reason this provision of the constitution was not thought of, or else forgotten, at the time General Sam was elected. No mention was made of this section until about a year ago, when the question was launched upon the public view by the enemies of the Government. The more this question was discussed the more potent it became, until it occupied the attention of all classes to the exclusion of all other matters. At the time this law was enacted by Congress, defining when President Sam should enter upon his duties and also when his term should end, it was considered valid. Owing to the absence of a provision in the constitution to provide for a supreme court before whom such matters could be decided, it was thought that Congress could act as such court. According to the time of General Sam's election his term would have expired April 1, 1903; and if he had remained in office until the 15th of May of that year, he would have

remained in office forty-five days beyond the time for which he was elected; but, according to the present action of those opposed to him, his term has been abridged ten months and fifteen days. The several political arrests and the exile of many persons within the past two years have been on account of this discussion, they demanding that this article of the constitution should be literally followed, the Government, on its part, believing that in the arrest and exile of all such persons all discussions and agitation of this matter would cease. But this rigor on the part of the Government produced, instead of friends, enemies, who were daily gaining strength, finally, as has been seen, overpowering the President and both Houses of Congress.

At the several interviews I had with the President up to the time I left for Santo Domingo (February 10) he stated that it was his intention to remain in office until he had finished his term (to May 15, 1903) and that he would not resign or cease to be President prior to that time. He had also impressed this fact upon the members of his cabinet up to May 1 of the present year, when it was learned that it was his intention to resign at an early day.

The first dissatisfaction on the part of the people toward the Government was caused by the course pursued by the President in the late elections for members of the House of Deputies, held in January last, by what they termed unwarranted interference on the part of the Government in the elections. It is said in many places where elections were held that only those were allowed to vote who would promise to cast their votes in favor of the Government's candidate. Those who would not so promise could not vote. In other cases when the opposing candidate received a majority or a plurality his election was set aside and some one else named in his place. If anyone maintained such action to be illegal, they were either arrested or exiled.

As the time for the meeting of the Chambers approached the interest in regard to this matter was quickened and the discussions of it became more violent. When the Chambers finally opened an effort was made to have both Chambers proceed to an election at an early day. This question was put off from day to day until Monday, May 12, was finally agreed upon.

There were many candidates for this honor. Among the number were C. Fouchard, a minister of finance in General Salomon's cabinet and exiled by President Sam about two years ago; Solon Ménos, a former secretary of state for foreign relations in General Sam's cabinet, who is better known on account of the "Luders incident," and Senéque Pierre, an old senator. These men represented the south, from which section it is claimed the next President should come, as the north had held this office for two consecutive terms. The other candidates were from the north. They are Hon. A. Firmin, the present Haitian minister to France and a former secretary of foreign relations in President Sam's cabinet; Hon. Alexis Nord, a governor of one of the northern provinces; Gen. Tancred August, secretary of public works; Vibrum Guillaume, secretary of war, and Gen. C. Leconte, secretary of agriculture.

It was supposed that the latter, in case the President, General Sam, should resign, would be the governmental candidate. It was also stated that he was supported by the leading German commercial and banking interests of this capital. * * * In return he was to grant to them certain commercial favors, was not to favor a renewal of the present

commercial treaty with France, and was to grant to the German Government some place near the Mole St. Nicolas for a coaling station. The latter statement, though, was not true, but it is supposed that certain arrangements were made with the agents of the Hamburg-American Steamship Company by which in case General Leconte should be elected he would favor granting to them a place in the vicinity of the Mole to store coal. * * * He was also to grant this interest special concessions in reference to certain mineral lands, which are thought to be very rich, and which would give to them almost exclusive control of such lands. The agents of this house, as I have stated, are Germans and, it is said, supplied him (Leconte) with money to a large amount. By some means his opponents secured a copy of the proposed agreement and published the same in one of the daily papers. The next day after it appeared Leconte and the members of this firm published a denial that such an agreement was made, but the people in general believed the denial to be untrue. This embittered all classes against Leconte, as nearly every Haitian not married to a German has a bitter feeling against this nation on account of the Luders incident.

The President, being made acquainted with these facts, endeavored to secure the election of his brother-in-law, Gen. Maxime Monplaisir. This the people opposed, as it continued the office of the Presidency in one family. In the meantime Mr. Firmin arrived from Paris on "leave of absence," and his partisans actively began a canvass in his favor. He is supposed to have a strong leaning toward the French Government, and it is claimed that the present French minister is strongly in his favor, while the German chargé d'affaires is as strongly opposed to him. Such was the course of events up to the time of my arrival, on May 11, from Santo Domingo.

I was requested to see the minister of foreign relations, Mr. St. Victor, to acquaint myself with the existing state of affairs at once as I might not be able to see him the following day, as the state of affairs was grave. Though it was Sunday, I secured an audience. From the result of this interview it was thought best that I should see General Sam early the next morning before he communicated with Congress. I secured an interview and was informed that he had determined to resign, that his resignation was ready to be sent to Congress, that he was tired of this constant agitation, and that he would leave by the French steamer then in port for France, where he would pass the remainder of his life in quietness and peace; that since it was the wish of the people to have a new President he would not oppose them, but would abide by article 93 of the national constitution, and if the chambers did not elect a President to-day, Monday, the country would be without a President.

After my interview another cabinet meeting was held, in which the subject-matter of his resignation was again discussed, after which it was forwarded to the chambers. After the determination that the President would resign, Minister Leconte felt certain that he would be elected, as he had sufficient votes pledged in both houses to elect him. This news spread rapidly, the streets became full of armed citizens wending their way toward the chambers to prevent, forcibly if necessary, his election. At first it was difficult to get the members together. The streets in the neighborhood of the legislative halls were thronged with people and the Government troops, the latter to protect the members in case of violence. Several secret meetings of

the members were held. At last the doors were opened, and as soon as opened every available space not occupied by the members of the two houses were filled by the friends and foes of General Leconte. As the balloting was about to commence some one in the chambers fired his revolver. In an instant shooting commenced from all parts of the room. One or two were killed and the same number wounded. The members all sought shelter in the most available places they could find—under benches or desks. Others forgot the way they entered and sought exit by means of the windows. By this means the populace prevented the election of General Leconte, forcibly adjourned the chambers without date, and dispersed the members of both chambers. The Government troops immediately retired to the palace, the arsenal, the barracks, or the arrondissement, as it was thought that an attack would be immediately made on each place.

A committee of safety was at once formed to safeguard the interests of the city, and as the news reached the other cities of the Republic similar committees were named with like duties. The next object was to secure the palace, arsenal, and the Government buildings. A concerted attack was made on each of the above places at 10 p. m., lasting about twenty minutes, in which the Government troops were the victors. It is supposed that in these engagements about one hundred persons were either killed or wounded.

The next morning (Tuesday) at 6 o'clock the President sent one of his aids to our legation and requested my presence as soon as possible at the palace. I returned word that I would go at once. On my arrival he informed me of the events of the previous night; that all of the ministers had come to the palace the previous night for safety; that he would place himself and cabinet under my care as the dean of the diplomatic corps; that he would like to leave with Mrs. Sam that morning for the steamer, and requested the diplomatic corps to accompany him from the palace to the steamer at 11 a. m. On my return to my legation I requested the members of the diplomatic corps to meet at 9 a. m. All were present with the exception of Mr. Cohen, the English chargè, who could not be reached in time as he lives some distance from the city. I made known to them the President's request and all agreed to go in a body to the palace and from there to the steamer, and that they would meet at our legation at 10.30 a. m. I then sent word to ex-President Boisrond Canal, chairman of the committee, of the intention of the diplomatic corps, and requested that he would at once take measures to prevent any disturbance on the streets on our going through them to the wharf where we were to take boats to the steamer. He returned to us an answer that he would take the necessary steps at our request.

Arriving at the palace we found the President and Mrs. Sam impatiently awaiting us. We at once took carriages, Mr. Deprez and myself accompanying the President in his carriage, the German minister, Count Hacke, having Minister Leconte in his carriage, and the Dominican minister in my carriage with General Defly, all the carriages being surrounded by a strong armed mounted guard. While the streets were crowded, no attempt was made to molest us. On the contrary, nearly all paid due deference and respect to the late chief of state. When we left the palace all the members of the cabinet, with the exception of Mr. Leconte, who went with the President as far as the Cape, also left. Messrs. St. Victor and Auguste came to our

legation, the others going to the French legation, where they are at the present time, except Minister Leconte, who left on the same steamer with the President, and the minister of finance, Mr. Faine, who is at the French Seminary. On the departure of the President, Admiral Killick, with the two Haitian gunboats, after saluting the President, left for the Cape, it is said, to join the Firmin side.

On my return from the steamer I received a communication from the chairman of the committee of safety, Mr. Boisrond Canal, informing me of the formation of this committee, and the next morning another communication, stating that his committee desired the names of those Haitians who were domiciled with us. A similar communication was also sent to the other members of the diplomatic corps. Upon the receipt of this communication the diplomatic corps was again convoked. It was decided at this meeting that we should take no steps to recognize this committee as a political body, but simply to acknowledge the receipt of this note with thanks. It was also thought best that even this expression should not be conveyed in writing to the committee, so this message was sent to them through the deputy United States consul, Mr. Alex. Battiste, who delivered it orally. We also stated that we were accredited to a government and not to a committee. Our message was received with regret as they counted upon recognition by us. This we could not grant as the committee was looked upon by all as a self-constituted body, having limited and local functions.

Another attack was made on the palace and arsenal on Thursday, May 15, by some hot-headed individuals, but, as on the former occasion, they were repulsed. For a time this unexpected movement created great uneasiness. What is to be most feared is the danger arising from fire. As the town consists mainly of wooden structures a fire once commenced will sweep the city, then will come the uprising of the lower class to loot and pillage; if prevented, then bloodshed. Happily the committee seems to have the confidence of the masses and have full control of the situation. All persons are giving assistance to them in their arduous task. The streets are fully patrolled at night; everyone passing through them has to give an account where he is going, if he refuses he is placed in prison at once. In many respects the city is better governed without an organized government than with one, as there has not been the least disorder or attempts to rob since the committee has charged itself with such matters. In fact, in this trying situation the people are giving a splendid exhibition of self-government, for which all praise should be given them. Aside from the little affair, the attack on the palace Thursday night, stated above, all is quiet. The situation throughout the Republic is the same in both the large and small cities. I have been in telegraphic correspondence with all our consular agents to-day, and they inform me that a like condition exists in their localities, but this state of affairs may change at any moment. If fire breaks out we are all doomed, as it will be impossible for this committee to control the maddened passions of the lower class when once aroused, and it will be very difficult to subdue them with the limited means in their power.

The commercial houses which have been closed during this trouble are resuming business. The custom-house and post-office, which were closed, are again open and the condition of affairs is assuming its normal tone. The political prisoners held in custody on the Haitian

naval vessels and those held in prison have been released. Those who were in exile at Jamaica arrived this morning causing some little excitement as among them were two of the presidential candidates, Messrs. Fouchard and Pierre.

The present condition of affairs is apt to exist for the next six weeks, and possibly longer, though it will be slightly bettered when a provisional government is established to take the place of this committee and to order and superintend the election of the members of the new Chamber of Deputies which is to elect the President—their first duty being to elect a new Senate, and both houses the President. So that no stable government can be established in less than two months and perhaps longer. During this time there will be no stable government and in the absence of such more or less danger is feared.

* * * * *

To-day I had a visit from one of the presidential aspirants who desired to know how our legation felt toward him. I informed him that we occupied a completely neutral position and would not favor any candidate; that this was a matter that concerned themselves and not us, and on which they would have to agree among themselves. I suggested to him that this matter should be brought to a speedy ending in order that they might secure as soon as possible a stable government, as by this means only could tranquillity be established. Later in the day I had a visit from a member of the committee of safety requesting me as dean of the diplomatic corps that we as a corps would request those at the several legations to leave by first opportunity. I informed him that we could not entertain his proposition for several reasons, some of which he had already received from us; another and more potent one was that under their constitution, article 93, these gentlemen, the secretaries of state, whom they requested of us to have leave the country, were the actual government at the present time. He admitted that we were right, but we informed him that the diplomatic corps would give to his committee all praise for the good order they had maintained in the city since the departure of the President. He left us perfectly satisfied.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

The committee of safety to Mr. Powell.

PORT AU PRINCE, May 16, 1902.

MR. MINISTER: We have the honor to bring to the knowledge of your excellency that there has been formed at Port au Prince a committee of public safety, composed of Gens. Boisrond Canal, Horelle Monplaisir, Justin Carrié, Diogène Délinois, Edmond Polynice, H. Baussan, Ney Caymitte, and citizens Solon Ménos, Cadestin Robert, McDonald Appolon, and Michel Oreste.

This committee takes immediately and of urgency all the proper measures to assure order, security, and the carrying on of all the public services.

In begging your excellency to kindly take notice of this communication, we profit by the occasion to assure you, etc.,

BOISROND CANAL,
President of the Committee.

[Inclosure 2.]

The committee of safety to Mr. Powell.

PORT AU PRINCE, May 16, 1902.

MR. MINISTER: It has come to the knowledge of the committee of public safety, sitting at the capital, that following the events that have unrolled in this city a cer-

tain number of Haitian citizens have sought asylum in the different legations and consulates.

In consequence we would be greatly obliged to you to kindly, conformable to precedents, transmit to this committee the list of names of those of our citizens that may have taken refuge at the legation of the United States of America in this city.

With our thanks, etc.,

BOISROND CANAL,
President of the Committee.

[Inclosure 3.]

The committee of safety to Mr. Powell.

PORT AU PRINCE, *May 19, 1902.*

Mr. MINISTER: Although official relations are not established between the committee of public safety and the diplomatic corps residing in this city, circumstances the exceptional gravity of which is, it seems to us, of a nature to justify a derogation from usages, places us under the imperious obligation of submitting to you certain facts susceptible of interesting to a high degree the foreign colony of the capital as well as our own fellow-citizens.

It is therefore with the object of averting all possibility of a conflict, to prevent all bloodshed, and, finally, to safeguard the general peace to which are so intimately bound the interest and the security of this population, we believe it our duty to bring to the knowledge of the diplomatic corps that the committee of the north, at present at Gonaives, is disposed to march at the head of an army on the capital. Now, the foreign colony can bear witness—we are conscious of having succeeded up to this moment, thanks to the spirit of understanding that has not ceased to reign in this city, to maintain the calm in such a manner that there has been no cause to deplore any regrettable incident and that everyone is free to attend to their business. But the committee has reasons to believe that the presence of the army of the north at the capital would be susceptible of paralyzing its efforts and would be the signal of serious disorder; therefore it is with the object of covering our responsibility that we judged it proper to address the present (dispatch) to the diplomatic corps that it may be able to have a just appreciation of the situation.

Please accept, etc.,

BOISROND CANAL,
President of the Committee

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, May 19, 1902.

(Mr. Powell inquires if he may take the U. S. S. *Topeka* to St. Marc to consult with the commander of the army of the north and advise him not to go to Port au Prince. He states that if the army, which is said to number 5,000 men, is not prevented from reaching Port au Prince, a severe contest is to be expected, in which American interests will suffer.)

Mr. Hill to Mr. Powell.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 19, 1902.

(Mr. Hill replies in the negative to Mr. Powell's request to be permitted to take the U. S. S. *Topeka* to St. Marc to consult with the commander of the army of the north and advises him not to go to Port au Prince, stating that there appears to be no occasion for Mr. Powell's intervention.)

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, May 22, 1902.

(Mr. Powell reports the arrival of the U. S. S. *Topeka* at Port au Prince on the morning of May 22.)

Mr. Powell to Mr. Hay.

No. 1095.]

LEGATION OF THE UNITED STATES,
Port au Prince, May 24, 1902.

SIR: I have the honor to inform the Department of the current events up to the time of the closing of the mail to-day, as I will not have another opportunity to do so for the next two weeks.

Since my last dispatch, No. 1092, of May 17, was written, affairs have been very tranquil. No further attacks have been made on either palace or arsenal, both of which are in charge of the national troops. The streets are well guarded at night, and but for the "qui est vous" of the patrol all would be quiet. Yesterday information was received that Mr. Firmin, with Generals Nord and Jean Jumeau, were approaching the city with hostile intent at the head of 5,000 men. The committee of safety requested orally that the diplomatic corps take such measures as they might deem best to save this city from an attack from the vessels of Admiral Killick, stating that it would be impossible for them in such an event to prevent fire, bloodshed, and looting; that they were doing all they could to maintain order, protect the lives and the commercial interests endangered in the event of such an attack, but could not guarantee protection if such an attack should take place.

The diplomatic corps was called together, and it was agreed to forward the following to Mr. Firmin by telegraph:

The members of the diplomatic corps at Port au Prince—the minister of the United States, the minister of France, the chargé d'affaires of Germany, and the consul-general of England—call the most serious attention of the committee of the north, of the northwest, and of the Artibonite to the grave dangers that may arise from the point of view of the security of their respective colonies in the event of the entrance of an army into the capital. Will you amicably invite the army to stop? We rely on your wisdom. Answer requested.

Later we received the following telegram from Mr. Firmin:

Telegram received. Give you full assurance that the army is not to enter into the capital before a perfect understanding with the committee assembled at Port au Prince. It has already stopped, and before two days the committee will come alone to the capital with the most conciliatory sentiments.

When the action of the diplomatic corps became known, confidence in the commercial circles, as well as in the city at large, was restored, though, as a precautionary measure, a body of volunteer troops numbering 500 were sent to defend a narrow pass through which the army of the north must pass to reach the city. This place is about 20 miles from the capital. Then they erected earthworks as a further defense. Later 1,500 volunteers were sent to reenforce those already there.

It is rumored that this action of Mr. Firmin in endeavoring to secure his election by force, and the forced loan that he has contracted, have alienated many persons that favored his candidacy. Dissension has

also occurred among Mr. Firmin's followers in the candidacy of Gen. Jean Jumeau. This makes the third one from that section.

The action of the diplomatic corps stated above has no doubt simplified the situation a great deal. This effect was seen to-day in the non-appearance on the streets, as has been the case during the past week, of armed bodies of men. As matters stand to-day it looks as if an amicable understanding will be reached to organize a provisional government, which will order the new elections.

The *Topeka* arrived this morning. All are well on board. Captain Nichols called on me and informed me in regard to his instructions. I have explained to him the situation up to the present.

The arms and ammunition in the hands of Generals Nord and Jumeau were given them by Admiral Killick. Five thousand Remingtons and 1,000,000 rounds of ammunition were recently bought and delivered to the Government. The admiral was charged to have them conveyed to the arsenal. Two thousand of these guns were landed; the remainder, 3,000, and all the ammunition he retained and delivered to Mr. Firmin. It is by this means that the present force under Firmin, Nord, and Jumeau were armed.

I would respectfully suggest, owing to the present grave situation, that the *Topeka* remain until a provisional government is established. It would not be well to retain her in these waters until a regular government is fully established, on account of the climate and its possible effect upon the officers and men. In discussing this matter the members of the diplomatic corps here are to suggest to their respective governments the serious aspect of affairs and the need of some foreign vessel in port until tranquillity is fully established. This will not be the case until a President is elected, which can not occur under six or eight weeks, and possibly longer. It was suggested at this meeting that there was no need of more than one vessel at a time, as it would suppress by its presence the excited state of feeling and protect the foreign commercial interests in which we are so largely interested. By one vessel relieving the other no vessel would need to remain at any one time more than ten days. I would like to have one of our vessels here at the time the newly elected chambers shall meet, as the condition of affairs will be very grave at the time. Again, the presence of one of our vessels here at that time will give considerable prestige to our country, which will bear fruit for us in the end. If the Department will accept these suggestions, I think it will result in great good to us with this people.

Firmin arrived to-day.

I have, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,

Port au Prince, May 27, 1902.

(Mr. Powell reports the establishment of a Provisional Government, with Canal as President, Nord as secretary of war, St. Fort Colin as secretary of the interior, Jérémie as secretary for foreign relations, Cesarions as secretary of agriculture, Dennery as secretary of finance, and Lalanne as secretary of justice, and that affairs are rather better.)

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, May 28, 1902.

(Mr. Powell reports that the diplomatic corps recognized the Provisional Government on May 28.)

Mr. Powell to Mr. Hay.

No. 1098.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, May 30, 1902.

SIR: I have the honor to state to the Department that since my dispatch, No. 1095, of May 24, 1902, affairs here have assumed a calmer aspect. The several sections of the Republic have sent delegates to the capital for the purpose of selecting a Provisional Government. This was happily effected May 26, with the following officers:

Gen. Boisrond Canal, President.

Gen. Nord Alexis, charge of department of war and marine.

Gen. St. Fort Colin, charge of department of interior and police.

Mr. Jérémie, charge of department of foreign relations and public instruction.

Mr. D. Cesarion, charge of department of public works and agriculture.

Mr. Ch. Dennery, charge of department of finance and commerce.

Mr. Lalanne, charge of department of justice and religious worship.

Upon the appointment of the Provisional Government communications were addressed to each member of the diplomatic corps stating this fact. This body met and drafted a reply, which was sent by each member. The several officers above named entered upon their duties May 27. When it became known that the Hon. A. Firmin, as well as the other candidates for the Presidency, were not to be members of the Provisional Government, the situation was somewhat relieved; but there is still some danger on account of the proximity of what is known as the "army of the north" to the capital. It was supposed they would return to Cape Haitien, Gonaïves, and St. Marc, but such is not the case; and in the appointment of Gen. Nord Alexis as the minister of war and marine this body of troops can enter the city at any time by his orders. The danger then will be that a "coup d'état" may occur at any moment. The north will have the advantage in having control of the Government's arsenal and the assistance of the two Haitian war vessels to assist them. The palace still remains under the control of the Government troops. The commandant refuses the Provisional Government or its President an entrance thereto, and states he will only give way to a constitutionally elected President. While it is true the Provisional Government has full control, and is generally acknowledged throughout the Republic, indications show that the members thereof do not fully trust one another. As an example of this the present secretary of interior and police, Gen. St. Fort Colin, is also the military governor of this city. He has refused to surrender the latter office, so holds both. His refusal is based upon the idea that this office might pass into the hands of those who were his per-

sonal enemies, and thus the military authority in this section might be given to another. He is very popular with this portion of the army, and therefore desires to remain in control.

The Provisional President, Boisrond Canal, has stated through the papers that he favors none of the candidates named, and that he is neutral; that he accepts the present place for the peace and welfare of the Republic. This statement has had a good effect on the popular mind. From advices received to-day from our consular agents I find tranquillity prevails in the north; that there is some slight trouble existing in the south, especially at Jacmal, which may burst into a flame. If so, we may look for trouble in that direction.

All the candidates are active, each using all the means in his power to influence the electors in his favor. The system at present in vogue is similar to that used in the late elections in France. Scurrilous handbills are being circulated by the partisans of the one candidate against the other. I do not think, though matters are still uncertain, that we shall be disturbed until about the time of the election of members to the Chambers, which, it is stated, will take place about June 26, 1902. The Chambers, or House of Delegates, will meet on or about July 15 to organize and proceed to the election of the upper house, or Senate. This will possibly take a week, after which a week or two more will be consumed in securing their attendance; then, their organization. It is only after this has been done that the two houses can convene to elect the President; so it will be about August 1 before the President will be installed.

Another question arises here which is apt to cause more trouble. Their constitution states that a fixed date is given for the election of members of the lower house. No provision is made therein for an election at any other period. This date has passed, so any election now held will be declared unconstitutional by the friends of the defeated candidates. As the Congress itself was not a constitutional body, we may look for a revolution within a few months after the successful candidate reaches the coveted office. Another feature that ought to be considered is, if the north be successful in naming the candidate, the south will accept him reluctantly, and possibly drive him from power within a few months. If, on the other hand, the south succeeds in electing one of their candidates, the north will declare that fraud has been practiced; so neither party nor section will be satisfied with the result, and possibly the words of the outgoing President will be verified: "I will be the last President of Haiti." * * *

The presence of the *Topeka* here has been of great benefit in calming the excited passions of the contending factions. It would be wise, as long as this unsettled condition of affairs exists, to have some naval vessel in these waters. I have learned from the English chargé, Mr. Cohen, as well as from an interview with the commander of the *Psyche*, that the latter would return from Jamaica and relieve the *Topeka*. The French minister, Mr. Desprez, is to have a vessel of his nation to relieve the English war ship, and a German vessel is expected to relieve that of France. I trust the Department, owing to the gravity of the situation, will have one here on or about the time of the meeting of the Chambers, when affairs may become more serious.

Another matter I have the honor to mention in connection with this has been the forced loans made by Mr. Firmin in the north, giving as a guaranty for repayment certain revenue derived from the exporta-

tion of coffee, which revenue has already been guaranteed for certain outstanding bonds, and which, by this loan, is to be diverted from the channel in which it should go. Protests have been made by the French minister and the German chargé, and one has been handed me from our commercial houses to present to the Government. I have not done so, as there was at the time no government to whom such a protest could be sent, and since then I have looked upon it as a personal act of Mr. Firmin which will have no effect unless he should be elected; in which case I would like instructions from the Department.

I have stated the situation up to the present moment. I also inclose certain correspondence bearing upon the subject-matter.

I have, etc.,

W. F. POWELL.

[Inclosure 1.—Translation.]

Mr. Canal to Mr. Powell.

REPUBLIC OF HAITI,
THE CENTRAL COMMITTEE OF PUBLIC SAFETY, SITTING AT THE CAPITAL,
Port au Prince, May 26, 1902—Ninety-ninth year of independence.

MR. MINISTER: We have the honor to bring to the knowledge of your excellency that the different committees of public safety of the Republic gathered in full assembly at the capital have decided to confide the care of assuring the working of our institutions and the guaranty of general security of the state to a Provisional Government, composed of seven members.

This Government has been constituted thus:

The Gen. Boisrond Canal, President.

The Gen. Nord Alexis, charged with the department of war and marine.

The Gen. St. Fort Colin, with that of the interior and general police.

The Citizen Jérémie, with those of foreign relations and public instruction.

The Citizen D. Cesarion, those of public works and of agriculture.

The Citizen Ch. Dennery, of finances and of commerce.

The Citizen Lalanne, of justice and of worship.

In begging your excellency to kindly take note of this communication, we profit by the occasion, etc.

BOISROND CANAL,
The President of the Central Committee.

[Inclosure 2—translation.]

Mr. Jérémie to Mr. Powell.

MINISTRY FOR FOREIGN AFFAIRS,
Port au Prince, May 27, 1902.

MR. MINISTER: I have the honor to bring to your knowledge that the central committee of public safety has separated after having decreed the formation of a Provisional Government at Port au Prince. To me has devolved the delicate mission of directing the departments of foreign relations and of public instructions.

Soon the people will freely choose their delegates and the National Assembly will elect to the first magistracy of State a citizen that it judges worthy of its confidence.

Extraordinary events have agitated the country in its interior, but nothing has changed its exterior politics. It aims at progress. It understands that the sympathy of friendly powers will assure its evolution. This sympathy it believes it merits by the good spirit that guides it, and by the protection that it gives to all who dwell in its territory, both to their interests and to their persons.

During its short control of affairs the Provisional Government will apply itself to maintain order and strengthen the bonds of friendship that attaches it to the nation of which you are the worthy representative here.

I venture to count, Mr. Minister, on your kindly assistance to render easy the task that has been assigned to me.

Please accept, etc.,

JÉRÉMIE.

[Inclosure 3.]

Mr. Powell to Mr. Jérémie.

LEGATION OF THE UNITED STATES,
Port au Prince, May 27, 1902.

SIR: Gen. Boisrond Canal has informed me of the formation of a Provisional Government under his Presidency.

On your side you have been kind enough to announce to me that you are charged with the department of foreign relations of that Government.

I have the honor to acknowledge the receipt of those two communications.

W. F. POWELL,
Dean of Diplomatic Corps.

[Inclosure 4.]

Mr. Powell to Mr. Jérémie.

LEGATION OF THE UNITED STATES,
Port au Prince, May 28, 1902.

SIR: I have the honor to acknowledge the receipt of your communication of yesterday (May 27) informing me of the formation of a Provisional Government, with General Canal as President, and yourself charged with the functions of minister of foreign relations in the said Government.

Accept, etc.

W. F. POWELL.

[Inclosure 5.]

Protest of American citizens.

PORT AU PRINCE, *May 16, 1902.*

SIR: We, the undersigned, American citizens and merchants doing business in Port au Prince, beg to call your attention to the fact that revolutionary committees have been formed in the different places of the Republic, and that the committees have seized the duties.

The committee in Cape Haiti has made a loan of 50,000 gourdes, giving all the export duties in guaranty.

We must protest against such proceedings, as all the export duties on coffee, with exception of 13½ cents, belong to the creditors of the Republic, having been given to them in guaranty for different loans, according to contracts voted by the Chambers and promulgated as law.

Begging you to protect our interests against these illegal steps, we have, etc.,

C. LYON HALL,
 SCHWEDERSKY,
 HENRY STARK & Co.,
Partner of T. Dyardin Th. Luders & Co.

C. & F. MEVS,
 ROBERT NORTZ & Co.,
 ED. S. MEVS & Co.,
For A. Jaegerhuber.

ROBERT STARK,
Partner of G. Keitel & Co.
 EDWARD CUTTS.
 OTTO BEIN.
 EUGENE WILLIAMS.
 LAGOJANNIS.

FOREIGN RELATIONS.

[Inclosure 6.]

*Commander Nickels to Mr. Powell.*U. S. S. TOPEKA,
Port au Prince, May 29, 1902.

SIR: Now that the Provisional Government has been established, I have to request that you will inform me of the status of Vice-Admiral Killick and the two Haitian men-of-war, so that I may be governed in regard to my intercourse with them.

To-morrow being one of our national holidays, I shall dress ship and fire a salute of 21 guns at noon.

If these vessels are now in the hands of the Government, it would be proper for me to request them to join in the celebration, if they were in port.

JOHN A. H. NICKELS,
Commander, U. S. Navy, Commanding.

[Inclosure 7.]

*Mr. Powell to Commander Nickels.*LEGATION OF THE UNITED STATES,
Port au Prince, May 29, 1902.

SIR: I have the honor to acknowledge your favor of this date requesting to be informed of the status of Vice-Admiral Killick and the two Haitian gunboats, in order that you may be governed in your future intercourse with them.

In reply I have the honor to state that Vice-Admiral Killick represents the marine arm of the Provisional Government recently established and recognized by the diplomatic agents accredited to this Government. Such being the case, I deem it to be proper to request that their vessel or vessels join with us in the celebration of that national holiday that is cherished by us in commemorating the memory of those who gave their lives in defense of their country's flag.

I have, etc.,

W. F. POWELL.

[Inclosure 8.]

*Commander Nickels to Mr. Powell.*U. S. S. TOPEKA,
Port au Prince, May 29, 1902.

SIR: Vice-Admiral Killick, flying his flag on the cruiser *Crête à Pierrot*, arrived and anchored in the port this afternoon. I sent an officer on board to find out whether the Admiral was under the orders of the Provisional Government, and was informed that he was.

I have requested him to dress ship and fire a national salute to-morrow in honor of our holiday, which he will do.

I shall salute his flag to-morrow morning, and call upon him later in the day

Yours, etc.,

JOHN A. H. NICKELS,
*Commander, U. S. Navy.**Mr. Powell to Mr. Hay.*

No. 1104.]

LEGATION OF THE UNITED STATES,
Port au Prince, June 19, 1902.

SIR: I have the honor to state to the Department since my last dispatch, No. 1098 of May 30, there has been no disturbance of the perfect tranquillity that at present prevails here. One or two little affairs have occurred at Cape Haiti in which a few were injured. This trouble

was fomented by the partisans of Mr. Firmin, who desires to become a member of the Chamber of Deputies, for which place he is strongly opposed by the adherents of Gen. Alexis Nord, one of the presidential candidates. From information received from there, it is predicted he will be defeated. The other was at Jacmel, where the military governor (Delegat) was compelled to seek asylum in the Dominican Consulate. As I have stated, all is quiet here at present, but within the past few days it has been strongly rumored that the present Provisional Government was to be displaced by the same means that brought it into power. The objection to it is, that none of the several factions up to this time have been able to secure its influence in favor of any one of the many candidates who aspire to the Presidency. They have assured each one of their intention to maintain a strictly neutral attitude, declaring that at the coming election all should have an equal chance, and that it should be free from all governmental or military interference. This attitude does not please the partisans of some of the candidates.

In regard to the candidates themselves, I think the field at this moment has been narrowed to two. Mr. Firmin, the prospective candidate from Cape Haiti, has lost considerable ground, owing to a forced loan that he has exacted from the merchants there, and for being instrumental in having an army sent to Port au Prince, which caused the Provisional Government needlessly to pay them \$10,000, in order to have them return to their homes. He has offered himself as a candidate for the House of Delegates, but the feeling at the Cape is so bitter toward him that it is thought he can not be elected. These two events will remove him from the field of prospective candidates. The other candidate from this section is Gen. Alexis Nord, who is at present filling the office of provisional minister of war and marine. He is considered by all but himself to be too old to be elected, he having 88 years to his credit.

This narrows the field to Messrs. Fouchard and Pierre, both from the south. Each of these men have about the same political strength. This fact makes each of them weak, as neither will give way to the other, so that it is thought a compromise candidate will be elected who will be able to secure the support of the friends of the candidates named above. Who this man will be no one at present can foretell. Several are named; among the most prominent are General St. Fort Colin, the present military governor and secretary of police, the Hon. Solon Ménos, ex-secretary of foreign relations, and the present provisional secretary of foreign relations, Mr. Jérémie.

Whoever is elected will not satisfy the other, so that a stable government can not be expected for some little time, as the defeated party or parties will immediately claim that the election is contrary to the constitution, which states:

Elections for the Chambers of Deputies must occur during the first weeks in the month of January.

The present elections will take place in July, six months after the time specified by the constitution.

It was this construing of the constitution that led to the resignation of General Sam, it being claimed that under the constitution he could not hold this office beyond the 15th of May, 1902, nearly a year less than the constitutional terms of seven years. Simply obeying a decree of the Chambers, passed at the time of his election, he entered upon

the duties of the Presidency a month prior to the time stated by the constitution for him to do so. Now those who compelled him to resign are doing that which they claim was wrong in the late Government. It is for this reason that no settled state of affairs can be expected, unless, before the next President assumes office, certain provisions bearing upon this matter are changed in their constitution.

The inscription (registration) of votes, which commenced on the 18th of May, will end on the 28th of this month, after which time the elections will take place. In this city they will last nine days, elsewhere in the Republic seven days. It is at this time we may look for trouble, owing to the large number of candidates who desire to fill seats in the House of Delegates. This city has 23 candidates for the four seats to which it is entitled. A small town a short distance from here has 17 candidates, aspirants for one seat. As it is in these places so it may be said to be in the other sections of this Republic.

The new Chamber of Deputies is supposed to convene July 15. It will take a week to complete their organization, after which they will proceed to the election of the members of the Senate. This will take three or four days, allowing a week for the newly elected senators to reach the capital and another for them to organize, so that it will be about the first week in August before they will proceed to elect the President. Under the present condition of affairs and the suppressed excitement, trouble is apt to occur.

It is certain that whatever way the election results dissatisfaction is sure to come and will break forth within a year from the time the newly elected President enters upon the duties of his office.

There is one peculiar feature in this state of affairs; exchange is to-day 136 per cent, and during the past month, even at the time when the Chambers were dissolved by the people, exchange was lower than this. In more prosperous times it has reached from 250 to 300 per cent.

The Provisional Government is about to negotiate a loan to pay some of the arrears (salary) due to public employees. They have received no money for the past four months. Owing to this unsettled state but little importing is being done. The country people are bringing but little produce in, and this enhances the cost of living to nearly double what it was a year ago.

The Hon. Brutus St. Victor, late minister of foreign relations, leaves for Jamaica on the 21st, being forced to do so by the present Government.

I have, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, June 27, 1902.

(Mr. Powell reports the receipt of a telegram from Consul Livingston that the Haitian admiral intends to bombard Cape Haitian at 2 o'clock, June 28.)

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, June 28, 1902.

(Mr. Powell reports that the Haitian Government styles the admiral a pirate and disavows his action.)

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, June 30, 1902.

(Mr. Powell reports that a telegram received from Cape Haitian states that the admiral fired on the city, killing several people; that Firmin leaves Cape Haitien on Haitian naval vessel under protection of consuls, and that all is quiet at Port au Prince.)

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, June 30, 1902.

(Mr. Powell reports that he has been informed by the minister for foreign affairs that the arrest of the Haitian admiral has been ordered by the Government.)

Mr. Powell to Mr. Hay.

No. 1110.]

LEGATION OF THE UNITED STATES,
Port au Prince, June 30, 1902.

SIR: I have the honor to inclose to the Department copies of telegrams received from and forwarded to Mr. Livingston, our consul at Cape Haitian, regarding the existing troubles there on account of the coming elections of members of the Chamber of Deputies, who are to select the members that are to compose the new Senate, and both Chambers to unite and elect the next President of this Republic.

In that portion of the Republic known as the department of the north, and which embraces Cape Haitian, are the two candidates, Gen. Nord Alexis and the Hon. A. Firmin. Both are making strong appeals to the people to secure their votes. Gen. Nord Alexis is the military governor (delegate) of that section and the minister of war and marine in the present Provisional Government. The other candidate is the Hon. A. Firmin, the present Haitian minister to France. These men have heretofore been warm friends. It is claimed by General Nord that by the advice of Mr. Firmin, and through his influence,

he was led to assemble and lead a strong force against Port au Prince; that it was Mr. Firmin also who had caused a forced loan to be levied upon the merchants at the Cape. When Mr. Firmin reached Port au Prince, he placed all the movements in regard to the army and the raising of this money to the credit of General Nord. Later General Nord arrived at Port au Prince, and when he was informed of the statement made by Mr. Firmin, who left for the Cape shortly after General Nord's arrival, he denied it, and stated in reply that it was through the advice of Mr. Firmin that he was led to bring an army from the north to Port au Prince. From the statements made in regard to him he became a bitter foe of Mr. Firmin.

He remained here a few days after the departure of the army for the north, and returned to the Cape to oppose and defeat the aspirations of Mr. Firmin, who desired to be made a member of the Chamber of Deputies in order, as a member of that body, to further his contest for the Presidency.

As I have stated, a bitter feeling exists between these men and their partisans. Up to this time General Nord has the better of the fight, acting as he does in a double character, being the military governor on the one hand and a member of the Provisional Government, as its secretary of war and marine, on the other. Since his arrival at the Cape he has made an aggressive fight on Mr. Firmin, and in order to defeat him has issued orders, it is said, to the troops under his command to vote against Mr. Firmin. He has also prevented Firmin's friends from holding public meetings; he has caused searches to be made of the houses of the Firminists for arms, and has caused certain prominent adherents of Mr. Firmin to be put in prison.

Admiral Killick being a warm friend of Mr. Firmin, the latter appealed to him for protection against the movement of General Nord; hence the order or threat of the admiral and his subsequent movements of landing sailors from his vessel at the Cape for the protection, it is said, of Mr. Firmin. In so doing the admiral has placed himself in a perilous position. In case Mr. Firmin is defeated he will be either shot or exiled, as General Nord is his superior officer, and he is supposed to be under the orders of the Provisional Government, which he has refused to obey.

As to the threat of bombarding the city, I do not believe it was his intention to do so, as his chief gunners have left him, and in such a bombardment Firmin's friends would suffer as much as those of General Nord. Again, the admiral has large property interests there which would also suffer; for these reasons he would not bombard the place. His idea was to intimidate General Nord, and by this means make him relax his efforts against Mr. Firmin.

The ill-advised actions on the part of Mr. Firmin and his friends are causing him to lose many votes that he would have received in other sections of the Republic. As it looks at the present time, he will be defeated as a candidate for the Chamber of Deputies and later for the Presidency.

All the members of the diplomatic corps received telegrams from their respective consuls advising them of the action of the admiral. The diplomatic corps was convened, and it was agreed that the members should call individually on the minister of foreign relations and express to him the hope that the Government would take immediate action to prevent the admiral from carrying into execution his threats,

and, if trouble should occur here, that the Government would take all measures in its power to protect foreign interests.

In my interview the minister informed me that they had telegraphed to the admiral not to bombard or land troops, and if their orders were disregarded he would be considered as not sailing under the Haitian flag and would be classed as a pirate. He also assured me that in case of any trouble that foreign interests would be fully protected, and, finally, there was no need of anyone being alarmed.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

Mr. Powell to Mr. Livingston.

LEGATION OF THE UNITED STATES OF AMERICA,
Port au Prince, June 21, 1902.

SIR: I had the honor to receive your telegram a few minutes ago, which reads as follows:

"Military authorities here commence intervene in election. Preliminaries apparently against Firminists. Latter vexed; menaced, but unwavering; stout resistance expected; indications of trouble election day; society, business, foreign interests apprehensive. Perhaps advisable inform Haitian Government."

In reply to the latter part of your cablegram, it would not be advisable for this legation to inform the Government, as we have strict instructions not to interfere. Our business is to protect only American interests. Again, you will remember that General Nord, who, I understand, is at the Cape, is the minister of war and marine, and therefore a part of the Government, and who is possibly the instigator of this movement. Allow me to suggest to you not to have anything to do with this matter. Give neither advice nor suggestion to either party, but be watchful over American interests.

Kindly keep me advised, in order that I may be able to communicate with the Department if an emergency requires. At present all is quiet here.

Your obedient servant,

W. F. POWELL.

[Inclosure 2.]

Mr. Livingston to Mr. Powell.

UNITED STATES CONSULAR SERVICE,
Cape Haitian, June 25, 1902.

SIR: I have the honor to acknowledge the receipt of your communication of the 21st instant, confirming telegraph, etc. The message in question was sent at the request of a friend who wished you to know the situation, and who paid for the telegram. As it was a correct statement of the situation, was sent to you only, and as I also desired that you be informed, I consented to send it. The situation not only has not ameliorated, but is growing steadily worse. In the Cape itself the contest is exceedingly bitter, Mr. Firmin having, apparently, many strong personal enemies who are leaving nothing undone to accomplish his defeat, both as deputy for the Cape and President of the Republic. Gen. Nord Alexis has discarded the rôle of quasi-Firminist and seems to be using all his undoubted influence as well as his official power against Mr. Firmin. Even his friends assert that the soldiers hereabouts are being instructed to vote for certain candidates.

At this writing there are rumors of coming arrests; some individuals have been disarmed, many houses have been searched for arms and ammunition, and the general belief is that there will be a clash sooner or later. A prominent gentleman, a friend of General Nord, said to me this morning that he was so apprehensive of trouble that it was doubtful whether he would attempt to vote. He said further, that he was endeavoring to secure a promise from the leaders on both sides to discourage among their followers any tendency toward violence.

My personal attitude is, of course, that of strict neutrality, but the situation is very interesting; it is also discouraging for those who wish well for the future of the country.

I am, etc.,

LEMUEL W. LIVINGSTON.

FOREIGN RELATIONS.

[Inclosure 3.]

Mr. Livingston to Mr. Powell.

[Telegram.]

CONSULATE OF THE UNITED STATES,
Cape Haitian, June 27, 1902.

Killick threatens (to) land troops and bombard city to-morrow if military pressure exercised at election. Consuls protest against Killick.

LIVINGSTON.

Mr. Livingston to Mr. Powell.

[Telegram.]

CONSULATE OF THE UNITED STATES,
Cape Haitian, June 28, 1902.

Marines landed; collision imminent. Killick will act.

LIVINGSTON.

[Inclosure 4.]

Mr. Powell to Mr. Livingston.

[Telegram.]

LEGATION OF THE UNITED STATES,
Port au Prince, June 28, 1902.

Telegram received. Government here made acquainted with contents. Do not think Killick will take such action.

POWELL.

[Inclosure 5.]

Mr. Powell to Mr. Livingston.

LEGATION OF THE UNITED STATES,
Port au Prince, June 28, 1902.

SIR: I have your favor in yesterday's mail. Many thanks for informing me of the current situation. Last evening received your telegram. I think it is one of the cards that Killick would like to play, but will not, or, in other words, a game of bluff. He has no more idea of doing so than you. This announcement is simply to frighten the timid. To do as he states would injure his friends more than he would his foes. Again, Killick has large property interests at the Cape; so if it should escape his fire someone would set it on fire for revenge. You need have no fear that he will do so. His threats are doing his candidate no good in the other sections I hear.

Here all is quiet and the Government, it is said, will in no manner interfere, and the election will be absolutely free. Voting will virtually commence here on Monday. Trouble is reported at Aquin. Thanks for your letter.

Respectfully,

W. F. POWELL.

Mr. Hay to Mr. Powell.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 3, 1902.

(Mr. Hay states that the U. S. S. *Marietta* has been ordered to Cape Haitian, touching at Port au Prince.)

Mr. Powell to Mr. Hay.

No. 1111.]

LEGATION OF THE UNITED STATES,
Port au Prince, July 7, 1902.

SIR: I have the honor to inform the Department of the course of events from the date of my last dispatch to the present time.

The elections have been going on for the past week in all parts of the Republic, in the villages and small cities lasting five days—that is, they have the privilege to finish it in one day or in five days—but if they do not conclude the same within that period an election occurring beyond this time is invalid. Here a longer period is given (nine days) on account of the larger population, and it being the capital its inhabitants are considered to have special privileges.

All over the Republic there have been more or less disturbances, the most serious being at the Cape, where Admiral Killick endeavored to give aid to the Hon. A. Firmin, in so doing disobeying the orders of the secretary of war and marine, Gen. Nord Alexis, who was also a candidate for the Presidency and therefore an opponent to Mr. Firmin. The Admiral, in order to protect Mr. Firmin, landed some of the troops and sailors from his vessel, also four of his guns. This action on his part was resisted by General Nord and brought on an engagement between his force and the troops of General Nord, resulting in Killick's retreat to his vessel after the loss of two of his guns, and also being compelled to leave a portion of his troops behind, who were immediately disarmed by General Nord. This caused Mr. Firmin to seek shelter on board of the Haitian vessel under the escort of the foreign consuls. When I was informed by telegraph of the threatened move of the Admiral I doubted that he would take such an unwise step, and so informed Mr. Livingston, but from subsequent events I find I was mistaken. This action of the Admiral resulted in a few deaths and some wounded, the number of which has not been made known here. After this affair the Admiral secured some coal from a Norwegian vessel in port and sailed for Caracol, from there to Gonaives; the latter city I understand he has not as yet reached, being stranded for want of fuel at or near the Mole St. Nicholas. Since his departure from the Cape, word has reached here that quietness prevails in that section. The elections have occurred there, resulting in the defeat of the Firmin candidates for the House of Delegates. The full result of the elections in that section is as yet unknown.

At Gonaives one of the Firmin candidates withdrew and had Mr. Firmin named in his place, by which Mr. Firmin has been elected a member of the Chambers, to which place he aspired, as it gave to him considerable vantage ground in the Presidential contest. At this writing it is impossible to know which of the many candidates is ahead. In several places no elections have occurred owing to fights to secure control of the electoral board, which virtually controls the election of the candidates, as whoever secures the control of this machinery controls the subsequent election.

At the capital the elections which closed yesterday were fairly quiet; there has been some little shooting at night, making the timid and nervous rather unsettled. A few have been killed, more through accident than by design. The houses in the neighborhood where this promiscuous firing has occurred suffered the most. Some of these houses above the first floor are pretty well riddled, but this is one of the ways,

I am informed, in these contests they let off their pent-up enthusiasm. Several of their shots have fallen in and near the legation, but we have become so accustomed to it we do not mind it. The only unpleasant thing, is that it keeps us in doors, especially in the evening. We do not dare to sit in our gallery (porch) for fear of some stray bullet. It is very unpleasant in a climate hot as this to be housed all the time. This state of things is apt to continue for the next six weeks before we can say that an established government will be formed. Up to this time, no foreigner has suffered either loss of life or property. Business is stagnant; there is absolutely nothing being done in the commercial line.

At this writing no one can tell which of the candidates has secured the largest number of the elected delegates who are to be members of the new Chambers, but from what information we have the contest seems to have narrowed to the Hon. A. Firmin and Mr. Senèque Pierre, who appear to have about equal strength; the first is from the north, the latter from the south. Mr. Fouchard, who has been much spoken of as the next President of this Republic in the papers in the States, seems to be out of the race, as but few of those elected are said to favor him as the next President. He has lost his candidates here and in nearly all of the larger cities. Another, Mr. Ménos, referred to in a previous dispatch as one of the candidates, is defeated. Another, the present minister of foreign relations, Mr. Jérémie, has declined to be a candidate. All the others are out of the race but the first two named. No one knows in whose favor the delegates here will be, but it is known that they will not favor Mr. Firmin, nor are they supposed to favor Mr. Fouchard.

There is another fact, which will have its play in the near future, to be taken under consideration in this connection. Mr. Fouchard is supposed to be one of the wealthiest men in the Republic. It has been his ambition for a number of years to secure the Presidency. He was a candidate at the time General Sam was elected, and it was for this ambition he was exiled. Since then he has spent large sums of money to keep his name before the people. He has had for a long time a number of correspondents who have used the columns of some of the leading papers in the States, such as the New York Herald, in his interest. He has had his photograph distributed broadcast among the people, and has spent (it is supposed) not far from \$90,000 and is prepared to spend more when the occasion arrives, and that will be after the Chambers organize and proceed to the election of the President. * * * It was for this reason that Mr. Firmin, who is a poor man, desired to be a member of this body to prevent such a movement. For this reason it is not well to say that Mr. Fouchard is out of the race until after this President is elected, but I do not think he will go further than this. It will not be so with Mr. Firmin, who will not accept defeat without a struggle, and if defeated will no doubt plan later to set aside the new government almost at its inception. The only way to obviate this will be to accede to his demands, whatever they may be.

The electoral college is supposed to meet in about ten days to name candidates to be voted by the House of Delegates for the new Senate. Between now and then there will be but little trouble, but from that time up to the day when a selection for the Presidency is to be made we may look for trouble, especially on that particular day, which will be between the 1st and 5th of August. At that time there may be

another "coup d'état." It will all depend on the candidates themselves and if money is used in the favor of any particular candidate.

At the present time there is no need of a naval vessel here. A French vessel is expected within the next few days, and will possibly remain for ten days. As I have stated, there has been considerable shooting in the streets at night thus far, but few persons have been seriously injured.

I have endeavored to give to the Department an impartial view of the situation as it is presented to me; if affairs assume a dangerous phase, I shall avail myself of the cable to inform the Department. The members of the diplomatic corps are acting as a unit in all matters affecting foreign interests.

* * * * *

I have, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

No. 1121.]

LEGATION OF THE UNITED STATES,
Port au Prince, July 19, 1902.

SIR: I have the honor to inform the Department of the condition of affairs in this Republic up to the present time. In my last dispatch, No. 1111, of July 7, I gave to the Department the facts that had reached the legation concerning events that had occurred at Cape Haïtien. Since then more detailed information has reached us. It was stated in our dispatch that the foreign consuls had gone to Mr. Firmin's house and had conducted him, under their respective flags, to the Haitian gunboat. This statement was an injustice to the consular corps. From subsequent information received it appears that Admiral Killick landed his sailors and four small guns, the detachment being in charge of one of his officers, who was directed to proceed to Mr. Firmin's house. Shortly after their arrival this party assumed the aggressive, killing one or two persons, one of whom, I believe, was an officer of the commune. A part of this force was sent to the chief of the arrondissement, who is a brother-in-law of Mr. Firmin. General Nord attacked the part of the force stationed at the house of Mr. Firmin, compelling them to retreat in haste to their boats. It was at this time that the foreign consuls entered upon the scene. While the firing was going on the consuls had assembled at the American consulate (Mr. Livingston's), which is between Mr. Firmin's house and the city wharf. While there they heard the running of the people as they passed the house and the rapid firing of guns. In order to prevent a further effusion of blood, they resolved to go under their flags in a body to both parties. By this time Killick's force had reached the wharf and the firing had partly ceased. In his retreat two of his guns had to be abandoned, as well as a part of his force. Mr. Firmin had reached the wharf a few minutes before, disguised as a sailor. Killick in the meanwhile had brought the *Crête* nearer to the town and had trained his large guns so as to sweep the wharf as soon as his men had gained their boats. Mr. Firmin was the first to embark. When the foreign consuls appeared, firing ceased by common consent.

Mr. Firmin, I am informed, was somewhat indignant at the non-appearance of the consuls earlier in the day, and treated them at this

time with scant courtesy. After Killick's force had regained their vessel, quiet was partly restored. Killick shortly afterwards left, first for Cape Caracol, and from there to Gonaives, where he is at this writing. After the departure of the *Crête-à-Pierrot* the partisans of General Nord pillaged the house of Mr. Firmin. Everything there was destroyed. Some of the costly furniture was sold openly in the streets by the pillagers. His handsome library, the finest in the Republic, containing rare books of a priceless value, was destroyed. Some very valuable works of which he was the author, particularly a work he was preparing for the press and near completion, styled *The History of the Republic of Haiti, from the Settlement by the French to the Administration of General Sam*, representing the work of twenty years, were given to the flames. Other works almost as valuable were torn into small fragments. After completing this work of vandalism, the mob proceeded to the houses of Firmin's friends, where the same scenes were reenacted, the inmates fleeing to the consulates for asylum. Mr. Firmin's personal loss is estimated to be nearly \$40,000. Those who have gone to the consulate have been compelled to leave the country, or, rather, forced into exile. Others of his friends left with him on the *Crête*.

At present this vessel is at Gonaives, where she is awaiting a supply of coal. Where she will go from there, no one knows but Killick. The Provisional Government has dismissed him and has directed the next in command to take charge of the vessel and bring it to this port. Killick has defied the Government, has refused to accept his dismissal, and has sent word to the Government that as soon as he gets coal (which is on the way to him from New York) he will bombard Gonaives, return to the Cape, destroy that, and will proceed from there to Port au Prince, and there finish the work of destruction. He has further stated that before he will surrender the vessel he will blow her up with all on board. No fear is felt here of his coming as long as the French naval vessel is in the harbor, which is being held here by the French minister for the protection of foreign interests, and also to prevent Killick from carrying into execution his plan. This threat of Killick is not an idle one. Those who know his past know that he belongs to that reckless class of men. He is also a "fatalist," and aside from that is a very heavy drinker.

The Government on its part is powerless to prevent him from carrying into execution his threats. They have requested the French minister to send the *D'Assas* to Gonaives and bring Killick here, citing as a precedent that a similar request was once made by one of the South American Republics to a friendly power who had one of its naval vessels in port at the time, and that such request was granted. The French minister declined to assume the responsibility of such a step. The President (General Canal) sent to see if we would order the *Marietta* to bring the *Crête* here. We have replied to him declining to interfere, stating we could not take any part in this affair; that the *Marietta* was in these waters simply for the protection of foreign interests, and to save life.

In the meanwhile Killick, through an English firm, is to receive coal from New York. This vessel (*Valencia*) will reach Killick to-morrow. The Government on its part has been making strenuous efforts for the past week to prevent this coal reaching Killick. It has appealed to the German minister (Count Hacke) to direct the agent of the line to

dispatch the vessel to this port, and has offered to buy the coal at an advanced price above what Killick is to pay for it, but the German minister can not see how he can prevent the coal from being landed. The Government has also requested the English chargé, Mr. Cohen, to instruct Killick's first and second officers, who are Englishmen and under contract to the Haitian Government, to refuse to receive orders from Killick, and bring the vessel here. The British chargé has declined to interfere.

This incident only shows how weak the present Government is, and to make matters worse three members of the cabinet are friends of Mr. Firmin, informing him of all the movements of the Government. Those communes or localities that desire to obey its mandates do so; those that do not take no notice of them.

The whole situation could not be much worse than it is at this writing.

I have, etc.,

W. F. POWELL.

[Inclosure.]

Mr. Livingston to Mr. Powell.

UNITED STATES CONSULAR SERVICE,
Cape Haitian, July 8, 1902.

SIR: I have the honor to acknowledge the receipt of your dispatch of the 1st instant, relative to the conduct of Admiral Killick, and the protection extended by the consular corps of the Cape to Mr. Anténor Firmin and his friends at the moment of their embarkment upon the *Crête-à-Pierrot*. As to Admiral Killick, the consular corps recognized that he was in rebellion at least against the authority of his immediate superior, Gen. Nord Alexis, minister of war and marine. Admiral Killick and Mr. Firmin offer, however, as an extenuating circumstance, the claim that Gen. Nord Alexis, having repeatedly disobeyed the orders of the Provisional Government, and used military pressure for his personal advantage, was himself in rebellion against his Government. With this question, however, the consular corps had nothing to do, and was not influenced in its action by any consideration affecting internal politics. Its action was solely and simply one of mediation between two local factions for the purpose of saving life and property.

The protection extended to Mr. Firmin and his friends was spontaneous and intended to save bloodshed. On the afternoon of Sunday, June 29, Mr. A. Chitarin, consul for Italy, Austria-Hungary, etc., also acting German consul and dean of the consular corps, received a communication from Admiral Killick begging the corps to come on board. The firing was still fierce in our portion of the town when Mr. Chitarin rushed into my house with the French consul, the local bishop, and the secretary of the bishop. We decided immediately to visit both General Nord and Mr. Firmin to ask a cessation of hostilities in order that we might go aboard and endeavor to compose the matter. We started with flags in hand, but on entering the street we saw friends of Mr. Firmin, under the protection of the marines, rushing past my house, Mr. Firmin having already gained the wharf. The firing was still brisk between the marines and the volunteers and local soldiery. We ordered the marines to cease firing and waved our flags in order that the firing against them might also cease. We accompanied them to the wharf amidst some desultory firing and remained until they had all embarked. It is proper for me to state that I am preparing a full report on all the events connected with this melancholy affair, but it was not possible to have it ready for this occasion, the copy of the correspondence between the consular corps and the officials, which is being made for me, not having been completed.

There were 17 refugees in this consulate. One was permitted to go to his home, 15 were shipped to St. Thomas yesterday by the German steamer *Sardinia*, and 1 remains in the consulate. The *Marietta* is still here, the date of her departure not having been fixed.

I am, etc.,

LEMUEL W. LIVINGSTON.

Mr. Powell to Mr. Hay.

No. 1123.]

LEGATION OF THE UNITED STATES,
Port au Prince, July 25, 1902.

SIR: I have the honor to inclose the correspondence that has passed between the Provisional Government and this legation concerning Mr. Killick, who is styled on the Haitian register as vice-admiral and in command of its naval vessels.

The Department will see from the inclosure that the Provisional Government has ordered the vice-admiral to bring the vessel he commands to Port au Prince. He refused to do so, having allied himself to the interests of Mr. Firmin, one of the candidates for the Presidency. Seeing that he will not report at Port au Prince, the Government has styled him "a pirate," and has called upon the naval vessels of friendly nations to capture him, etc.

I do not think the diplomatic corps has the right to carry this request any further than to communicate the letter in question to their respective Governments. While it is true he has refused to obey the instructions of the present Government, this in no wise styled him a pirate. I do not see that we have a right to comply with the Government's request until he commits some act on the high seas, such as making capture of vessels not Haitians and appropriating property thus captured to his personal use and benefit. The only thing that we should do is to prevent him from bombarding this and other seaboard cities, on account of their defenseless condition, with the simple purpose on our (diplomatic corps') part to save life. Further than this I do not think we have a right to go, as our naval vessels are not sent here to enforce a police regulation of this Government or interfere in any manner in the present electoral struggle, except, as I have stated above, to save life.

The members of the diplomatic corps agree with me in this opinion. I would be glad to know if the Department approves of the position I have taken.

In my reply to the President I have simply acknowledged the receipt of his letter, and would call it to the attention of the diplomatic corps. I did not deem it necessary to state anything more.

I have, etc.,

W. F. POWELL.

[Inclosure 1.—Translation.]

Mr. Canal to Mr. Powell.

REPUBLIC OF HAITI,
Port au Prince, July 25, 1902.

MR. MINISTER: Following the grave disorders that have taken place at Cape Haitian during the recent electoral campaign, and to which Mr. H. Killick, abusing his title of commandant in chief of the Haitian flotilla, has taken an active part, the presence of that general officer was demanded at Port au Prince for the purpose of furnishing the Provisional Government explanations of his attitude during those events; but having taken refuge at Gonaives, where the Gen. Jean Jumeau had the to-be-regretted weakness of receiving and protecting him, the ex vice-admiral, retrenching himself behind the most trifling pretexts, refused to comply with the orders of the superior authorities.

However, not desiring to longer allow the public security to be compromised, and anxious to safeguard the general interests of the country, the Provisional Govern-

ment, as I have the honor to inform you, decided to dismiss Mr. Killick from his functions as commander in chief of the Haitian flotilla.

This decision had not, however, the virtue of bringing back to the path of duty a general officer who, moreover, did not cease to protest his submission to the established order of affairs, but was to him, on the contrary, an occasion to finally throw off the mask and enter into open rebellion against the constituted authority.

It has, in fact, come to our knowledge that the ex admiral, having fraudulently succeeded in procuring coal necessary for his vessel, which he continued to detain in contempt of the orders of the Provisional Government, has not hesitated to commit a new act of insubordination in making a debarkment of troops in the commune of L'Arcahaie, and making preparations to transport to other points on the southern coast of the Republic.

The Government is conscious, as the diplomatic corps can bear witness in case of need, of having gone to the extreme limits of all possible concessions, and of having done all to save the country from the sad consequences of a civil war, but in presence of the dangers to which the depredations of the ex admiral expose the foreign interest, and in view of safeguarding its responsibility, the Provisional Government thinks it to be its duty to denounce to the diplomatic corps the unqualified conduct of Mr. Killick, and declare to be a pirate the gunboat *Crête-à-Pierrot*, and in requesting the war vessels of friendly powers to run her down.

In begging your excellency to kindly, in his position of dean, make known this communication to the gentlemen, the members of the diplomatic corps, I seize this opportunity to renew, etc.

BOISROND CANAL,
President of the Provisional Government.

[Inclosure 2.]

Mr. Powell to Mr. Canal.

LEGATION OF THE UNITED STATES,
Port au Prince, July 25, 1902.

SIR: I have the honor to acknowledge the receipt of your favor, bringing to my attention as the dean of the diplomatic corps certain matters that you desire to have communicated to them.

Accept, etc.

W. F. POWELL.

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, July 26, 1902.

(Mr. Powell reports that President Canal has sent a communication to the diplomatic corps declaring Admiral Killick a pirate, and that foreign naval vessels have been called upon to capture the admiral.)

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, July 26, 1902.

(Mr. Powell reports that civil war has been declared; that the cabinet has been dissolved; and that Firmin is marching with an army on Port au Prince.)

Mr. Adee to Mr. Powell.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 26, 1902.

(Mr. Adee acknowledges the receipt of Mr. Powell's two telegrams, and says that the rule as to piracy is stated in instruction of December 15, 1883, to Mr. Langston, Mr. Powell's predecessor.)

Mr. Hill to Mr. Powell.

No. 524.]

DEPARTMENT OF STATE,
Washington, July 30, 1902.

SIR: I have received and communicated to the Secretary of the Navy your two telegrams of the 26th instant.

The Department replied by telegraph on July 26.

I quote the pertinent portion of the instruction referred to:

The expedient of declaring a revolted national vessel to be a "pirate" has often been resorted to among the Spanish-American countries in times of civil tumult, and on late occasions in Europe. At the time of the Murcian rising, 1873, the insurgents at Cartagena seized the Spanish ironclads in harbor and cruised with them along the coast, committing hostilities. The Spanish Government proclaimed the vessels pirates, and invited their capture by any nation. A German naval commander then in the Mediterranean did in fact capture one of the revolted ships and claimed it as a German prize, but his act was disavowed. The rule is, simply, that a "pirate" is a natural enemy of all men, to be repressed by any, and wherever found, while a revolted vessel is the enemy only of the power against which it acts. While it may be outlawed, so far as the outlawing state is concerned, no foreign state is bound to respect or execute such outlawry to the extent of treating the vessel as a public enemy of mankind. Treason is not piracy, and the attitude of foreign governments toward the offender may be negative merely, so far as demanded by a proper observance of the principle of neutrality.

I am, etc.,

DAVID J. HILL,
*Acting Secretary.**Mr. Powell to Mr. Hay.*

No. 1127.]

LEGATION OF THE UNITED STATES,
Port au Prince, August 1, 1902.

SIR: I have the honor to inform the Department that the present situation is slightly improved since my last dispatch was written.

Three members of the present cabinet have resigned, they being friends of Mr. Firmin. Two of them have joined him; the third is in hiding. These men's places have not been filled, and I am informed will not be, so that several of the departments are without an executive officer.

The Provisional President, General Canal, has informed the public that civil war has commenced through the action of Mr. Firmin and of his friends. Gen. Jean Jumeau, the governor of the Artibonite, and said to be one of the ablest of the Haitian generals, has taken up arms in behalf of Mr. Firmin, and left Gonaives with an army of 2,000 men and several small field guns, for the purpose of attacking this city. At the time of General Jumeau's departure with his troops General Sal-

nave left for the Cape with 3,000 men. It was rumored, as an inducement to the men in the two armies, that in the event of the capture of either place, the followers of Mr. Firmin would have the full privilege to pillage and destroy. Many fearing that the provisional authorities would be unable to defend these two cities, have for a week been moving their effects to places of safety; those in business have deposited in the several legations inventories of their stock, in case the city should be destroyed by fire. For several days during the past two weeks almost a reign of terror prevailed, as if some great calamity was pending over the place. All business was paralyzed. In fact, since these troubles have commenced but little is doing in commercial lines. The cost of provisions has doubled in price on account of the fear of the country people in coming to town.

Mr. Fouchard called at the legation to know what steps the diplomatic corps would take to prevent General Jumeau carrying into execution his plans to destroy the city. We informed him that the diplomatic corps could not take any steps in that direction; that this Government must itself prepare to defend the capital; that my Government, if it deemed it necessary to send a vessel here, could not engage itself to prevent a destruction of property. All that could be done would be to protect the lives of the foreign residents that might be endangered. I could assure him that the diplomatic corps would do all in their power to prevent Vice-Admiral Killick from carrying into execution his threat to bombard the city. That Mr. Desprez, the French minister, would keep the *D'Assas* here for that purpose until she was relieved by some other naval vessel. The President, General Canal, called later to make a similar request, but not being in at the time I did not see him.

Vice-Admiral Killick has been very active during the past week in conveying the troops, arms, and ammunition from Gonaives to Archaie, a place about 15 miles distant from the city. Owing to the close proximity of General Jumeau's army, the Government on the night of July 26 sent a body of troops numbering 500 men to prevent a further advance of this army. The next morning (July 27) at 6 a. m. the alarm gun was fired calling the citizens to arms and warning the inhabitants of the near approach of General Jumeau's troops. The assembly was sounded and within an hour thereafter 300 volunteers were sent to reinforce those sent out the night previous. Later in the morning Gen. San Fort Colin, general of the arrondissement and secretary of the interior, with three regiments of the national troops, left for the same destination. General Jumeau's troops were met at a place called Duvivier, about 8 miles from the city, where a slight engagement took place (called here a battle), in which about 50 were killed and 100 wounded. The loss on the side of General Jumeau remains unknown. To the surprise of all, at 4.30 p. m. the same day, all the Government's troops returned. It was reported that General Jumeau's troops had retreated, and the cause of their return was that this general had changed his base of operation and would seek to enter the city from the south instead of from the north. Another rumor was that during the absence of the national troops the partisans of one of the two candidates here would seek to secure the capital and depose the Provisional Government, hence the return of the troops. No attempt has since been made to follow up the victory that is claimed was won in the defeat of General Jumeau's army. Disturbances have

broken out at several other places, and troops have been dispatched from here to quell them.

Vice-Admiral Killick has seized many of the small Haitian coasting vessels freighted with fruits and vegetables for this market, one of which was a vessel flying the American flag. Killick forwarded a letter to the legation giving his reasons for taking this vessel. His letter has remained unanswered. The person in charge of the vessel was an American. I understand he proposes to forward to the Department a claim for this action of Killick's. No attempt has been made by him to come into the inner harbor on account of the presence of the *D'Assas*, which guards the entrance, but if this vessel had not been there Killick would no doubt have bombarded and destroyed the city. At present he is acting as a tender to the army, moving it from place to place or from one side of Gonaives Bay to the other to secure for it the best position of offense and defense.

News has reached the Government to-day of the defeat of the army under General Salnave, who was marching on Cape Haiti, by the troops under Gen. Nord Alexis. This may possibly cause Killick and the remainder of General Jumeau's force to return to Gonaives, as that place will be in danger from an attack from the troops of General Alexis.

Killick received 200 tons of coal a few weeks ago. This supply will last him but a little while longer, and unless he receives a fresh supply his vessel will be useless. He has stated that before he will surrender this vessel to the Government he will blow her up.

We still stand in great danger from fire, as the fire department is completely demoralized. The French minister, Mr. Desprez, has had one of the fire engines from the *D'Assas* moved to his legation, and with it forty of the crew from that vessel to have charge of it in case of fire, but on account of the limited supply of water available it will be useless.

Street firing at night continues, much to every one's discomfort, as no one feels safe from stray bullets. Since the 12th of May more than 900,000 rounds of ammunition have been uselessly wasted. Fortunately but few persons have been injured therefrom. The Government has effected another loan of \$350,000, making \$720,000 in loans received since the Provisional Government assumed control of affairs. As a guaranty of payment it has pledged the receipts from customs, that are largely pledged already. Exchange has fallen from 160 to 150 per cent.

A quorum of the members elect has reached the capital. The new Chambers organized yesterday. Their attention has been entirely engaged with contested election cases, of which there are 16 claimants for 8 seats. The only indication as to the political strength of the several candidates for the Presidency is to be found in the seating of the contestants when two claim to represent the election district. Thus far those who favor Mr. Pierre seem to be in the majority, as those who have secured a favorable report from the committee are those who are pledged to him. Mr. Firmin has but 23 of the 95 members. This much is known, but how the other 72 stand no one knows, not even the candidates themselves. Mr. Firmin can only win by force of arms, so he may be considered, as far as the Chambers are concerned, not in the present contest. What he will do in the future remains to be seen. The presidential contest is thus narrowed to the two candidates, Mr.

Pierre and Mr. Fouchard. From present appearances Mr. Pierre appears to have the greater number of members elect, but this, as I have stated in former dispatches, does not take Mr. Fouchard out of the fight. He has spent over \$100,000 thus far and is prepared to spend more. The greatest interest is now centered around these two men. The real danger at the present time is that the partisans of these will clash. It is currently rumored that in case Mr. Fouchard has not enough delegates to favor his election the members of his party will withdraw, leaving both Chambers without a legal quorum. In that case there will be no election of a President, and possibly it may be postponed indefinitely.

After the election contests have been settled, the Chambers will proceed to elect the 34 members that will constitute the new Senate. This may take all of next week. If so, they will not proceed to the election of a President before the second week in August, and at that time we may look for a repetition of the affair of the 12th of May.

Since I have commenced this dispatch I have received a communication from the Provisional President, General Canal, that he has assumed the duties of the secretary of foreign relations in connection with his present functions.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

Mr. Woël to Mr. Powell.

UNITED STATES CONSULAR AGENCY,
Gonaïves, Haiti, July 24, 1902.

SIR: I feel it my duty to advise you that on Tuesday morning Gen. Jean Jumeau left this town with an army of 2,000 men for St. Marc, Arcahaie, and Port au Prince.

The day after, Gen. Albert Salnave and his suite left for Cape Haiti, taking en route the St. Michel and Ennery armies, both numbering 3,000 men. In the evening, on the same day, the *Crête à Pierrot* cleared this harbor for St. Marc, whence she is to proceed to Cape Haiti. On Wednesday, as soon as the *Reseau* could function, I sent you the following telegram:

"Army Gonaïves left, moving west. *Crête à Pierrot* cleared."

I remain, etc.,

J. WILLIAM WOËL.

[Inclosure 2.]

Admiral Killick to Mr. Powell.

ON BOARD CRÊTE À PIERROT, *July 28, 1902.*

MR. MINISTER. I have just encountered a schooner carrying the American flag, and loaded with provisions, entering Port au Prince. I hailed it to request that it be proved to me by its papers and act of franchisement (registry), which permits it to carry the American flag. But Mr. Richard Allen, who declares that he is an American citizen, gave me to understand that his sole presence on board of the vessel permitted it to carry his flag.

I call your attention to the fact that the coasting trade on the Haitian coast is an exclusively national privilege, and that in consequence this vessel finds itself in contravention of the Haitian laws.

Please, therefore, request of your citizens not to cover with the American flag a vessel of Haitian nationality.

Accept, etc.,

H. KILLICK.

[Inclosure 3.]

*Mr. Canal to Mr. Powell.*REPUBLIC OF HAITI,
Port au Prince, August 1, 1902.

MR. MINISTER: I have the honor to bring to your knowledge that following the withdrawal of Mr. Jérémie, member of the Provisional Government charged with the department of foreign relations, I have assumed the direction of that ministry until the organization of the definite Government.

In begging you to be persuaded that all my efforts will tend to maintain and develop the excellent relations that exist between this department and your legation, I profit this occasion to address to you, Mr. Minister, the assurances, etc.,

BOISROND CANAL.

Mr. Adee to Mr. Powell.

No. 526.]

DEPARTMENT OF STATE,
Washington, August 2, 1902.

SIR: I inclose for your information copies of two letters from the Secretary of the Navy forwarding copies of letters from the commanding officer of the U. S. S. *Marietta*, reporting concerning the condition of affairs at Cape Haitien and Port de Paix.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure 1.]

*Mr. Taylor to Mr. Hay.*NAVY DEPARTMENT,
Washington, July 29, 1902.

SIR: I have the honor to inclose for your information a copy of a letter from the commanding officer of the U. S. S. *Marietta*, dated the 9th instant, reporting a visit to Port de Paix, Haiti.

I have, etc.,

H. C. TAYLOR, *Acting Secretary.*

[Subinclosure.]

*Commander Rodgers to the Secretary of the Navy.*U. S. S. MARIETTA,
Cape Haitien, July 9, 1902.

SIR: 1. In obedience to the Department's cablegram received on board this vessel on the 3d instant, directing me to visit Port de Paix, Haiti, for a few hours, when convenient, I have the honor to report that at 5 a. m. to-day the *Marietta* left Cape Haitien and proceeded to Port de Paix. Finding the anchorage at the latter place rather cramped, I did not anchor, but remained off the port for about three hours, during which time the consular agent, Mr. Carl Abegg, came on board and made the usual visit and reported everything quiet at Port de Paix. As the consular agent informed me that the only official to call on was sick, I did not make any visit on shore.

2. Owing to the fact that we are some distance from a coaling port, I considered it advisable to return to Cape Haitien to-day in order to save coal, which I did, arriving at Cape Haitien at 6 p. m.

Very respectfully,

JOHN A. RODGERS,
Commander, U. S. Navy, Commanding.

[Inclosure 2.]

*Mr. Taylor to Mr. Hay.*NAVY DEPARTMENT, *July 29, 1902.*

SIR: I have the honor to inclose herewith, for your information, a copy of a letter received from the commanding officer of the U. S. S. *Marietta*, dated the 13th instant, reporting on the condition of affairs at Cape Haitien, Haiti.

I have, etc.,

H. C. TAYLOR, *Acting Secretary.*

[Subinclosure.]

*Commander Rodgers to the Secretary of the Navy.*U. S. S. *MARIETTA*, *Haitien, Haiti, July 13, 1902.*

SIR: 1. In continuance of my report of the 5th instant, relative to the condition of affairs at this port, I have the honor to report that I have been informed by the United States consul that none of the persons who took refuge at the consulate during the recent disturbance are charged with any crime, but the offense, if any, is in each case a political one; that they came to the consulate without any invitation on his part, and as he thought their lives in danger he permitted them to remain; he requested the authorities to permit them to embark for some other Haitien port, which request was not granted, and a guard was placed by the Haitien authorities near the consulate to prevent the escape of the refugees.

2. Considering the disturbed condition of the country it appeared possible that some unlawful act against the refugees at the consulate might be committed by some unauthorized person or persons, and on the 7th instant I, in company with the United States consul, and at the request of the consul, made a visit to Gen. Nord Alexis, minister of war, minister of marine, and commander of the Haitien forces at Cape Haitien, and I informed the general that, in my opinion, it was very desirable that the refugees in the consulate should be permitted to embark for some other port; he said he had already received instructions to that effect from the provisional government, and that afternoon they were permitted to leave the consulate under guard and go on board a steamer bound for St. Thomas. One refugee, however, remained at the consulate, as he expected to be permitted to return to his residence in Cape Haitien in a day or two.

3. Foreigners are, and will continue to be, uneasy until the result of the election is determined, which will probably not be done for two or three weeks.

Very respectfully,

JOHN A. RODGERS,
Commander, U. S. Navy, Commanding.

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, August 5, 1902.

(Mr. Powell reports that Firmin set up a new government on August 4 at Gonaives, known as the provisional government of Artibonite and the northwest, with Firmin as President; Killick as secretary of the navy and secretary of war; Bourand as secretary of the treasury; Henriquez as principal secretary of state for foreign affairs; St. Louis as secretary of public works; Chicoye as secretary of the interior; and Lamour as secretary of agriculture.

Admiral Killick is to leave on August 5 for Cape Haitien.)

Mr. Powell to Mr. Hay.

No. 1132.]

LEGATION OF THE UNITED STATES,
Port au Prince, August 5, 1902.

SIR: I have the honor to inform the Department that the situation is apparently improved since my last dispatch, No. 1127, was penned. The indiscriminate firing at night in the streets has ceased, owing to a decree of the Government that the person or persons caught in so doing would suffer death. The defeat of General Salnave by the army of Gen. Nord Alexis, and the threatened attack upon Gonaives by the latter, has caused Gen. Jean Jumeau to change his base of operations and withdraw his army from the vicinity of Port au Prince and to remove it to Gonaives. He has taken the field in person, and is moving with his army toward the Cape to meet Gen. Nord Alexis. In this he is actively assisted by ex Vice-Admiral Killick with the *Crête*. This movement on the part of General Jumeau is a happy relief to both the Government and the residents of this city, and is the bright side of the picture so far as the capital is concerned. Disturbances have broken out in other places, but the Government troops have been able to quell them without great loss of life.

In view of the threatened attack on the Cape, I have requested that, if possible, Commandant McCrea remain to protect foreign interests there, especially as it is rumored that Killick proposes to bombard the city. The contest at the Cape will no doubt be a bitter one, as the men at the head of the opposing armies are both old men, are bitter enemies, and, as each has the prestige of having never suffered defeat, neither will succumb to the other without a severe struggle. All eyes are turned toward the Cape. More attention is being paid to the coming events there than to the new government set up at Gonaives by Mr. Firmin. If General Nord Alexis succeeds in defeating General Jumeau, it again brings him prominently before the people as a Presidential candidate; if the reverse takes place, there is a possibility of a long civil war, or of two republics being established, one in the north under Mr. Firmin, the other in the south under someone not yet named. Again, if General Nord should be successful, it will presage the downfall and possible capture of the Firmin government; if, on the other hand, General Jumeau should win, he, flushed with victory, would remove the theater of war here. Hence the anxiety of all.

The Provisional Government is now preparing for the latter event. They have sent large supplies of arms and ammunition to the north for General Nord and are at the same time perfecting the defenses of the city by erecting barricades, building intrenchments, and strengthening the forts that command the entrance to the city from the north, and the latter are being supplied with rapid-firing guns from the arsenal, so that a battle, if fought here, will be at the entrance to the city, and possibly in the city.

Mr. Firmin instituted his new government yesterday (August 4) under the title of the "provisional government of the Artibonite and the northwest," and has named the following cabinet:

- Mr. Henriquez, secretary of foreign affairs and public worship.
- Vice-Admiral Killick, secretary of war and marine.
- Mr. Chicoye, secretary of the interior and police.
- Mr. Bourand, secretary of finance and commerce.
- Mr. St. Louis, secretary of public works.

Mr. Lamour, secretary of state for agriculture and public instruction. His capital is to be Gonaives.

The Chamber of Delegates have not yet been able to fully organize. Their whole time has been occupied to arrive at a solution of the pending election contest. Though in session nearly a week but two of the eight contests have thus far been settled. At the present rate of progress they will not be able to organize before some time in September, as I have stated in previous dispatches. If the one side gains a slight advantage the other side leaves the Chambers, thus breaking a quorum and suspending all business. They will not meet then for a day or two. This same scene will be reenacted when the election for the new members of the Senate occurs. So far Mr. Pierre seems to be in the lead, he having on the last vote, taken yesterday, 45 for his contestee, 21 against him (Fouchardist), and 3 not voting, but this can not be taken as an indication that in the end he will be successful. From all indications I do not believe a President will be elected very soon. Due credit must be given to the people. Notwithstanding the pending crisis all classes are remaining quiet during the ordeal they are passing through.

I have received certain propositions from the consular corps at the Cape, also a note from Commander McCrea, for the diplomatic corps to present to the Provisional Government. As a member of that body I have declined to present it or to interfere between the factions, as it would still more complicate the situation, and would result in more harm than good. I invite the attention of the Department to the same.

Taking the situation as a whole, the condition of affairs is no better than when my last dispatch was forwarded to Department. The *D'Assas* (French cruiser) will leave early next week, and will be replaced by the flagship under the Admiral, who has received orders from his Government to proceed here to protect the interests of French citizens. There is an armed tranquility in all other places except those stated above.

I have, etc.

W. F. POWELL.

[Inclosure 1.]

Mr. Livingston to Mr. Powell.

UNITED STATES CONSULAR SERVICE,
Cape Haitian, Haiti, August 1, 1902.

SIR. The accompanying memorandum by Captain McCrea is so well written that I decided to inclose it as an expression of the result of a talk between himself and myself yesterday. Later, aboard the *Machias*, a majority of the consuls being present, we concluded to suggest to you to cooperate with the other members of the diplomatic corps there and submit to the Provisional Government, in the interest of peace and civilization, the following propositions:

1. A new election of Deputies.
2. A conference of the leading men on both sides aboard a war ship (if necessary) and the selection of some neutral, unarmed locality for the election of a President by the Deputies recently named.
3. The submission of a proposition by the Provisional Government.

We believe the people are reluctant to fight and would hail with joy some such solution of the present difficulty. It is needless for me to add that there is no desire on the part of anyone concerned in the submission of these propositions to encroach upon the functions of the diplomatic corps, our action being based upon the great

interest displayed by Captain McCrea and his special facilities for rendering assistance in the premises. You will please cable the result of your interview with the Government.

I am, etc.,

LEMUEL W. LIVINGSTON.

P. S.—Of course the second proposition is to be submitted only in case the first is rejected and the third in case the second is rejected.

[Subinclosure.]

Memorandum.

MY DEAR MR. POWELL: "Blessed are the peacemakers, for they shall inherit the earth." At a conference to-day between the governor, General Nord, and Captain McCrea and myself, arrangements were completed for safeguarding the persons and property of foreigners. We have also evolved what might entitle you to the blessedness above referred to. It is as follows: If you can get the Government at Port au Prince to agree to another election for Deputies, then wire General Nord, Captain McCrea will undertake (with permission from the home Government) to run down to Gonaives and sound the Firmin contingent. Captain McCrea agrees with me that we Americans should take the first steps in this matter. Now for news. Intercepted dispatches show that Firmin's army has left Gonaives for the north. The consignment of arms and ammunition arrived safely and seem to put much confidence in the local army.

The *Machias* has been at Colon for about four months; her men are debilitated and the captain is most anxious to move north; hence anxious to hurry some solution to this mixed problem.

[Inclosure 2.]

Mr. Powell to Mr. Livingston.

LEGATION OF THE UNITED STATES,
Port au Prince, August 5, 1902.

SIR: I have your favor of August 1, 1902, containing as an inclosure a memorandum from Commander McCrea, of the *Machias*, in which it is suggested that the diplomatic corps submit certain propositions to the Provisional Government, with a view to solve the present political situation. These propositions the diplomatic corps do not feel willing to present, as it would be an unwarranted interference on their part, especially so as neither of the political factions have requested intervention and it would bring upon each member the censure of their respective Governments.

To the propositions themselves:

First. None of the various political factions desire a new election, and if another was ordered the result would be no different from that already held. To have a new election it would take at least a month or six weeks, and at the end no one would be satisfied with the result.

Second. The feeling is at such a tension at the present time that such a conference could not be held. What was ambition on the part of some of the candidates is revenge now; to gain power to punish their enemies. A neutral place or an unarmed locality for a meeting place of the Deputies named to elect a President is impossible to find, as there is at this time no neutral place. Each locality that might be named has its preference of candidates; and further, at the present moment there is not an unarmed community in the Republic. Here, at this moment, the lower house is holding its sessions. The Provisional Government has exerted no pressure upon the members; there are no armed guards in or near the Chambers, yet, thus far they have been unable to agree on a few contested seats, each claimed by two men. Even the delegates that attend these sessions are armed. So you can see how impossible it would be to submit such a proposition to the Government.

Third. Your third proposition is not clear. If it is meant that the Provisional Government should submit a proposition, it would be rejected by the others, simply because the present Government proposed it.

It is a mistaken idea that the present Government has espoused the claims of any of the candidates or sought to influence the Deputies elect. They have held themselves neutral, and have not sided with any of the many candidates. It is for the

reason that they have not done so that they are being blamed to-day by all the political factions.

The wisest course for the diplomatic corps is not to meddle in these troubles. It is a matter which concerns these people and not our corps. Our interest here is to protect those that have been confided to our care, and to see that our varied or respective interests are not disturbed. Further than this we have no right to go, except when the Government itself requests us to do so.

For our Government to interfere is a most delicate matter. Our mission would be misconstrued, not only by these people, but also by those of other nations who are represented here in the diplomatic and consular corps. * * * I feel that the course of action that I have marked out for our legation, of noninterference in their political matters, meets with the approval of the honorable Secretary of State, and it is such a course that I would advise all of our consular corps to follow—to do all we can for the benefit of the people, but not to interfere in those internal affairs in which they are so jealous. I note that Commander McCrea has sent to me a biblical quotation, but, thrice blest is that man that interferes not in the affairs of others and knows how to attend to his own business best.

Kindly remember me to Commander McCrea, and for the suggestions contained in his note, that, though fitted by education for warlike deeds, his ways tend to the paths of peace.

I am, etc.,

W. F. POWELL.

[Inclosure 3.]

Commander McCrea to Mr. Powell.

U. S. S. MACHIAS,
Cape Haitian, August 6, 1902.

MY DEAR MR. POWELL: I was sorry to learn that the diplomatic corps would take no steps, for I hoped you might at least open communication between the Provisional Government and Mr. Firmin's adherents.

If the *Crête* comes in here, I shall board him and ask Killick to come and see me. Once he is on board I shall endeavor to ascertain what, if any, conciliatory terms Mr. Firmin is willing to offer. And I will use my influence to have his people call off the dogs of war, and have a meeting at Port au Prince with the other eligibles. The best we can hope for is a compromise. If anything of importance is developed, I will cable you and do my best to lend you a hand.

I can stay here about a week or ten days, possibly longer in case the coal on shore is serviceable, in which case I may buy it and wait developments. As a matter of fact, I do not think the lives and property of foreign subjects are endangered, no matter how the issue ends. I am not judging this from Colombian experience either, but from the well-known respect Haitians have for the powers, and the recent successful revolution in Santo Domingo, of which you saw so much.

My anxiety to assist in the solution of this very knotty problem is to carry out what I know to be the wishes of our Government; that we should be foremost in these endeavors goes without saying.

Wishing you every luck and success in your ticklish work,

I am, etc.,

HENRY MCCREA.

P. S.—Mr. Livingston was on board this morning. There is no news ashore. A division was sent out to meet the rebels, enough men being retained to control and defend this place. No excitement exists, and it seems as though most people would be glad to see all hands stop this and "play ball."

[Inclosure 4.]

Mr. Powell to Commander McCrea.

LEGATION OF THE UNITED STATES,
Port au Prince, August 7, 1902.

MY DEAR SIR: I have the pleasure to acknowledge your favor of August 6 in reference to the political troubles here. In reply to your favor, you are not aware of the intense feeling against Mr. Firmin and against the Vice-Admiral Killick, nor of

the bitter feeling that Mr. Firmin has for certain members of the present Government, notably General Nord Alexis. What was ambition on the part of Mr. Firmin at first, is now revenge toward those from whom he has suffered grave injuries. The other candidates who are outwardly supporting the present Government would not favor any proposition, unless such a proposition favored either the one or the other, so that any intervention on our part would simply complicate matters more.

Our best course is simply to watch events and take advantage of them as they unfold. You will note that neither of these parties has requested us to intervene, but each is endeavoring to have us side with them against the other. This we have refused to do. I think this is the course the Department would have me pursue. If you think you can bring about a different feeling between these people, no one would feel more happy than I, but at this moment I doubt very much that this can be accomplished.

There is not the slightest doubt that the people at large desire peace, but the office seekers and place hunters who are in control or seek to get control are the ones who are directing affairs at this moment.

As far as the lives and property of foreigners are concerned, there is little danger, except in case a fire should occur; then this class of property would suffer. In such an event no war vessel could aid us.

As far as a direct attack being made by the Haitians themselves, that, I think, need not be feared. The presence of a naval vessel in these waters is simply to give moral effect to the turbulent class, except in the case of Admiral Killick, whose blind partisanship is apt to go the extreme limit.

It is the opinion of my colleagues, as well as myself, that your presence at the Cape, and the *D'Assas* here, have prevented him from firing upon these cities. If Killick had no vessel, there would be no need of a foreign naval vessel in these waters. I think within the next few days this question will be solved one way or the other.

Here all is quiet.

I remain, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, August 9, 1902.

(Mr. Powell reports that the Provisional Government of Haiti has notified the United States legation that Gonaives, Port de Paix, and St. Marc are in rebellion, and requests that the Government of the United States prevent any shipment of arms and ammunition to those places; that Government troops captured Petit Goave after a strong resistance and the loss of many lives; that Firmin's force, on leaving, destroyed the place by fire; that the *D'Assas* left on August 8 with provisions to succor the inhabitants.

Particulars have been requested of the United States consular agent by Mr. Powell.)

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, August 10, 1902.

(Mr. Powell reports that Admiral Killick prevents the steamship *Paloma* from entering Cape Haitian; that he has cabled to Commander McCrea, at Gonaives, that the Haitian Government is not recognized, nor the blockade of the Cape, and to give protection to any American, Cuban, or foreign vessel desiring to enter Cape, informing Admiral Killick of his intention.)

Mr. Adee to Mr. Powell.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 11, 1902.

(Mr. Adee directs Mr. Powell to disregard the blockade unless it is effective, and to endeavor to protect any American, Cuban, or unprotected foreign vessels desiring to enter Cape.)

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, August 11, 1902.

(Mr. Powell reports that the *D'Assas* has returned; brings news that Petit Goave is entirely destroyed; 10,000 people homeless; foreigners at coffee usine; the *D'Assas* brought 150 women and children to Port au Prince; that Killick blockades Cape, refusing the *Paloma* entrance on August 10.

Mr. Powell has instructed Consul Livingston to ignore the blockade.)

Mr. Adee to Mr. Powell.

No. 529.]

DEPARTMENT OF STATE,
Washington, August 12, 1902.

SIR: I confirm herewith your telegram^a of the 9th instant. The information contained in it has been communicated to the proper Departments, and they have been requested, in case any infringement of the neutrality laws of the United States shall have been brought to their notice, to take steps to enforce the due observance of the obligations of neutrality imposed by them.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Powell to Mr. Hay.

No. 1137.]

LEGATION OF THE UNITED STATES,
Port au Prince, August 15, 1902.

SIR: I have the honor to inform the Department regarding the present political situation and of the events that have occurred since my last dispatch was written, the principal of which were:

First. The attempt to declare the port of Haiti in a state of blockade by the Firmin government.

Second. The total destruction of Petit Goave.

Third. The refusal by the Firmin government to permit foreigners to land at Gonaives.

Fourth. The control at the Cape between the two armed forces under Gen. Nord Alexis on the one side and Gen. Jean Jumeau on the other.

^aPrinted, ante.

In order to acquaint the Department fully in regard to these, I shall treat each event separately as it occurred.

After the events at the Cape, referred to in a previous dispatch, when Mr. Firmin was compelled to leave for Gonaives, his partizans found that he was not as strong throughout the country as they had supposed, which was shown by the result of the recent elections. The element of strength that he possessed in the country among all classes to a great extent he has lost, except among the peasant class or country people, who still look upon him as the future President of Haiti. This sentiment is mainly on account of his color more than anything else, though one of the other candidates, Mr. Pierre, is of the same hue. Many persons who were his adherents in the other sections of the Republic have refused to follow him in the course that he has lately pursued. Those who are still his adherents have gone to him at Gonaives; it is through the advice of this class that he is pursuing his present course; the others, whom he has alienated from his cause, have refused to indorse his action in making the forced loan at the Cape and in the marching of troops toward this city for the purpose of subjugating it.

Seeing that it was impossible for him to be elected by the Chambers, his advisers have induced him to ignore the present Provisional Government and to constitute another at Gonaives, under the title of the "Provisional government of the Artibonite" etc. This action on his part has brought about the present condition of affairs and the declaration of civil war, which will only be terminated by the complete subjugation of one or the other of the combatants. After this new government was established a cabinet was named. Killick, the former vice-admiral of the Haitian navy, and who has been denounced by this Government as a "pirate", was named as the secretary of war and marine. Soon after this government was formed a decree was sent to each member of the diplomatic corps informing him that Cape Haiti was in a state of blockade, and forbidding all vessels to enter within its waters under certain penalties. Killick was sent there to guard the harbor and prevent entrance to all vessels. It was known to the Firmin government that this Government had sent by the *Paloma* (carrying Cuban flag, Munson Line) arms, cannon, and ammunition to the Cape for General Nord. It was to prevent the latter from receiving the same that Killick prevented this vessel from entering the Cape. He met the vessel at Point Picotet, which is about 5 miles from the Cape, and which conceals its harbor so that vessels therein can not know what may occur around this point of land. Killick waited off this Cape for the *Paloma*, and when she appeared informed the captain that he could not enter the Cape, and compelled him to change his course. The captain, I am informed, did not attempt to proceed farther toward the Cape. This occurred at 8 a. m. on the morning of August 8.

The commander of the *Machias*, who was in the harbor of the Cape at the time, knew nothing of it until some time that afternoon. As soon as informed of this action of Killick's, Consul Livingston cabled to me, to which I replied. The next morning President Canal, of the Provisional Government, sent to me a copy of a cablegram he had received and gave to me the information which I have stated above. I afterwards received a protest from the agent of this company here. Killick had no intention, in my opinion, to harm or to capture the

vessel, knowing the close proximity of the *Machias*. He simply played upon the fears of the captain, succeeded in turning him from his course, and thus prevented General Nord getting the supplies that this Government had sent to him. If the captain had ignored Killick's orders and had continued on his course, Killick would have done nothing further. This vessel returns here to-morrow. I have advised the agent to send her to the Cape, and shall cable to Commander McCrea about the time she should arrive there. The *D'Assas* left last night for Gonaives with the French minister and to carry dispatches from the diplomatic corps to the foreign consuls there. I could not avail myself of the courtesy extended me by my colleague to send a dispatch to our consul. From there the *D'Assas* will proceed to the Cape to convoy the French mail steamer, the *Lesseps*, which is to stop at that port, as it was rumored that Killick would prevent her from entering. I am also informed that Killick sailed for some unknown destination on the night of the 10th, so that the blockade is abandoned for the present.

After receiving the Department's instructions I addressed a note to the gentlemen at Gonaives, informing them that my Government would ignore the decree issued by them. It is also stated, though the statement is not confirmed, that Killick has cut the marine cable to Santiago, Cuba, in mistake for the one that connects the Cape with this place. This is the only line we have in working order, as all the land lines are cut, leaving us without any means to communicate with other sections of the Republic.

The saddest event of which I have to write is the total destruction of Petit Goave, a coast city on the Bay of Gonaive, about 50 miles from here, with a population of about 12,000; it was beautifully situated, and represented a thriving community. It was one of the chief ports in the Republic for the exportation of coffee. Many of the foreign houses here had branches there. One of the largest and most complete coffee usines in the Republic is located there. To-day there are but two houses standing, and over 10,000 people are practically homeless. This place was held by the adherents of Mr. Firmin, the commandant in charge, Chicoyé, minister of interior and police, being a member of his cabinet. The Provisional Government sent from here 900 men under General Carrié to dislodge him and to restore it to the control of this Government. On the morning of the 9th General Carrié sent word to General Chicoyé to surrender, and informed him if he did not he would take coffee in that city that morning. General Chicoyé with a small force made a sally from the city on the force under command of General Carrié and was repulsed. While this attack was being made in the front, a strong detachment was sent to enter the city from the other side by General Carrié, so that General Chicoyé was between two fires. Seeing this, he retreated toward the city. On entering it, it is said, he repaired to his house, put it to the torch, and was consumed with his wife and children. Others did likewise and the place was soon destroyed. Another report is that a number of young men who had been driven from the city by the Firminists returned with General Carrié's army. When this army entered the city they set fire to the houses of the most prominent partisans of Mr. Firmin. Owing to the high wind prevailing at the time, the flames from these houses communicated with others, and in a little while the whole city was in flames. It seems that no effort was made to stop it, or to cease fighting, which at the time was going on in the streets.

The women and children fled to the coffee usine, which is a short distance from the city, and which escaped the flames. To this place also what was left of General Chicoyé's force retreated. Many of the wounded were consumed in the flames. It is stated that 450 were killed. There were but few wounded, as they were burned with the houses.

After the French consulate was destroyed the consul raised his flag at the usine, which is French property, and gave asylum to all who came there. General Carrié, the commander of the Provisional troops, demanded that the people there be surrendered to him (about 400 in number). He claims that these people were combatants and had fled to this place before the arrival of the consul and before he had raised his flag, and that they can not properly be under his protection. The consul refused to surrender them. The matter has been compromised by the Provisional Government ordering their embarkation to foreign territory. I do not know how they can leave, as they have no money to pay their passage or to sustain them after they may reach a foreign shore. All they have left is what they have on their bodies. No community will be willing to accept a class of persons virtually paupers. Little sympathy is expressed toward the tragic death of General Chicoyé, as he was the one who, several years ago, ordered the burning of the town of Jacmel, which was nearly destroyed at that time.

As soon as the news of the destruction of Petit Goave reached the city the French minister dispatched the *D'Assas* with provisions and clothing to succor the unfortunate inhabitants. He contributed very largely toward this relief from his private purse. The *D'Assas* returned the next day, bringing from there 219 women and children and a number of the wounded. On the 10th another vessel was sent with supplies to the same place. The Holland steamship left last night (14th) with additional supplies, all of which have been a voluntary contribution on the part of the merchants and others here. The German minister left by the same vessel. I have been unable to go, on account of the business of the legation requiring my presence here. We have no American interests there, except it may be a few naturalized Syrians. Thus far, I am informed, the Government has not contributed anything toward their relief. This affair, though sad, is not without some benefit to the country, and may be the means to bring about a termination of the present political difficulties, as the fate of this place will be repeated in other cities of the Republic. If the present state of affairs is not soon terminated, such will be the fate of Gonaives, the Cape, and this city, as the appetites and passions of a certain class are now aroused for such deeds. If this conflict is much longer prolonged even the present Government will be unable to prevent it, as we have a large element of this class here. The destruction of this city would add \$800,000 to the debt of the country. Of this sum the Haitian unfortunates would get nothing. All would go to foreign interests.

Notwithstanding the critical situation, the Chamber of Deputies moves slowly on with its work of settling the eight contested election cases. The last one was settled on the 12th. Since that time they have been endeavoring to secure a quorum to pass upon their action as a whole. They have been three weeks in securing this result, and when it has been accomplished they will proceed to a permanent organization, at which time the strength of each of the Presidential candidates will be

fully shown; but this will not predict who will be President. After the permanent organization has been effected will be the election of the members to the Senate, after which a joint session of both for the election of the President; but no one can predict when this last event will take place, owing to the want of energy of the Chambers. I think it may be safely stated that a President will not be elected before the middle of September, if then.

The Provisional Government has established a censorship over the press, so that but little news can be gleaned from it. Nothing adverse to the Government can be stated in the columns of the papers. Any departure from this rule consigns the editors and those connected with them to prison.

The information from the north is conflicting, as the wires are all down, and any number of reports are in circulation. One is that General Jumeau is near the Cape, and that place is besieged. Another, the reverse—that General Jumeau's troops are defeated and in flight. Another, that the army of General Nord is moving in two columns to attack Gonaïves at two opposite points. Killick, with the *Crête*, has left for some place, but no one knows where. Here all is quiet and will remain so until about the time for the election of the President, when we may possibly have a repetition of the events of May 12.

I have, etc.,

W. F. POWELL.

[Inclosure 1.—Translation.]

Mr. Bourand to Mr. Powell.

REPUBLIC OF HAITI,
Gonaïves, August 8, 1902.

MR. MINISTER: I have the honor to address to you under cover of the present a decree of the executive council, sitting at Gonaïves, by which the port of Cape Haitian has been placed under blockade.

In notifying you of this blockade, I beg you to kindly give notice to all the commandants of merchant vessels that leave Port au Prince or the other ports of Haiti included in the consular jurisdiction, of which you have the high direction, to the end that they do not venture in the waters of Cape Haitian, up to the limit fixed by the said decree.

The present dispatch will be forwarded to you in a registered letter, that I may be assured that it will reach you without failure.

Please accept, etc.,

DARIUS BOURAND.

[Subinclosure.—Translation.]

REPUBLIC OF HAITI, *the Executive Council:*

Whereas the city of the Cape finds itself besieged by land and sea forces, operating against it to obtain its surrender;

Whereas to permit neutral vessels to penetrate into the port of the Cape would give to the city means of resistance that might cause the war to last longer than of reason, to the detriment of the great interests, both national and international;

Using the prerogatives of the rights of war, recognized by all civilized powers, has decreed and do decree that which follows:

ARTICLE 1. The port of Cape Haitien is declared in a state of maritime blockade.

ART. 2. No merchant vessel can enter in the port under any pretext whatever, or navigate in the waters of Cape Haitien, to a distance of 3 marine miles from the point of the Picolet.

ART. 3. Vessels that shall leave a port where the blockade has been notified to the diplomatic or consular corps shall be seized and taken by the sole fact of their pres-

ence in the waters of Cape Haitien, and conducted to the court of Gonaives, where there shall be established a prize court.

ART. 4. Merchant vessels which shall leave a port where the blockade has not yet been notified diplomatically shall be stopped in the limits of three marine miles above explained, and the commander of the blockading vessel will give to them a notification of the fact of the blockade in obliging them to keep away from the port of Cape Haitien. This notification shall be recorded on the log book of the said vessel.

All merchant vessels that, having been notified of the fact, shall try to enter surreptitiously in the water of Cape Haitien shall be treated as those who find themselves in the case of article 3.

ART. 5. The present decree shall be published and executed at the diligence of the councilors of the departments of war and foreign relations.

Given at the national palace of Gonaives, August 6, 1902, ninety-ninth year of the independence.

A. FIRMIN,

The President of the Executive Council.

H. KILLICK,

The Councilor of Marine.

DARIUS BOUROND,

The Councilor of the Finances, Charged with Foreign Relations.

[Inclosure 2.—Translation.]

Mr. Canal to Mr. Powell.

REPUBLIC OF HAITI,

Port au Prince, August 8, 1902.

MR. MINISTER: The necessity of rapidly suppressing the insurrectional movement which has taken rise in the department of the Artibonite, imposed on the Provisional Government the obligation of seeking the most proper means of putting an end to a situation the more disagreeable and regrettable as it tends to perpetuate the agitation in this country in deeply affecting the general interests of the Republic.

Now one of the means, the most apt to efficaciously bring about a happy ending of the present difficulties, would consist in preventing the insurgents from obtaining supplies of arms and ammunition of war. The Provisional Government has therefore taken the resolution to denounce to your legation the state of open rebellion in which the cities of Gonaives, St. Marc, Port de Paix, and Petit Goave have placed themselves, and, through your obliging medium, to beg the friendly Government of the United States of America to prevent in its territory all shipments of arms or ammunition of war destined for either of the above-mentioned ports.

I profit this occasion, etc.,

BOISROND CANAL,

The Provisional Government,

Charged with the Department of Foreign Relations.

[Inclosure 3.—Translation.]

Mr. Canal to Mr. Powell.

REPUBLIC OF HAITI,

Port au Prince, August 12, 1902.

MR. MINISTER: The Provisional Government has been informed that Mr. Killick, whose rebellion against the order of affairs instituted by the decree of the central committee in May last has been brought to your notice, has declared to be in a state of blockade the port of Cape Haitien, open to foreign commerce.

This declaration on the part of the ex-admiral is an attempt on the rights that foreign vessels have to enter the ports of the Republic open to commerce and dependent on the legitimate authority.

The interests of your nationals who have there their places of business must suffer deeply from the execution of that declaration. I have the honor to inform

you that the Provisional Government protests energetically against this commencement of violence, in begging you to make thereof a judgment, whereby to dictate to you the means to prevent the accomplishment of such an inconsequence.

Please accept, etc.,

BOISROND CANAL.

[Inclosure 4.]

Mr. Livingston to Mr. Powell.

[Telegram.]

CONSULATE OF THE UNITED STATES,
Cape Haitien, August 10, 1902.

Executive council, Gonaives, notifies consuls of blockade of port. Blockade de facto. Presence *Crête-à-Pierrot*. Steamer supposed *Paloma* prevented entering this morning. Department informed.

LIVINGSTON.

[Inclosure 5.]

Mr. Powell to Mr. Livingston.

[Telegram.]

LEGATION OF THE UNITED STATES,
Port au Prince, August 10, 1902.

Is McCrea at Cape? Ignore blockade.

POWELL.

[Inclosure 6.]

Mr. Livingston to Mr. Powell.

[Telegram.]

CONSULATE OF THE UNITED STATES,
Cape Haitien, August 10, 1902.

McCrea here. Consuls protested against blockade.

LIVINGSTON.

[Inclosure 7.]

Mr. Powell to Commander McCrea.

[Telegram.]

LEGATION OF THE UNITED STATES,
Port au Prince, August 10, 1902.

Gonaives government not recognized. Killick can not declare blockade of port. Give your protection to any American, Cuban, or foreign vessel that desires to enter Cape.

POWELL.

[Inclosure 8.]

Mr. Powell to Commander McCrea.

[Telegram.]

LEGATION OF THE UNITED STATES,
Port au Prince, August 11, 1902.

Ignore Killick's blockade. See that foreign vessels have free entrance to Cape. Act in accordance with these instructions unless instructed otherwise by Department.

POWELL.

[Inclosure 9.]

Mr. Livingston to Mr. Powell.

[Telegram.]

CONSULATE OF THE UNITED STATES,
Cape Haitien, August 12, 1902.

McCrea holds blockade ineffective. Will protect American, Cuban, and innocent neutral commerce.

LIVINGSTON.

[Inclosure 10.]

*Hermann & Co. to Mr. Powell.*PORT AU PRINCE, *August 11, 1902.*

SIR: We just received the following cablegram from Cape Haiti:

"*Paloma* has had to return on account of blockade established here. Mail and cargo still on board. Advice was duly sent Munson. Note protest immediately."

Above steamer, *Paloma*, left our port on 7th for Gonaives and Cape Haiti, where she ought to arrive on the morning of the 9th instant. As per itinerary, she had to go on 10th instant from Cape to Port de Paix, and we suppose her now on the way down to Aux Cayes, where she will arrive to-morrow morning.

The steamer *Paloma*, flying the American-Cuban flag, and being under the protection of the States, we really don't understand why she did not run the blockade, the captain knowing that an American man-of-war is stationed in the port of Cape Haiti.

A blockade can not exist, Mr. Killick, the commander of the *Crête à Pierrot*, being considered a pirate.

Believe us, etc.,

F. HERRMANN & Co.

[Inclosure 11.]

*Mr. Powell to Mr. Bourand.*LEGATION OF THE UNITED STATES,
Port au Prince, August 13, 1902.

SIR: I have the honor to acknowledge the receipt of your communication of August 8, in which you inform me of and inclose therein a copy of a decree stating that the "executive council" at Gonaives had closed the port of Cape Haitien, and had forbidden the entrance of all vessels thereto, or within 3 miles of the same.

In reply to your communication allow me to inform you that as the representative of the United States of America to this Republic I can recognize but one central authority or Government; that one is the present Provisional Government, whose seat is at Port au Prince, the capital of your Republic; therefore, decrees emanating from any other body can not be recognized.

Further, my Government can not recognize the port of Cape Haitien to be in a state of blockade, and will take such steps as it deems necessary to secure the free entrance of all American, Cuban, and foreign vessels that may be destined to that port, and will also see that they have the right to depart from there.

Accept, etc.,

W. F. POWELL.

[Inclosure 12.]

Mr. Smith to Mr. Powell

[Telegram.]

Gonaives notified *Paloma* blockade Cape. Proceeded, but seized upon by *Crête*. Had to exclude Cape. Proceeded Cayes. File protest. Return Port au Prince Saturday.

SMITH.

[Inclosure 13.]

On the 16th day of August, 1902, before me, William F. Powell, minister for United States of America, and resident at Port au Prince, in the Republic of Haiti, personally appeared Robert A. Smith, master of steamship *Paloma*, of Habana, Cuba, and of the burden of 2,240 tons gross, who declared as follows:

On the 8th August, 1902, the steamship *Paloma* left Port au Prince for the ports of Gonaives and Cape Haiti, and at Gonaives, same date, he was notified by his agents, Messrs. F. Herrmann & Co., that the port of Cape Haiti was blockaded, and they advised the master not to proceed to said port, as the Haitian man-of-war *Crête à Pierrot* was stationed there to prohibit entrance, by order of a provisional government of Gonaives, as per proclamation of blockade handed to him. Furthermore, that his passengers for Gonaives and Cape Haiti were not allowed to land; that after leaving the port of Gonaives he proceeded to Port de Paix, discharged cargo, then, on August 10, continued on to Cape Haiti.

The *Paloma* arrived off this port about noon of the same day, and when about 3 miles distant from Picolet light-house the *Crête à Pierrot*, on viewing his vessel within the 3-mile limit of the proclamation of blockade, steamed out and fired a blank shot, upon which he stopped the *Paloma*, waiting to see if said man-of-war would approach or deign reasons for stopping his ship. He, the commander, did not do so, but put the *Crête à Pierrot* in a position to act if the *Paloma* tried to enter the port, thus preventing the *Paloma* from entering said port of Cape Haiti.

He, the said master of steamship *Paloma*, Robert A. Smith, therefore protests against all damages, expenses, losses, and consequences incurred his vessel, owners, passengers, and shippers of cargo, and all others concerned, reserving the right to extend the above protest at any port convenient in Haiti or United States of America or Cuba.

Declared and protested before me at Port au Prince, in the Republic of Haiti, this 16th day of August, in the year 1902.

ROBERT A. SMITH, *Master*.

Mr. Adee to Mr. Powell.

No. 530.]

DEPARTMENT OF STATE,
Washington, August 16, 1902.

SIR: In reply to your telegram of the 9th instant asking, at the request of the Provisional Government of Haiti, the prevention of shipments of arms and ammunition from this country to certain specified places in Haiti, I inclose for your information copy of an instruction issued by the Secretary of the Treasury to all United States collectors of customs, directing them to take such measures as may be practicable to enforce the neutrality laws, upon any evidence of unlawful proceedings which may become known to them.

It is properly permissible to the diplomatic and consular representatives of Haiti in the United States to bring to the knowledge of the local collectors of customs and United States attorneys any facts of which they may have knowledge or belief tending to show actual or intended violation of the neutrality laws within the jurisdiction of the United States.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

The Assistant Secretary of the Treasury to collectors of customs.

TREASURY DEPARTMENT,
Washington, August 14, 1902.

SIR: This Department is informed by the Department of State that a cablegram has been received from the United States minister to Haiti stating that the Provisional Government of that Republic has informed him that Gonaives, Port de Paix,

Petit Goave, and St. Marc are in rebellion, and have requested that this Government prevent any shipment of arms and ammunition to those places. Should any facts come to your notice indicating that an infringement of the neutrality laws is contemplated, you will please take such measures as may be practicable to enforce the due observance of the obligations of neutrality they impose. If necessary, you will advise with the United States attorney.

Respectfully,

_____, *Assistant Secretary.*

Mr. Adee to Mr. Powell.

No. 531.]

DEPARTMENT OF STATE,
Washington, August 18, 1902.

SIR: I have to inform you that the commanding officer of the U. S. S. *Machias* telegraphed to the Navy Department, under date of the 13th instant, that the blockade of Cape Haitien had been admitted to be ineffective by Admiral Killick and had been abandoned.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Mr. Powell.

No. 532.]

DEPARTMENT OF STATE,
Washington, August 18, 1902.

SIR: I have to acknowledge the receipt of your No. 1123 of the 25th ultimo in regard to the status of Vice-Admiral Killick, and to say that the instructions already sent to you in connection with the decree qualifying Admiral Killick as a pirate will have shown the substantial coincidence of your views with those of the Department.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Powell to Mr. Hay.

No. 1141.]

LEGATION OF THE UNITED STATES,
Port au Prince, August 20, 1902.

SIR: I have the honor to inform the Department that there has been no change in the political situation since my dispatch No. 1137 of August 15, 1902. The only incidents worthy of note were the destruction of St. Michel, the needs of the homeless at Petit Goave, and the Chambers of Deputies perfecting a permanent organization.

Word reached here on the 18th that General Jumeau, finding he could not hold St. Michel, a small town in the interior, reduced it to ashes to prevent it from being taken by the Government troops. No further details have come to hand. It is stated that a small battle was fought in which General Jumeau was defeated; as he retreated he destroyed the city. In the north, toward the Cape, affairs are still in a desperate state. The armies of the two sections confront each other; a battle is momentarily expected. It is stated that each numbers

about 3,000 men. This battle, when it takes place, will not clear the situation. If General Nord defeats General Jumeau, it makes him more prominent as a candidate for the Presidency. He will then march his army here and demand that this office be conferred upon him. If, on the other hand, General Jumeau succeeds we shall have the Firmin army within a few days at the gates of the city; so, as I have stated, the victory of either is a menace to this city. At this writing Gonaives and St. Marc are threatened on three sides. A force of 1,000 men was sent from here yesterday to make an attack on the south, while another column equally as strong is marching upon it from the east, and, if General Jumeau is defeated, that army will attack it from the north. In case General Jumeau is defeated both St. Marc and Gonaives will suffer or be given to the flames, as were Petit Goave and St. Michel.

As further information reaches us from Petit Goave, the condition of the people that remain there seems most distressing. The women and children who are at the usine are without food or raiment, except such as has been sent them from here; those who have escaped are in hiding in the mountains. The women and children who have fled from the city are subsisting on what they can find near them. The wife of General Chicoyé, who set his house on fire, who was thought to have been consumed with her husband, escaped with her children and is in hiding; two of her children have died from exposure. She was compelled to dig their graves and bury them, with no helping hand to assist. Fifty of the men who have taken refuge were exiled and sailed on August 16 by the last Dutch steamer to Curaçao.

The *D'Assas* has returned from the Cape. Mr. Desprez, the French minister, has informed me that as they were at the Cape, Killick, with the *Crête*, appeared off the harbor. The commandant of the *D'Assas* endeavored to communicate with him in regard to the cutting of the French cable by way of Santiago, Cuba. As soon as Killick found the *D'Assas* was steaming toward him, he crowded on all steam and endeavored to escape. The *D'Assas* followed him, but before she could come within speaking distance Killick found shelter in a small cove, in which the water was so shallow the *D'Assas* could not follow. A small launch was therefore sent to him to inquire in regard to the cable. Killick denied all knowledge of it.

He was off the Cape to intercept the *Paloma*, but on the date of her sailing from here I wired Commandant McCrea about the time she would reach the Cape, and to protect her from any attempt that Killick might make. I have been informed since of her safe arrival and departure. I have been informed to-day that Killick has had more coal sent to him by the *Laurenburg*. An effort will be made by the Government to prevent Killick from obtaining it, by having it landed here and buying it. If the Government succeeds in doing this, it will prevent Killick doing more mischief until he can secure another supply of coal. Congress or the Chambers of Deputies have at last passed upon all the election cases, and have perfected a permanent organization in electing the Hon. R. Deetzens as president of that body. The vote stood 38 for and 28 against, 8 not voting. This vote demonstrates that Mr. Pierre has a majority of the members of the Chambers. Their success in effecting this organization so speedily was a surprise to all, as trouble was expected before an election could be held. The next move is to elect the members of the Senate. An effort is being made

to prevent this by the partisans of Mr. Fouchard, who refuse to attend, thus preventing a meeting for the want of a quorum; from the strength shown by the Pierre party, they know that the greater part of the members who favor Mr. Pierre will be elected, thus increasing his majority in the joint session that is to elect the President. For this reason no one can predict when an election for President will take place. It is still thought when this joint meeting takes place, at the moment when the result of the election is to be made known, grave trouble will arise, unless all parties will agree to abide by the result. If this can be done, order will soon be established.

An attempt is being made by the partisans of Mr. Fouchard to postpone the election until the present conflict with Mr. Firmin is ended and the country becomes tranquil. By this means they hope to secure the twenty Firminist members who are now with Mr. Firmin for Mr. Fouchard. If this move be successful Mr. Fouchard may win. As it now stands everything is in a hopeless tangle. If a President is to be elected some conciliatory policy must be adopted or an agreement made by both candidates. Unless this takes place no election will be held for some time. In the meantime all mercantile business is suffering. I find since the destruction of Petit Goave the feeling of annexation to the States is rapidly spreading; some of the papers are advocating it, I am informed.

I have the honor to inclose a copy of a letter from the United States consular agent, Mr. Kampmeyer, at Petit Goave.

I remain, etc.,

W. F. POWELL.

[Inclosure.]

Mr. Kampmeyer to Mr. Powell.

CONSULAR AGENCY OF THE UNITED STATES,
Petit Goave, August 14, 1902.

SIR: I beg to acknowledge receipt of your favor dated 9th instant, and hasten to give you full particulars of what has happened at this place.

On the 1st instant the authorities of Petit Goave declared themselves as rebels against the Provisional Government by firing three cannon shots as alarm. President Boisrond Canal tried to compromise with the head of the rebels, named N. Chicoyé, but it was to no purpose. Then the Government immediately sent troops, and on the 8th instant same attacked Petit Goave. We heard the first rifle reports at about 9 a. m. Gen. Justin Carrié had his troops marched up at three different places of the town, and after a fight of some six hours he was master of the place. Unfortunately victory has been bought at a heavy cost. The whole town of Petit Goave has disappeared, with the exception of a few fireproofs.

Misery is reigning all over, and at one moment the population was short of provisions. The rejoicings were great when the arrival of the French cruiser *D'Assas* was announced. Its commander distributed among the suffering people about 1,300 rations. Furthermore, he allowed everyone to go on board of his ship in order to travel to Port au Prince.

Political refugees are only in the French consular agency. Same leave to-day by the Dutch boat for exile.

So far it is quite impossible to estimate the commercial losses. The loss of wounded and dead is not very heavy, although the firing has been tremendous for hours.

Since my private house has been burned down I have transferred the United States consular agency to my country place in the vicinity of the town. The délégué extraordinary of the Provisional Government, Gen. Justin Carrié, has been duly informed thereof.

I am, etc.,

L. KAMPMEYER,
United States Consular Agent.

Mr. Adee to Mr. Powell.

No. 533.]

DEPARTMENT OF STATE,
Washington, August 21, 1902.

SIR: Referring to Department's No. 530, of August 16 last, I inclose for your information copies of a letter from the Department of Justice, and of this Department's reply, in regard to the preservation of the neutrality of the United States as regards Haiti.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure 1.]

Mr. Beck to Mr. Hay.

DEPARTMENT OF JUSTICE,
Washington, August 18, 1902.

SIR: I have the honor to acknowledge the receipt of your letter of August 12, 1902, in which you ask me to enforce the due observance of neutrality obligations by preventing the shipment of arms and ammunition to Haiti.

At the present this Department has no knowledge of any intended shipment. Should it receive such information it will promptly invoke the action of the courts to prevent such shipments.

If you deem the matter of sufficient importance, and desire it, I will cause instructions to be issued to the United States attorneys for the districts in which there are ports of entry.

Respectfully,

JAS. M. BECK, *Acting Attorney-General.*

[Inclosure 2.]

Mr. Adee to the Attorney-General.

DEPARTMENT OF STATE,
Washington, August 21, 1902.

SIR: I have the honor to acknowledge the receipt of your Department's letter of the 18th instant concerning the subject of preserving the neutrality of the United States as regards the Republic of Haiti.

The United States minister at Port au Prince, who, at the request of the Haitian Government, brought the matter to the attention of this Government, was instructed on the 16th instant that it was permissible, under the law, for the diplomatic and consular representatives of Haiti in the United States to bring to the knowledge of the local collectors of customs and United States attorneys any facts of which they might have knowledge or belief, tending to show actual or intended violation of the neutrality laws within the jurisdiction of the United States.

Your Department might, if you deem it necessary, instruct the district attorney to confer with any Haitian officer or other person lodging information of apprehended violation of neutrality and advise him as to the proper method of substantiating his statement.

I have, etc.,

ALVEY A. ADEE, *Acting Secretary.*

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, August 29, 1902.

(Mr. Powell states that reports of severe fighting near Cape Haitien on August 28 and August 29 have been received; that Nord is at the head of the Provisional army and Jumeau is in command of the revolutionists; that the loss on both sides is very heavy; that Limbé and Marmelade are totally destroyed.)

Mr. Powell to Mr. Hay.

No. 1146.]

LEGATION OF THE UNITED STATES,

Port au Prince, August 29, 1902.

SIR: I have the honor to inform the Department that the political situation remains about the same as when my last dispatch, No. 1141 of August 20, was forwarded.

There are many rumors current. I have endeavored to trace their truth, but it is almost futile. As fast as I trace one out another presents itself. It is rather difficult to secure correct news, as we are cut off from all communication with the northern section of the Republic by the cutting of the wires between Gonaives and here by the partisans of Mr. Firmin on the one hand, and by a decree issued by him which prohibits all consular agents communicating with their legations here, which has debarred us from receiving information from that source. On the other hand, the Government refuses to permit the daily papers to publish anything in reference to the present condition of affairs. From the Cape I can hear nothing, as Mr. Livingston fails to keep me informed of passing events occurring there. I can therefore only state a few of the rumors that may have a basis of truth; I can not vouch as to how correct they may be. One, that Commander McCrea, with the archbishop at the Cape, had induced Gen. Nord Alexis and the Hon. A. Firmin to come to an agreement by which Mr. Firmin was to receive a certain sum of money for the loss he had sustained. He was then to leave the country and return to France, and that a meeting for this purpose was to be held on the *Machias*; that in the meanwhile a truce had been agreed upon pending the time such a meeting was to be held. This statement could not have been true, as it has since been stated that fighting was going on near the Cape. On making inquiry of the Government they informed me that they knew nothing of it. Another, that our consul, Mr. Livingston, with Commander McCrea, had arranged a meeting on the *Machias*, where it was expected all the candidates for the Presidency would be present; also the President of the Provisional Government, General Canal. Lastly, that the former vice-admiral, Killick, had offered to give the *Crête* to the Provisional Government upon the payment to him of \$75,000 gold.

We have received news to-day, through the kindness of the manager of the French Cable Company, that severe fighting had occurred at Limbé, and was still in progress; that the loss of life was great on both sides; that Limbé and Marmalade had been destroyed by the troops of General Jumeau. It was not stated which side was the victor. One of the peculiar features of this conflict is that as soon as the defeated army finds that it is compelled to leave a place, it at once places a torch to it. The only ones who suffer are the inhabitants, and they are the ones who are friendly to the side that fires the town.

In the interior villages or towns there are no foreign residents, so foreign interests do not suffer. From late information from Gonaives, Mr. Woël, our consul there, informs me by special post that the Hon. A. Firmin has issued a decree whereby foreign consuls are not allowed to communicate with their legations here, so that it is a hard matter to receive news from there. In all other sections of the Republic there is a feeling of unrest. There has been no open demonstration, as all fear that the fate of Petit Goave awaits them.

The Provisional Government has sent unofficially to me to know the

views of my Government concerning a contemplated blockade on their part of Gonaives, St. Marc, and Port au Paix. I have answered them unofficially that my Government would not recognize a simple declaration of blockade, or what might be termed a blockade on paper. A blockade to be efficient must be sustained by a sufficient physical force to prevent a vessel from entering the port. Such a blockade, on account of the physical force represented there, and providing due and timely notice was given, would be respected, but not otherwise, by my Government. If they had not this force it would be unwise for them to attempt it. Finding our Government would not approve of it, they have abandoned the idea.

The Provisional Government has also sent a commission consisting of two persons to request that I would act as mediator between the Government and that represented by Mr. A. Firmin, and endeavor to arrange a settlement of the present political troubles, and to stop a further effusion of blood. I have replied that with the consent of my Government I would enter upon this difficult task, but I would not do so until an official request had been made to me by the Provisional Government, and not then until those who were candidates for the Presidency had settled their differences and agreed upon a plan of action. That I could not enter upon a task as difficult as this appeared unless all the candidates here would come to some agreement as to which of their number they should elect. I would have nothing to say; they would have to settle that among themselves. Again, there would have to be on their part, as well as on the part of the other party, certain concessions, and I hoped, if I should accept this task, they would respond to the advances made by the opposite party in order to bring this unfortunate condition of affairs to a close. In making this statement I considered I would be acting in accord with Department's desires.

In accordance with these suggestions, the two candidates (Messrs. Fouchard and Pierre), with 5 members from each of their respective parties in the House of Delegates, met with the Provisional President, General Canal, and his cabinet, at the residence of the latter, and formulated an agreement among themselves by which it was agreed that both sides would join forces and with their combined strength proceed to an election of the members of the Senate. It was also agreed that Mr. Fouchard should elect from his side 14 members, and Mr. Pierre 25 members, making in all 39, which is the number that constitutes the Senate. This arrangement, as will be seen, takes Mr. Fouchard from the list of Presidential candidates, from which he withdraws for certain other considerations. His total strength under this agreement would be but 40 votes (26 in the House of Delegates and 14 in the Senate). This arrangement, though, does not give to Mr. Pierre the surety of election, as he has at present 38 votes in the House of Delegates, and by this arrangement 25 votes in the Senate, or in all 63 votes, which are 5 short of the constitutional number required to elect. Under the present arrangement each candidate would have:

Number of members, House of Delegates.....	95
Number of members, Senate	39
Total number on joint ballot	134
Required vote to elect President.....	68
Vote pledged to Mr. Fouchard	40
Vote pledged to Mr. Pierre.....	63
Vote pledged to Mr. Firmin.....	20
Vote unpledged	11

It will be necessary for Mr. Pierre to secure 5 of these unpledged votes to win, while Mr. Fouchard would have to secure the whole of the Firminist vote and 8 of the unpledged vote to secure the coveted prize. Such is the present political situation regarding candidates.

It was thought after this conference that the members of the House of Delegates would immediately proceed to an election of Senators in accordance with this agreement. A few days thereafter the Chambers met and succeeded in electing one Senator. As they were preparing to elect the second a controversy arose between one of the Firminists and a member of one of the other parties. Revolvers were drawn, troops were hurriedly placed, and the factions of each party quickly placed themselves around their respective leaders. Cooler counsel finally prevailed, and a sanguinary contest was narrowly averted. As I have stated in previous dispatches, the present tranquillity is more apparent than real, as at any moment the city is liable to suffer from some hot headed adventurer. As a result of this affair of yesterday there was no session of the House to-day; consequently no further election of Senators was held.

It was the hope of many that after this agreement was made the election of the members of the Senate would be continuously held until all were elected, and a President of the Republic elected immediately thereafter, or as soon as the new members of the Senate could get to the capital and organize the Senate.

On account of the affair of yesterday and the reported conflict near the Cape, the question of mediation has been temporarily laid aside.

We are being unjustly or unfairly criticised in not taking more active steps to compel Mr. Firmin to recognize a request to allow an American citizen to land at Gonaives. Our critics state that if this person had been either a Frenchman or a German, a naval vessel would have been sent to enforce such a request, and cite the action of the present French minister (Mr. Desprez) in taking the *D'Assas* and going to succor the residents at Petit Goave. This matter may appear trivial to the Department, but we are losing the respect of these people, as well as of the foreign colony, and even of our own citizens, who think that I am lax in my duty in protecting American interests.

Aside from this affair of yesterday, all is quiet here. We have learned through the manager of the French cable that the *Machias* was to-day (August 29) at Gonaives and would leave there for Boston.

I have also been informed that the present Haitian minister at Washington, Hon. J. N. Léger, has sent his resignation to General Canal. The President has requested him to remain until a new President is elected.

I inclose certain matter that bears upon the subject matter of this dispatch.

I have, etc.,

W. F. POWELL.

[Inclosure 1.—Translation.]

The Provisional Government, to the generals, members of the military delegation, operating against the Artibonite.

MESSRS. DELEGATES: The Provisional Government, in making choice of you to direct the operations of the army against the Artibonite, has confided a mission the success of which will be worth to you and your troops the respect and gratitude of the nation.

Charged to combat that unjustified civil war, you are at the present hour soldiers of

peace and of the national autonomy, because the insurrection of the Artibonite is undertaken to prevent the meeting of the National Assembly, and to dictate to the rest of the country the despotic will of a party, thus exposing the country to the worst calamities.

In the work of pacification that you are going to fulfill, you will have to display the fine qualities of courage and of tact that have gained for you the honor of being designated thereto by the Provisional Government.

You will not forget what sacred interests you have the keeping, as much on the side of your troops as on that of the adversaries. Every time that conciliation will be possible, and that the oppressed population wish to give up to your patriotic appeal, you will receive them as deluded brothers, reserving all your severity for the shameless leaders of that foolish war, and in leaving to the enemies the heavy responsibility of the devastation of properties by pillage and destruction by fire. Do not lose sight that you should give the greatest protection to families, both foreign and Haitians, and that fields and buildings generally should be severely respected by all.

The Provisional Government believes it to be its duty to remind you, Messrs. Generals, that the troops of the west have for objective to lend a hand to the valorous General Nord, member of the Provisional Government, and minister of war.

Therefore, as soon as it will be possible for you to put yourselves in relation with him, you will hasten to do so, exchanging with him your communications and your advice for the unification and the success of the army of the Republic.

You will hold to the honor of justifying the great renown which the troops, placed under your orders, possess.

The Provisional Government count on you for the reestablishment of peace and the maintenance of the most severe discipline in the ranks of the army.

Please acknowledge receipt of this present, and accept, etc.,

BOISROND CANAL.
J. ST. FORT COLIN.
— DENNERY.

[Inclosure 2.—Translation.]

Mr. Firmin to Mr. Powell.

GONAIVES, August 18, 1902.

HONORED SIR: Having had the honor to see you once at the American legation at Port au Prince, where I was presented to you by Mr. Brutus St. Victor, I have kept a most sympathetic souvenir of you. I will never forget how much I was captivated by your conversation, full of urbanity and loyalty.

All that you have said to me of your active desire to see Haiti place herself in a serious road to civilization, to the end of raising the reputation of our race, has remained engraved in my heart. Therefore, I can not doubt your sentiments of justice; and notwithstanding that which our enemies please themselves in writing to make it understood that you have given them all your sympathy, I think that having followed with intelligence and philosophy all the illegalities, all the injustices, and all the barbarous acts committed against me and my friends, and which has finally turned loose civil war in this unfortunate country, the nobleness of your heart will speak louder than the suggestions of those who have coalesced to stifle the spirit of liberty, of political morality, and of national regeneration that my numerous friends have manifested on all points of the Republic without exception to locality.

I beg you, therefore, to kindly transmit to His Excellency President Roosevelt a letter of an entirely private nature, that I have the honor to address to him, inclosed to you. I here employ your intermediary, as I have employed that of General Porter, United States ambassador to France, when in Paris I had need to write to the illustrious host who honors the White House and who presides so worthily over the destinies of the great American nation.

In causing my letter to reach its destination, you will render me a great service, and it is with all my heart that I thank you in advance.

Please accept, etc.,

A. FIRMIN.

[Inclosure 3.]

Mr. Powell to Mr. Firmin.

LEGATION OF THE UNITED STATES,
Port au Prince, August 21, 1902.

SIR: I have your favor, dated August 18, inclosing a letter to the President of the United States, Mr. Theodore Roosevelt, with a request that I forward the same to

him. You also call my attention to an interview that was held at our legation with the late secretary of foreign relations, the Hon. Brutus St. Victor, at which time I made certain statements in regard to the future welfare of this Republic, of its people, and my hopes as to its future, and to certain impressions that those remarks had made upon you. In reply to your favor I have the pleasure to state to you that I have forwarded your letter to President Roosevelt.

Your letter recalls to me the very pleasant interview that I had the pleasure to have with you. I regret, owing to my official connection with the Provisional Government as the representative of the United States, that there is a certain portion of your letter that I have not the privilege to discuss, especially that in which you mention the events that have led to the present deplorable state of affairs that confront this Republic at the present time.

If you will recall the subject matter of our conversation at this interview, I stated, as the representative of my Government here, that I would not espouse the cause of any of the candidates who aspired to the high office of the chief executive of this Republic; that I would hold myself absolutely neutral; that the choice of a President was a matter that should be left entirely to the free disposition of your citizens, and no member or members of the diplomatic corps should interfere.

Since that interview events have rapidly followed each other to such an extent that one section has entered upon a fratricidal war against the other.

As to the cause or causes that have led up to this state of affairs it is not for me to discuss. You are a better judge in regard to them than I. From the very high regard that I have formed of your character as one who has a great interest in this beautiful island, in a part of which your ancestors have erected a Republic in which not only yourself, but all connected with this race, should be proud, in this the ninety-ninth year of this Republic's independence, an independence won through heroic deeds and by the blood of brave men, I adjure you, in the name of these men, in the name of your illustrious ancestors, to cause this strife to have an end.

Already one or two of your cities have felt the dire effects of this fratricidal war. If this continues, the same result will occur to other cities; much blood will be uselessly wasted; many a noble life destroyed, men that your country needs to assist it in that future development that I trust yet awaits this Republic.

Can you not for the sake of those noble heroes whose names are interwoven in your country's history, for the great love you have for all that pertains to it, for the hope of its future greatness, will you not at this moment of its peril, with that nobleness of character that I believe you possess, arise and put an end to this war, a war that is impoverishing your treasury, sacrificing uselessly noble young lives, a class of men in which your country stands in dire need?

If you will do this, you will gain the hearts of your people, and in the world at large reach a higher honor and a greater name than you could receive as the President of this Republic.

I will be glad to render you any service that may be in my power, to place any communication that you may desire to make to the Provisional Government or to the diplomatic corps, to secure such an agreement that will be honorable to all. If I can thus aid you I will be most happy to do so and thus bring to an end the unfortunate state of affairs.

Accept, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 3, 1902.

(Mr. Powell reports that Admiral Killick searched a German vessel on September 2, and took from her goods consigned to Cape Haitien for the Haitian Government; that the chargé d'affaires of Germany has cabled to his Government for instructions to seize the *Crête*; that the search was made 40 miles from the cape; that the German naval vessel *Panther* is expected to arrive September 4.)

Mr. Powell to Mr. Hay.

No. 1150.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 6, 1902.

SIR: I have the honor to inform the Department that there is no change in the political situation since my last dispatch, No. 1146, of August 29. Here (Port au Prince) all remains quiet. The formation or organization of the new Senate is no nearer completion than it was when I last informed the Department upon this subject. Two sessions of the House of Delegates have been held. At the first session nothing was done; at the second 3 Senators were elected, making 4 in all out of 39 members to be chosen. The Department can judge in what time, at this rate of progress, the members of the Senate will be elected and afterwards enter into a permanent organization in order to enter upon an election of the President. As far as one can judge such an election is as far off as it was on the 12th of May. Each day seems to add some new difficulties. As I have stated in former dispatches, the Provisional Government does not seem to be able to grasp the true situation of affairs, but allows all things to run their own course without direction from them. Neither of the two candidates resident here dares to take the aggressive, for fear of losing the support of the present Government, which they fear would go to their opponent, so each has to act on the defensive. Nothing can be done to bring about peace or an understanding between the sections until there is a unity of interest here and a loyal support on the part of all to sustain the present Government. The Chamber of Deputies, by their dilitatory action, and the Government, through its weakness, do not seem to be aware of the danger which surrounds them. At any moment it may become most acute, causing sections in the south now loyal to the Government to take up arms against it.

In the north affairs are a little more lively. Two battles have been fought. General Jumeau seems to have regained some of his lost ground. A battle was fought at Limbé on September 1 and 2, at which place the Government troops were compelled to retire. The details we have not been able to secure, as the Provisional Government will not allow the papers to publish any reference to them. In the absence of such information the wildest rumors are current, which the masses accept as truth. We have been able to secure much of the information that the Government receives through the courtesy of the manager of the French cable company. Limbé, the place where the battle occurred, is very near the Cape. It is reported to-day that the Government troops have suffered another reverse at a place thirty-six hours' march from here, called Mirebalais. We have not been able to secure any details.

One of the most exciting events of the week was the action of Admiral Killick in sending an armed crew to a German vessel, searching her, and taking from her 550 rifles and a quantity of ammunition that had been sent by the Provisional Government to General Alexis at the Cape. All look upon it as a high-handed proceeding, but Killick is capable of giving such surprises. Since this has occurred the Provisional Government has issued another decree styling Killick a "pirate," a copy of which has been sent to each member of the diplomatic corps, and they have also cabled the same to their ministers at the several capitals in Europe and America with instructions to call the attention

of the Governments to which they are accredited to these acts. Killick thus far has not troubled the property of neutrals. He claims that which he has seized is the property of the Provisional Government, and is therefore contraband of war; that he has the right to take it whenever he may find it—peaceably, if he can, forcibly, if he must.

As soon as the news reached here, the German chargé d' affaires immediately cabled a long dispatch to his Government. Equally long replies were returned, one for the chargé, the other for the commander of the German naval vessel *Panther*, which arrived to-day.

A rumor is current that the commander has been instructed to seek Killick, demand from him reparation for searching a German vessel, and for him to surrender the arms taken from her; if he refuses, to capture him. I do not vouch for how true it is. It will be a hard matter for Killick to return either firearms or ammunition, as he yesterday, it is said, landed them at Gonaïves. All are waiting to see what action will be taken. It is stated that the *Panther* will be stationed at Gonaïves until order is reestablished.

Another important event occurred. The *Paloma*, which arrived to-day, brings to Mr. Firmin \$2,000,000 paper money, printed for him in New York; 800,000 rounds of ammunition, and a quantity of firearms. The Government had quietly made preparation to seize these goods when the vessel reached this place. According to schedule, this was her first port after leaving New York, but instead of coming here she steamed directly for Gonaïves, delivering to Mr. Firmin money, arms, and ammunition. The arrival of this vessel has elated the Firminists and correspondingly depressed those in the Government circles. This vessel was also to have brought 250 tons of coal for Killick, but this was prevented through the action of the Haitian consul at New York. The ammunition, I am informed, was packed in flour consigned as such, while the arms came in under hardware.

Mr. Firmin has now all the sinews of war that he needs—money to pay his soldiers, which he will compel all to accept; arms, ammunition, and provisions for the same. In addition to this a gunboat (the *Crête*), as an auxiliary force to assist him in all his future operations. The present consignment, I am informed, was sold to Mr. Firmin by the ex-President of Santo Domingo, Mr. J. Jimenes, and was consigned to one Sanchez, a merchant at Gonaïves. Summing up the events of the week, the advantages seem to be all on the side of Mr. Firmin, as he has completely outwitted the Provisional Government. As matters stand now, no one can tell when this will end.

Mr. Firmin has also seized all the custom receipts at the ports of Gonaïves, St. Marc, and Port de Paix. The revenues from these, as well as other ports, have been set aside to meet the bonded obligations of the Government as they fell due. A large proportion of these bonds is in the hands of the French and German bankers and the merchants of those countries. These people are deeply concerned in regard to anything that affects this class of Haitian securities. Our merchants are also concerned, but to a lesser degree. The former merchants (French and German) have been pressing upon their legations the importance of landing troops and taking full charge of both banks and and custom-houses at the places named above, particularly at Gonaïves. As soon as this information reached me, I called upon the German chargé d'affaires, Mr. Franksen, and requested to know from him if such a report was true of his intention to land troops and seize the

custom-house at Gonaïves. He informed me that such was not his intention or that of his Government, and desired that I would make known his statement to my Government. I promised him I would do so.

The *D'Assas* with Hon. P. Desprez and wife, left on September 1 for Gonaïves, from there to the Cape, and thence to Santiago, Cuba. At the latter place she will coal, providing there is coal there; if not, she will go to Kingston, returning here on the 8th.

A body of troops numbering 900 volunteers was to leave to-night or early in the morning for Mirebalais, where it is said the advance guard of Mr. Firmin's has reached.

The Government has secured another loan from the syndicate, (national bank and certain bankers) amounting to \$500,000, on the most favorable terms to the syndicate, the Government receiving paper and returning gold, exchange at 130 per cent, rate of interest 1 per cent per month.

The coming week bids fair to be an eventful one, but on which side victory will rest the future alone can foretell.

I inclose certain papers bearing upon the subject-matter of this dispatch.

I have, etc.,

W. F. POWELL.

[Inclosure 1.—Translation.]

REPUBLIC OF HAITI.

PROCLAMATION.

Citizens and soldiers:

The people and the army of the department of the Artibonite, of the northwest, and a part of the north and of the west, desirous of having a solid organization capable of responding to the exactions of the situation, have constituted, by acclamation, a central power under the name of executive council.

Confiding in my patriotism, in my devotion to the ideas of liberty, of justice, and of national regeneration, you have spontaneously conferred on me the presidency of that council. If I should listen only to my disinterested sentiments, I would have refused that charge in continuing my services to the cause under a less conspicuous title; but there are political necessities that must be recognized.

Our country is crossing a crisis as formidable even as that of the national independence. The people, fatigued with an existence, the more humiliating that we will soon reach the centenary of 1804, wishes, at the cost of all sacrifices, to finish with these governments founded on corruption and despotism, enriching some and tyrannizing others, to the detriment of the interest of the whole community.

The vicious and the benefited combined, and leaning on the unconscious, make a supreme effort to bar the way of the popular will. It is by money and the worse maneuvers that they proceed, hesitating before no crime, to combat in Haiti the political aspirations which form the glory of all civilized people.

From this antagonism must fatally come an armed contention, for peace becomes impossible when liberty, justice, and honesty are systematically mocked in the name of force and vice.

At those times when a high post is a target where converges the greatest danger, I have not the right to shun the one which is confided to me; I will remain there all the time that your persevering sympathy wishes to maintain me there; in the meanwhile, that the House of Representatives, purged of all those deputies imposed by force and carnage, will proceed freely to the election of a Senate and concur with it to give to the nation a chief of state responding to our aspirations.

Notwithstanding all the crimes committed against me, my relatives, and my friends, I swear that I am not animated with any spirit of retaliation.

I know that those who have acted materially against me have been the uncon-

scious instruments in the hands of a few plotters; these former in striking me have not understood that they were led on to commit political suicide; but justice commands that I should not hold them entirely responsible for all that they were pushed on to do.

Here are my sentiments, here are my thoughts, in accepting the presidency of the executive council.

You have surrounded me with patriotic counsellors, intelligent and devoted. With them, particularly with the illustrious soldier who is the delegate Jean Jumeau, general-in-chief of the army in the department of the north, of the northwest, and of the Artibonite, with our generous friends of the south and of the west, with God's help I hope that we will see before a long time the triumph which the cause of right and liberty merits.

Live the Republic!

Live our institutions!

Live liberty!

Live independence!

Given at the national palace of Gonaives, August 5, 1902, ninety-ninth year of the independence.

A. FIRMIN.

[Inclosure 2.—Translation.]

Mr. Canal to Mr. Powell.

REPUBLIC OF HAITI,
Port au Prince, September 3, 1902.

MR. MINISTER: The Provisional Government has been advised that ex-Admiral Killick, at present in rebellion against the legitimate authority, has seized on board of the German merchant steamer *Markomannia* some arms and ammunitions shipped from the capital for Cape Haiti.

Already the Provisional Government has made it its duty to protest against the so-called blockade of the latter city; it again comes to protest against the acts of Mr. Killick, who has made a material attack on the right which foreign vessels have of entering the ports of the Republic open to commerce and to freely leave.

It is a real depredation, an act of piracy, to which I have the honor to call your attention, in begging you at the same time to take all measures to prevent the recurrence.

Please accept, etc.,

BOISROND CANAL.

[Inclosure 3.]

Mr. Powell to Mr. Canal.

No. 543.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 4, 1902.

SIR: I have the honor to acknowledge the receipt of your favor dated September 3, 1902, informing me of the action of the late Vice-Admiral Killick in seizing certain goods destined for the Cape on the German steamer *Markomannia*.

In reply to your communication I have the honor to state to your Excellency that it will receive my earnest attention.

Accept, etc.,

W. F. POWELL.

[Inclosure 4.]

Mr. Woël to Mr. Powell.

UNITED STATES CONSULAR AGENCY,
Gonaives, Haiti, August 30, 1902.

SIR: It is my duty to advise you that the bearer, steamship *Valencia*, landed some arms and ammunition for Mr. Firmin. They are sent by Mr. Jimenez and consigned to R. Sanchez, a Cuban citizen.

It is also rumored that the next steamer will bring us some paper money for the Artibonite revolution which will be made legal tender. What do you think of such a money if they do not succeed? May we take the money in our trade without any risk?

Your valuable answer will greatly oblige yours, etc.,

J. WILLIAM WOËL.

[Inclosure 5.]

Mr. Powell to Mr. Woël.

No. 1252.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 4, 1902.

SIR: I have your two favors dated Gonaives, August 30, 1902. Accept my thanks for the information they contain. In reply to your request for instructions in regard to the proposed issue of money by the Hon. Mr. Firmin and his associates, you can properly refuse to accept the same, as your Government does not know of the existence of any other government aside from the one that has its seat at this capital (Port au Prince), and which is recognized as the only "de facto" government, at the present time, in this Republic. This is the proper, in fact the only, step you can take.

You will kindly keep me informed in regard to all political movements that may take place in or near Gonaives. Here all is quiet.

I am, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

[Telegram.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 7, 1902.

Reported *Panther* sunk *Crête* yesterday; ordered her surrender; Killick refused; 30 shots fired into her; Killick and crew went down with vessel.

POWELL.

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 7, 1902.

(Mr. Powell reports that Admiral Killick and his crew escaped uninjured to the shore; that the *Crête* was sunk in the harbor of Gonaives.)

Mr. Powell to Mr. Hay.

No. 1154.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 7, 1902.

SIR: I have the honor to inform the Department that the German corvette *Panther* sunk the *Crête à Pierrot* in the harbor of Gonaives yesterday.

The *Panther* arrived here on September 5. After receiving instructions from the Hon. Mr. Francksen, the German chargé, and a cable dispatch from the German Government, [the vessel] left immediately to seek Killick. Her total stay in this harbor was not more than an hour. When she left here she sailed directly to Gonaives, where it was reported that Killick was with the *Crête*. The *Panther* arrived at Gonaives yesterday morning. On her arrival she signaled to the *Crête* (Killick was not on board at the time) to haul her flag down and send it on

board the *Panther*. This was refused. The captain then sent a boat to the *Crête*, giving the officer in charge five minutes to comply with the order. A boat was then sent from the *Crête* to the *Panther*, requesting a longer period of time to consider the demand. The captain acceded to the request by making it fifteen minutes. At the expiration of this time, the captain of the *Crête* not surrendering, the *Panther* opened fire on the *Crête*. At the thirtieth shot the ball penetrated the magazine, completely destroying the *Crête*. When the first shot was fired, the crew left the vessel in their boats for the shore, so that when she sank none of the crew were on board, all having escaped; so there was no loss of life.

Another report comes from one of the officers of the *Panther*, who states after the request for a longer time to consider demand had been granted, the boat returned to the *Crête*. Soon after she was found to be on fire in several places. Then the *Panther* opened fire on her and sank her, completing the work of destruction.

I expect full details from our consul on the arrival of the steamer, but it will be too late for this mail.

The *Panther* returned to this port this morning. There was much rejoicing on the part of some of the inhabitants, while with others there is a bitter feeling of resentment against the Provisional Government and the German colony here, which may result in some grave events during the coming week.

I am, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 9, 1902.

(Mr. Powell states that it is reported that Admiral Killick and two of his officers went down with the *Crête*.)

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 9, 1902.

(Mr. Powell reports that the Government has published a decree in official journal closing ports of Gonaives, St. Marc, and Port de Paix; that the legations have not been notified of this action; that Americans desire to know what they shall do in reference to goods destined for those ports, and requests instructions.)

Mr. Adee to Mr. Powell.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, September 10, 1902.

(Mr. Adee states that the United States Government does not recognize closure by mere decree of ports in the possession of insurgents;

that only an effective blockade to enforce such decree could be respected; that this doctrine is fully stated in a note to the Colombian minister to the United States, dated April 24, 1885, Foreign Relations, 1885, page 254.)

Mr. Adee to Mr. Powell.

No. 538.]

DEPARTMENT OF STATE,
Washington, September 10, 1902.

SIR: I have to acknowledge the receipt of your No. 1146, of the 29th ultimo, in regard to the political situation in Haiti.

Your communication to the Provisional Government advising it that this Government would not recognize a paper blockade of Gonaives, St. Marc, and Port de Paix, nor one imposed without due notice given, is approved.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Mr. Powell.

No. 540.]

DEPARTMENT OF STATE,
Washington, September 11, 1902.

SIR: I have to acknowledge the receipt of your cablegram of the 9th instant and confirm my cablegram of the 10th in reply.

For your further information on the subject I inclose copy of Department's No. 71, of June 3, 1902, to the United States consul-general at Santo Domingo City.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

Mr. Hill to Mr. Maxwell, United States consul-general at Santo Domingo.

No. 71.]

DEPARTMENT OF STATE,
Washington, June 3, 1902.

SIR: I have to acknowledge the receipt of your No. 133, of May 6, 1902, transmitting copies of correspondence between your office and the consular agent at Macoris in regard to clearance being refused the steamship *Cherokee* at Puerto Plata for Samana, and other matters pertaining to the revolution in the Dominican Republic.

In reply I have to say that you are in error in your advice to the consular agent at Macoris relative to the refusal of the Dominican authorities at Puerto Plata to grant a clearance to the U. S. S. *Cherokee* for Samana, a port in the possession of insurgent forces. It is well settled that it is not competent for a government during an insurrection to forbid communication with ports in the possession of insurgents in the absence of an effective blockade. The action of the Dominican authorities at Puerto Plata in refusing to clear the American steamship *Cherokee* to Samana, and threatening, if the steamer attempted to call at that port, to send a Dominican man-of-war to intercept her, was contrary to international law.

The question is very fully discussed by Secretary Bayard in a note to Mr. Becerra, Colombian minister at this capital, under date of April 24, 1885, which is printed in Foreign Relations for 1885, page 254. In this note Mr. Bayard stated in detail the historical attitude of this Government on the question. His conclusion was as follows:

"After careful examination of the authorities and precedents bearing upon this important question, I am bound to conclude, as a general principle, that a decree by a sovereign power closing to neutral commerce ports held by its enemies, whether foreign or domestic, can have no international validity and no extraterritorial effect in the direction of imposing any obligation upon the governments of neutral powers

to recognize it or to contribute toward its enforcement by any domestic action on their part. Such a decree may, indeed, be necessary as a municipal enactment of the state which proclaims it, in order to clothe the executive with authority to proceed to the institution of a formal and effective blockade, but when that purpose is attained its power is exhausted. If the sovereign decreeing such closure have a naval force sufficient to maintain a blockade, and if he duly proclaims such a blockade, then he may seize, and subject to the adjudication of a prize court, vessels which may attempt to run the blockade. If he lay an embargo, then vessels attempting to evade such embargo may be forcibly repelled by him if he be in possession of the port so closed. But his decree closing ports which are held adversely to him is, by itself, entitled to no international respect. Were it otherwise, the *de facto* and titular sovereigns of any determinate country or region might between them exclude all merchant ships whatever from their ports, and in this way not only ruin those engaged in trade with such States, but cause much discomfort to the nations of the world by the exclusion of necessary products found in no other market.

"The decree of closure of certain named ports of Colombia contains no intimation of an ulterior purpose to resort to a proclaimed and effective blockade. It may, therefore, be premature to treat your announcement as importing such ulterior measures; but it gives me pleasure to declare that the Government of the United States will recognize any effective blockade instituted by the United States of Colombia with respect to its domestic ports not actually subject to its authority. This Government will also submit to the forcible repulsion of vessels of the United States by any embargo which Colombia may lay upon ports of which it has possession, when it has power to effect such repulsion. But the Government of the United States must regard as utterly nugatory proclamations closing ports which the United States of Colombia does not possess, under color of a naval force which is not even pretended to be competent to constitute a blockade."

The same question has arisen within the past month with the Venezuelan Government. The Venezuelan consul at Trinidad, acting under the instructions of his Government, refused to clear an American vessel to Caño Colorado, a port in Venezuela in possession of the insurgents. The American consul at that port issued a clearance to the vessel. The Venezuelan consul threatened that if the vessel attempted to land at Caño Colorado, he would send a Venezuelan war vessel after her to seize her as a pirate. This Department instructed the United States minister at Caracas to inform the Venezuelan Government that it regarded the course of that Government as contrary to international law, and to request that the Venezuelan consul be directed to issue clearance papers or that those of the American consul be respected. The result was that the Venezuelan consul was directed to clear the vessel.

I am, etc.,

DAVID J. HILL, *Assistant Secretary.*

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 11, 1902.

(Mr. Powell reports that he has refused to recognize the right of the Haitian Government to close ports, as French and German vessels have been permitted to enter Gonaives; that he has claimed the same right for American vessels, and that no blockade exists at either port.)

Mr. Adee to Mr. Powell.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, September 11, 1902.

(Mr. Adee states that refusal to recognize the right of the Haitian Government to close ports should be based on the grounds stated in Department's telegram of September 10, and not on the ground that vessels of countries other than the United States have been permitted to enter closed ports.)

Mr. Powell to Mr. Hay.

No. 1157.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 12, 1902.

SIR: I have the honor to state that at an interview yesterday with the Hon. Boisrond Canal, the Provisional President and minister of foreign relations, in regard to the decree issued lately by the Provisional Government in reference to the closing of certain ports in this Republic now in insurrection against the Provisional Government, he informed me that it was not the intention of his Government to blockade the ports named; that they were without naval vessels to make a blockade effective; that he had hoped that the Government in issuing this decree would prevent those cities in insurrection against the Government from receiving arms, ammunition, and a certain class of provisions. If this could be accomplished the insurgents would soon come to terms and this strife would end within three weeks. Again, the "decree" was issued to protect the bondholders of "Haitian bonds;" that the greater proportion of these bonds were held by foreigners, among whom were many Americans; that these bonds and the accrued interest upon them were guaranteed by the revenue derived from duties upon imports and exports; that the revenue derived from all goods entering or leaving these ports was diverted from the proper channel and was being used by those who were in rebellion against constituted authority, thus compelling the Government to default in the payment of either bonds or the interest upon them to its creditors. It was for these reasons that he had hoped the foreign governments would recognize this "decree" and in this way aid the Government to suppress the rebellion; but if foreign vessels should determine to enter the Government had no means to prevent them. The Haitian consuls in foreign States had been instructed not to give consular invoices, bills of health, or consular clearance to any vessel that had either of these ports as their destination. By this means he hoped to prevent any vessel clearing for the ports in question.

I informed him that my Government could not acknowledge the closing of the above-named ports in the manner proposed by his Government, but if his Government established an effective blockade it would take pleasure in respecting the same; that the principles upon which it (the United States) acted was well established by international law, and accepted by the great continental powers; without an effective blockade it would be an abridgement of American commerce, particularly at one of the ports of the Republic (Port de Paix), at which place we had large commercial interests, which would be seriously crippled if my Government was to acknowledge the "decree;" and that aside from the principles established by international law, this had been its settled policy in the past from which it could in nowise depart; that my Government greatly regretted the unfortunate condition of affairs, and trusted that peace would soon be established throughout the Republic.

Here our interview ended.

I have the honor to inclose certain correspondence that has passed between your legation and the Haitian foreign office upon this subject.

I have, etc.,

W. F. POWELL.

[Inclosure 1.—Translation.]

The Provisional Government, considering that the cities of Gonaives, St. Marc, and Port de Paix are in a state of rebellion against the established Government of the country; and considering that these insurgent cities, in continuing to receive supplies of all kinds, perpetuate a state of war that occasions great harm to commerce, and that it is necessary to take all measures for the general interest to put an end to that situation, decree:

ARTICLE 1. From the promulgation of the present decree the ports of Gonaives, St. Marc, and Port de Paix are and will remain closed to foreign commerce.

The said ports shall be reopened as soon as the causes which have occasioned their closure shall have ceased.

ART. 2. Notice shall be given without delay to the agents of the Government in foreign countries, who will refuse all visas of invoices and manifests for the above-named ports.

ART. 3. The present decree shall be published and executed at the diligence of the members of the Provisional Government charged with the departments of finance and commerce.

Given at the hotel of the Provisional Government, the 6th of September, 1902, the ninety-ninth year of the independence.

BOISROND CANAL.
J. ST. FORT COLIN.
C. DENNERY.
NORD ALEXIS.

[Inclosure 2.—Translation.]

Mr. Canal to Mr. Powell.

REPUBLIC OF HAITI,
Port au Prince, September 10, 1902.

MR. MINISTER: I have the honor to bring to the knowledge of your excellency that the Provisional Government, with the object of preventing the insurgents from renewing their supplies of arms and munitions of war, and anxious to safeguard the interests of foreigners as well as our citizens, so gravely compromised by the civil war which has risen in the department of the Artibonite, has resolved to close, and by decree of the date of September 6, instant, has closed to commerce the ports of St. Marc, Gonaives, and Port de Paix, in rebellion against the established authority.

In begging your excellency to kindly make known this decision to your Government, I seize, etc.,

BOISROND CANAL.

[Inclosure 3.]

Mr. Powell to Mr. Canal.

LEGATION OF THE UNITED STATES,
Port au Prince, September 11, 1902.

SIR: I have the honor to acknowledge the receipt of Your Excellency's favor dated September 10, 1902, in which Your Excellency states, for certain reasons stated therein, that the Provisional Government had decided to close certain ports in the Republic, viz, Gonaives, St. Marc, and Port de Paix, that were not acknowledging the sovereignty of the Provisional Government of the Republic.

I have the honor to reply to Your Excellency's note that my Government can not accept this decree as bearing upon American vessels engaged in American commerce that may have any of these ports as their places of destination. In one of these ports (Port de Paix) we have large interests. To accept this decree would be to cripple two great American industries.

It has been the settled policy of my Government for many years not to recognize by mere decree the closing of a port not in the possession of the Government or within its jurisdiction. The ports above named are in the possession of those who have refused to acknowledge allegiance to the present Government, and are, for the time being, to be considered as alien to it. It is a well-settled principle in international law, accepted by the United States and by the great powers of Europe, that a decree of a sovereign government in the closing of certain ports that may be in the

possession of those opposed to such authority is without effect unless supported by an adequate naval force that can effectively prevent the entrance of all vessels thereto; or, in other words, there can not be any closure of a port without an effective blockade.

Neither Your Excellency's communication, nor the *Moniteur* that I find inclosed, makes any mention on the part of Your Excellency's Government of its intention to blockade the ports in question. It is to be taken that the blockade of these ports is not the intention of the Provisional Government to prevent American vessels from entering therein, or to curtail the commercial relations of its citizens who may be trading with the ports in question.

I can assure Your Excellency that if it is the intention of the Provisional Government to institute an effective blockade, my Government will take pleasure in recognizing the same. It would also be happy to see, at an early day, the present political situation resolve itself into one of peace, each section vying with the other to enhance the prosperity of the Republic, and to develop its resources. This can only be brought about through a mutual effort of all in the direction of peace and industry.

Accept, etc.,

W. F. POWELL.

Mr. Adee to Mr. Powell.

No. 541.]

DEPARTMENT OF STATE,
Washington, September 13, 1902.

SIR: I have to acknowledge the receipt of your telegram of the 11th instant, and confirm my telegram of the same date in reply.

The implied assumption expressed in your telegram that the Provisional Government acted through its agencies at Gonaives in permitting the entry of French and German vessels, is unsound, because that port and its approaches are held by adverse forces.

The argument is therefore illogical as well as irrelevant.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Powell to Mr. Hay.

No. 1158.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 13, 1902.

SIR: I have the honor to state to the Department that the political situation is gradually getting worse. As it looks now there will be no election of a President for some time. As I have predicted in previous dispatches, the two factions, or parties, have agreed to disagree, and bad blood is being aroused between them, which at any moment is apt to burst forth and destroy the town. This is not only the case here, but seems to permeate throughout the whole section south of this place, or what is known as the southern peninsula. The Provisional Government does not seem to be able to establish confidence, and is getting weaker daily.

Since my last dispatch there has been but one meeting of the Chambers of Deputies, and, like the preceding one, it ended in nearly a stampede. This occurred through an effort of the majority to secure an advantage over the minority. In this manner, after a week's trial, a quorum was secured to enable them to elect, or to proceed to elect, the remaining members of the Senate. On the opening of the Chambers a motion was made, after the reading of the minutes, to suspend the order of the day and to proceed to complete the Provisional Gov-

ernment (cabinet) by electing the president of the Chambers, the Hon. R. Deetzen, and the two secretaries, as members of the cabinet, to take the portfolios of the ministers who resigned at the time that General Firmin constituted a government at Gonaives, the chairman and the secretaries being members of the "Senèque party." This party has a majority in the Chambers and could have elected them if this motion could have come to a vote. By the election of these persons it would have given to the "Senèque party" full control of the present Government, each candidate being a man of an aggressive and determined spirit. Through this new element to the present Government they believed they could solve the present troubles by electing Mr. Pierre as the President, using force if necessary to do so. After succeeding in electing these officers to the cabinet they were to keep the Chambers in continuous session until they had completed the Senatorial elections. Their third plan was to declare the seats of those who absented themselves without leave to be vacant and to elect others in their places, all of whom (it is supposed) would have been of the same political faith as the present majority. This would insure to them at all times a quorum to do business and to elect a President. Their plan as further developed was, as soon as there was a quorum the doors were to be closed and locked; the military and police were to quietly surround the building to see that none of the delegates left until this object was accomplished. The plan came very near being carried into effect. The minority party (Fouchardists), to the first course of this procedure argued that the proposed measure of making the officers of the Chambers a part of the executive department was illegal, claiming that the constitution provided that the executive and legislative bodies should be separate and independent powers. While this argument was taking place the soldiers were quietly being placed around the building. A soldier, it is stated, dropped his gun, causing it to discharge. The members rushed to the doors, and finding them closed and locked they then went to the windows, and seeing the soldiers, gave the alarm that a trap had been set for them by the majority. The alarm spread and, like the 12th of May last, the session was broken up, many of the members escaping through the windows on the side of the building where the soldiers had not yet been placed. The doors were then opened, and those who had not made their exit were allowed to leave. The soldiers were then returned to their quarters. This, as I have stated, has engendered bad feeling between the two parties, the Fouchardists and the Senèqueists, the former charging the latter with bad faith in their effort to obtain an unfair advantage.

Since then the Fouchard members have refused to attend. Unless an agreement can be patched up no more Senators will be elected, consequently there will be no election of a President.

The party in the north, led by General Nord Alexis, state they are compelled to do all the fighting; that no one from here seems to come to their assistance. So trouble is brooding there. From reports received from that section, General Nord has been again defeated and was compelled to return to the Cape. A movement was started here last week to depose General Canal, upon the ground that he was too old to conduct affairs, and that there should be a younger and more vigorous man as the executive, but it seems to have failed.

News reached us to-day by the French steamer from Gonaives of the destruction of the *Crête*. This is the first direct news to reach us.

It is reported that the *Panther* reached there about 12 m. on September 6. On her arrival she signaled the *Crête* to surrender, and fired one shot; that she had five minutes to do so. Most of the officers and men had shore leave, and were not on the vessel. Killick, the day previous, had had an operation performed and was in bed at his home. On hearing the report of the cannon he hastily dressed and with the officers and crew rowed to the *Crête*. In the meantime a delay had been granted by the German captain to consider his demand. Killick, on reaching the deck of the *Crête*, saw that it was useless to fight, so ordered the officers and crew ashore, and at the same time directed three kegs of powder, some large cartridges and a can of kerosene oil to be placed in his room. After most of the men had left the ship Killick retired to his cabin with two men. The last thing he was seen to do was to light a cigar, fire this train, and take a seat in a chair, dressed in his uniform. Before the boats could reach the shore an explosion was heard; the rear portion or officers' quarters of the ship was destroyed. A few minutes thereafter the *Panther*, which was within easy range of the *Crête* opened fire, and continued until the last shot entered her magazine. The *Crête* careened on her side from the shock and was soon a wreck. There is a difference of opinion as to the number of shots; the German officers state that thirty were fired. General Firmin in his proclamation states fifteen. It is also stated as the boats were leaving the *Crête* the *Panther* fired upon them to sink them. Some of these balls struck the boats, but all escaped to the shore. At 4 p. m., the *Crête* being destroyed, the *Panther* steamed out of the harbor. Signals were made by the German residents requesting her to remain to protect them, as the streets of the city were filled with a maddened crowd at the time, crying "Kill the Germans," "Kill the whites," but the *Panther* paid no heed to them, as she continued on her course.

The next day the blackened corpse of Killick was found floating near the *Crête* (the other five have not yet been found). It was brought ashore and buried with military honors.

One of the papers at Gonaives publishes the last orders given by General Firmin to Killick in regard to taking the arms from the *Markomania*, in which it is stated that Commander McCrea called and remained an hour with Mr. Firmin, and communicated to him that he had the right to seize the arms and ammunition found in any neutral merchant vessel; that the American Government was absolutely satisfied with his (Firmin's) attitude; that it would be neutral; that it would not prevent them from taking contraband of war from a merchant vessel destined for the Cape, etc. Acting upon this information as to the attitude of our Government toward him, he (Firmin) issued the orders to Killick to take the arms from this vessel. This statement, taken in connection with the action of the German naval vessel, has completely dazed the people here, some stating that we have been acting with bad faith toward the legal Government in giving this advice to Mr. Firmin to encourage him in the position he had taken against the Provisional Government. The feeling throughout the Republic is very bitter toward the Germans. Placards have been affixed on the doors of many of the German houses calling upon all Haitians who love their country, irrespective of party or faction, to arise and avenge the death of Killick by any means in their power. What is to be the result of this no one can predict. On the *Panther*,

before leaving for St. Marc, Gonaives, and the Cape with Mr. Francksen, the German chargé d'affaires, a telegram was received, it is stated, from the Emperor commending the officers and crew for their good work in redressing the insult to the German flag. Word has reached us that the *Panther* arrived at St. Marc on the afternoon of the 10th and remained there over night; the next morning entered the harbor of Gonaives; the chargé, going ashore, visited the German consul; while there and in going and returning the *Panther* covered the shore with her guns. He remained but fifteen minutes and returned to the ship. It is also reported that his reception on shore was not very pleasant. The vessel then left for the Cape, where she is at this writing. She is expected to return on the 14th.

As soon as the news reached Santiago the *D'Assas* (where she was coaling) left immediately to return here, only receiving half the quantity of coal she expected to take.

I have not had the opportunity to translate the account in the papers, so I have been compelled to inclose them without translation.

I have, etc.,

W. F. POWELL.

[Inclosure 1.—Translation.]

REPUBLIC OF HAITI—ANTENOR FIRMIN, PRESIDENT OF THE EXECUTIVE COUNCIL.

PROCLAMATION.

To the People and the Army:

The infamous Government of Port au Prince continues its ill-omened work.

It has so far excited the foreign governments against our cause that it has finally led the German cruiser to bombard in our harbor of Gonaives the gunboat *Crête-à-Pierrot* that was anchored there.

Our vessel, taken by surprise, was not able to defend itself; Admiral Killick has immortalized himself in blowing it up. He has met the death of the brave.

Boisrond Canal and the anti-patriots who surround him will render an account of that action before history.

Never would the foreigner have thought to act so brutally toward us without the request of that man, who wished to avenge himself thus for the seizure, regularly made by us, of the arms and ammunitions sent to his accomplices at the Cape on the steamship *Markomania*.

Haitians, shame to those who, forgetting their duty due the country, call on foreigners to disgrace it.

The fifteen cannon shots fired on the *Crête-à-Pierrot*, already on fire, instead of shaking my courage, have strengthened it.

I shall remain at the height of my duties.

Dessalines, illustrious founder of our independence, and thou Pétion, and thou Capoix, braver than death itself, your sublime souls soared silently over this generous city of Gonaives during that act of iniquitous aggression.

But I swear with the brave citizens and soldiers who surround me to preserve the national honor entire.

Live Admiral Killick!

Live the heroes, founders of the national independence!

Live the institutions!

Live the Haitian nation!

Given at the national palace at Gonaives, September 6, 1902, the ninety-ninth year of the independence.

A. FIRMIN.

[Inclosure 2.—Translation.]

*Republic of Haiti.—Order of the day.**To the People and the Army:*

CITIZENS AND SOLDIERS: On Tuesday, the 2d instant, Gen. Antoine Malvoisin carried by assault Fort Boute Nègre, in the arrondissement of Mirebalais, and has forced Théo Dupiton, the delegate of the triumvirate of Port au Prince, to take flight, abandoning arms and ammunition. Five prisoners were taken that day and conducted to this city.

As if the word had been given, the next day, Wednesday, at 9 o'clock in the morning, on the side of the Cape, Gen. Nord Alexis directed in person another attack against the village of Limbé. The enemy has paid dearly for his foolish temerity. Esmangart Emmanuel, the chief of the first division, has fallen on the field of battle, as well as other generals. Their bodies, and some arms and ammunition, have been abandoned by the fugitives, while Gen. Nord Alexis was only able to save himself, thanks to the rapidity of his flight.

We have taken from the enemy a cannon, guns, and ammunition, with nine prisoners of war, who have been conducted to and confined in this city.

On the other part, Admiral Killick, our counselor of the departments of war and marine, has seized, on the 2d of September, in the waters of the Cape, 500 Gras guns, 20,000 cartridges, and 25 kegs of powder, sent from Port au Prince, in contraband, on the *Markomannia*.

On the Mont-Rouis line Gen. Camner Estime Jean Baptiste watches and displays all the energy and devotion that characterize him. The enemy dares not attack him.

Citizens and soldiers, let us render homage to Admiral Killick and to the officers of the *Crête-à-Pierrot*, to the valorous Gens. Ney Pierre, Albert Salnave, Laborde Corvoisier, Malvoisin, Macombe, Catabois, and their other companions of war.

They have merited the fatherland.

Live order!

Live liberty!

Live national independence!

Live the unity of the Haitian family!

Given in our hotel at Gonaives, September 5 1902, the ninety-ninth year of the independence.

DARIUS BOURAND,

Councilor of the Departments of Finance and of Commerce,

Encharged, Ad Interim, with the Departments of the Interior and General Police.

[Inclosure 3.]

Mr. Miot to Mr. Powell.

CONSULAR SERVICE, UNITED STATES OF AMERICA,
St. Marc, September 11, 1902.

SIR: I have before me your favor of the 31st ultimo. You know already, without doubt, the loss of the *Crête-à-Pierrot* in the harbor of Gonaives, but you do not know, perhaps, the death of Admiral Killick, who has blown up the steamer and himself.

Last night the German steamer *Panther* entered this port, passed all the night here, and left this morning at 6 o'clock.

We have no other news of the interior.

I am, etc.,

CHARLES MIOT.

[Inclosure 4.]

Mr. Woël to Mr. Powell.

CONSULAR SERVICE, U. S. AGENCY,
Gonaives, September 8, 1902.

SIR: I have to advise you that on Saturday, 6th instant, at 12.30 p. m., the German ship *Panther* anchored this harbor. Immediately she hoisted the German flag with several signals, and fired a shot which meant, "I give you five minutes to surrender, or I sink you."

The *Crête-à-Pierrot* could not answer the signals because everyone of her crew were on shore.

In the meantime Admiral Killick and all his men went back on board. The five minutes having gone, the German ship began to fire. The *Crête-à-Pierrot* had no steam up, and Admiral Killick, seeing everything was lost, blew up a part of his ship. The German ship continued to fire till 4 p. m., when the whole *Crête-à-Pierrot* totally blew up.

As soon as this was done, the German ship *Panther* went off without acknowledging our signals, which meant that we were all threatened with death. The mob, running in all the streets, shouted "Down with the white men, specially with the foreigners."

I dare say that all the foreigners will be put to death if any action is taken against this town. We are not quite safe here, but I went to see Mr. Firmin, and he promised me that no harm will be done to us, and that he will send some soldiers to protect this agency, should anything happen. The action of the commander of the German ship has been very hard for Haiti. We all thought that a delay might be given by the German ship.

Mr. A. Firmin called upon the consular body to see what could be done on that occurrence, but we had no time—the German commander began to bombard. He did not even give time to a Norwegian steamer, which was loading here, to get away from her shots.

I have the pleasure to acknowledge the receipt of your favor of September 6, together with the inclosed letters, which have been forwarded.

My political refugee has left. Mr. Firmin gave him a safe conduct.

It is rumored in town that the *Panther* will be back in a few days. Could you not see the German chargé d'affaires and ask him to postpone the visit? People here are very excited. This will be a favor bestowed on all the foreigners.

I remain, etc.

J. WILLIAM WOËL.

P. S.—The foreign officers of the *Crête-à-Pierrot* leave to-night by the French steamer *St. Simon*.

Mr. Firmin has paid their passages back to Europe through this consular agency.

[Inclosure 5.]

Mr. Sarthou, private secretary to Admiral Killick, to Mr. Terres, vice-consul-general at Port au Prince.

GONAIVES, September 9, 1902.

DEAR DOCTOR: I know that you have already given the girls the fatal news of the *Crête-à-Pierrot*. Saturday, September 6, the German man-of-war *Panther* came in the harbor of Gonaives, where we were anchored for the last four days. They hoisted signals for us to take down the Haitian ensign and to surrender. I immediately went on board to see the captain. He told me that he received orders from Emperor William to take the ship, as we were pirates seizing German arms. I told him that the German consul was coming on board to see him. He then made me to understand that he had nothing to do with any consul, nor any government, and that as soon as I arrived on board, I was to take down the flag and send the crew ashore, and if that was not done, in five minutes time he would commence to fire on the *Crête-à-Pierrot*. The admiral arriving on board, hearing such news, judge how he must have felt—a man who the day before was put under chloroform to have his finger operated on. Seeing himself defenseless, unable to make any resistance, he decided to put the crew on shore and blow up the ship. Seeing a German boat approaching with armed men to take possession of the ship, he bid adieu to the officers, entered his cabin, and blew up the afterpart of the ship.

The Germans seeing what occurred, returned to their ship, and a short time after amused themselves in firing at the ship already in flames. They even fired a few shots at the boats while they were going ashore.

I must say that yesterday a part of a body was found; this is supposed to have been the admiral's. The funeral took place at 4, outside the church. We are all saved except Dr. Coles and two stewards.

Hoping to be back as soon as possible, I am,

PETER SARTHOU.

[Inclosure 6.—Translation.]

REPUBLIC OF HAITI,
Gonaives, September 1, 1902.

Antenor Firmin, president of the executive council, to the counsellor of state of the war and navy.

MR. COUNSELLOR: I inform you that the German ship *Markomannia*, coming from Port au Prince, has embarked there arms and ammunition intended for Cape Haitian. You will display all your skill and activity not only to prevent the entrance of that ship into the harbor of the Cape, but to stop her and conduct her into the harbor of Gonaives, unless she prefers to deliver to you the said arms and ammunition, of which there are 25 boxes of rifles, 25 boxes of cartridges, and 15 kegs of powder.

The *Markomannia* will leave Gonaives this evening at 5 o'clock and will be probably off the Picolet to-morrow about 5 o'clock in the morning.

The point is to keep an eye on her in order that she may not have the time to enter the great or little channel before your appearance.

As soon as you see her you will proceed toward her at full speed, firing a blank shot at her in order to stop her. If she does not stop and tries to run away, you will fire a shot to make her understand that you are decided to sink her, aiming so that the shot shall fall near her without hitting her.

When the *Markomannia* shall stop under your guns, you will send aboard a trustworthy officer who will ask for her papers, which shall be examined.

If no mention is made in them of arms and ammunition, nor of any cargo shipped for the Cape, the officer shall ask the captain of the *Markomannia* to sign a declaration that his vessel does not contain any cargo for the Cape, still less arms and ammunition, advising him that after he shall have signed that declaration you must search carefully all the compartments of the vessel.

If he declares that he has in fact arms and ammunition for the Cape, or if you happen to find them in consequence of your strict search, you will propose to him the alternative either to deliver to you the arms or ammunition, after which you will permit him to enter into the Cape for cargo, or to be taken to Gonaives by a prize crew in case he should not deliver the arms and ammunition.

It is possible that the *Cincinnati*, American man-of-war, actually in the roads of the Cape, having heard cannon shots, may go out for the purpose of intervening.

In that case, you will courteously point out to the commanding officer that you have duly submitted to Commander McCrea the instructions which I have issued to you for the blockade of the harbor of the Cape, which is not a maritime blockade exactly, but a de facto blockade; that is to say, that we do not intend to paralyze the coming in and going out of the innocent merchant vessels, but that desiring rather to favor and protect the interests of the neutrals, the blockade is intended to prevent the introduction into the Cape of the contraband of war.

The commander of the *Machias*, whom I had the honor to receive here on August 29, and who conversed with me for nearly one hour, declared to me that after having been advised of the instructions in the form of a memorandum which I sent to you, he telegraphed the American Government, which declared itself absolutely satisfied with our attitude. This amounts to saying that the Government of Washington, desirous of preserving a strict neutrality, does not undertake to prevent us from stopping merchant vessels which may venture to transport articles contraband of war consigned to Cape Haitien.

In virtue of that declaration, you will invite the commanding officer of the *Cincinnati* to select one of his officers, who shall be present at the search which you will make in the compartments of the *Markomannia*, where, in all probability, will be found the arms and ammunition above mentioned. It is certain that if those articles, which are unquestionably contraband of war, are found aboard the *Markomannia*, the *Cincinnati* will not do anything to prevent you from exercising your rights. In case that, after close search, you should not have found any trace of arms or ammunition, shipped for the Cape, you will let the *Markomannia* enter, as in the case of any neutral merchant vessel carrying innocent cargo.

In either case you will not forget to use the most graceful courtesy toward the commanding officer of the *Cincinnati*, who, without doubt, entertains the same views as Commander McCrea, of the *Machias*; that is to say, is ready to observe toward us the rules of war and to show an impartial neutrality, as long as our actions shall not show any intention of harming the interests of the American nation or of any other neutral nations.

Please accept, etc.,

A. FIRMIN.

[Inclosure 7.—Translation.]

The councilor of state in the war and navy departments to the president of the executive council, Gonaïves.

BAY OF PORT MARGOT, *September 2, 1902.*

PRESIDENT: You have, in your instructions relating to the arrest of the *Markomannia*, recommended to me skill and activity. You have honored me in believing that I possessed those two qualities. My conduct will say whether I have succeeded in justifying your confidence. I have displayed in that affair all the courtesy and all the energy of which I was capable, and the success which has crowned my efforts is worth the trouble.

The *Markomannia*, almost without protest, stopped on our hail. She acknowledged without any difficulty that she brought arms to the Cape, but under the pressure of the envoys of Port au Prince, who accompanied the arms and ammunition, pretended to refuse to surrender them. We then fired a cannon shot with ball, taking care, as you recommended, that the shot did not reach her.

On that energetic manifestation the commander allowed his vessel to be visited, and even indicated where could be found the arms and ammunition. The transshipment was made rapidly, and at this moment I have on board nearly 500 Gras rifles, 20 boxes of cartridges, and 25 kegs of powder. I state with pleasure that this fortunate capture not only deprives the enemy of his arms, but further permits us to arm the unarmed persons in our ranks. If in putting in practice your wise counsel I have been able to reach so fortunate a result, what compliment should I not pay to Pierre Frederique and Fernand Pennis, who, improving themselves naval officers, went on board the *Markomannia* to represent me? It is, thanks to their intelligent devotedness and to their zeal above all praise, that things passed so quietly; that the *Cincinnati*, near us, on the roads of the Cape, did not know what was going on beyond the Picolet. Nevertheless, after the arms and ammunition were brought on board the *Crête*, and while the commanding officer of the German vessel was conversing with us in our mess room, the long boat of the German company, with an officer of the *Cincinnati*, came in. The officer, while contesting our right of prize in the name of his commanding officer, asked me not to leave, and to keep the arms and ammunition seized on the deck until the arrival of the *Cincinnati*. I pointed out to him that my mission had closed, and that if the American vessel have need of me he would find me in the bay of Port Margot. Those explanations seem to have sufficed to him, for he went away directly. I should be happy to have your instructions concerning the course I should pursue toward the *Cincinnati* in case she should come and find me at Port Margot. As far as I am concerned, I am decided, considering our evident weakness, if the American vessel should take measures of coercion, to blow up the *Crête* after having disembarked the crew.

You may believe, President, as I told you above, the greatest courtesy, added to my usual activity, has not a single moment ceased to exist in the settlement of that affair.

The crew of the *Crête-à-Pierrot* has greatly seconded, by its correct conduct, the accomplishment of the delicate mission which you have intrusted us with and which has succeeded so completely. They have crowned it by the cry, one hundred times repeated, "Long live Firmin!"—that is to say, "Long live Liberty!"

I have, etc.,

H. KILLICK.

P. S.—Herewith copy of the certificate delivered by me to the commanding officer of the *Markomannia*.—H. K.

"I certify to have, on the morning of September 2, 1902, regularly stopped, by firing two cannon shots of warning, the steamer *Markomannia* before the Picolet fort and less than 3 miles from the shore. After having examined the vessel's papers and having made searches in the various compartments of the vessel, the officer delegated by me found there 25 boxes of Gras rifles, in all, 486 rifles; 20 boxes of cartridges, and 25 kegs of powder, which I have seized as being contraband of war. At the moment of the transshipment a box of cartridges fell in the sea. Those arms and ammunition have been shipped at Port au Prince by the Gen. Boisrond Canal.

After which, the *Markomannia* has been permitted to continue her voyage.

H. KILLICK.

Mr. Powell to Mr. Hay.

[Telegram. — Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 19, 1902.

(Mr. Powell reports that on September 19 the diplomatic corps were advised by the Government of Haiti of the blockade of the ports of Gonaives and St. Marc.)

Mr. Powell to Mr. Hay.

No. 1167.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 19, 1902.

SIR: I have the honor to inform the Department that the Provisional Government has informed the diplomatic corps that the ports of Gonaives and St. Marc were in a state of "blockade." I have also been informed that the Government has chartered two or three small Haitian coastwise steamers, placed two or three small cannon upon them, and will station them at the places named above.

The Department will note that Port de Paix is not mentioned. At the latter city or port we have large interests. It is the central point of the logwood industry, and the seat of the large plant of the Compagnie Haitienne, and also of the Sharpless Dye Wood Company, both of which are American companies. To close this port at this time would have been a great hardship to each of these companies on account of great interests that would have been affected in the States. At the other places named we have no interests whatever.

I have, etc.,

W. F. POWELL.

[Inclosure 1.—Translation.]

Mr. Canal to Mr. Powell.

REPUBLIC OF HAITI, *Port au Prince, September 18, 1902.*

MR. MINISTER: In referring myself to the communication of the 10th of this month, by which this department notified to your legation the closing of the three ports in rebellion against the legitimate authority, I have the honor to bring to your knowledge that the provisional government, with the object of giving all efficacy to the decree of the 8th of September, has resolved to establish a cruiser before the ports of Gonaives and of St. Marc.

I would be thankful to you, with the object of preventing all contest between the American packet boats and those to which have been confided the mission of assuring the execution of the aforesaid decree, to kindly notify the companies and, in general, all shipowners whom this measure may interest, of the decision taken by the Government to render effective the blockade of these two ports.

Please accept, etc.,

BOISROND CANAL.

[Inclosure 2.]

*Mr. Powell to Mr. Canal.*LEGATION OF THE UNITED STATES,
Port au Prince, September 19, 1902.

SIR: I have the honor to acknowledge the receipt of your excellency's communication informing me that the provisional government had instituted the blockade of the ports of Gonaives and St. Marc.

In reply to your excellency's communication, it has received my close attention. I shall communicate the same to my Government by first opportunity.

Accept, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 22, 1902.

(Mr. Powell reports that it is stated by the Government that a chartered vessel is cruising at each blockaded place, and suggests that this statement be verified by the *Montgomery*).

Mr. Powell to Mr. Hay.

No. 1171.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 22, 1902.

SIR: I have the honor to state to the Department that there is no change in the political situation since my dispatch No. 1158 of September 13 was written. As stated then, there has been no session of the Chamber of Deputies since, no quorum presenting itself to enable it to resume its sessions. As it now looks, no one can tell when there will be another. The Chambers have been in session (when they could get a meeting) nearly four months. In that time they have elected four out of thirty-nine Senators.

The partisans of the two candidates resident here (Fouchard and Pierre) are accusing each other of bad faith; this is causing much bad blood between them. The friends of the one assert that Fouchard shall not be president, and the friends of the other candidate declare that Pierre shall not be. The only thing that prevents an open rupture at the present time is that both have united in giving assistance to the Provisional Government against Mr. Firmin. After Mr. Firmin has been defeated and is no longer a menace to either, then they will commence a conflict for the mastery here, in which this city will be the theater of the conflict. Who will be the victor the future only will decide, as both candidates have determined followers, and neither of the principals seems to be willing to give way to the other. Each candidate is quietly arming his side for this conflict. Their partisans are gathering in the city, while the Provisional Government, on its part, is concentrating troops in and around the city; but these can not be relied upon, as they are apt, when the time comes, to side with that candidate according to the section from whence they come.

The color of the candidate is another danger that is gradually assum-

ing shape. The pure blacks declare that only a black man shall be elected as President. For this reason a large number of this class espouse the candidacy of Mr. Pierre, who represents that element; those of a lighter hue and the mulattoes are supposed to be with Mr. Fouchard, who is not quite so dark.

The Provisional Government is pressing all of the country people into military service. In the mountain districts they are hunted like wild animals, and are driven into the cities like droves of cattle, with their legs tied together with rope, sufficiently long to enable them to walk, their arms tied behind them. They have two or three soldiers and an officer to guard them and see that none escape. These people range in age from 14 to 65 years. If any resist, or endeavor to escape, or flee from the officer in charge, they are shot as they run. The country people, especially those in the mountainous districts, are not in sympathy with any of the candidates, stating, "We have no President, why should we fight." All they desire is to be let alone, to cultivate their little patches of ground. Soon the coffee season will begin, and the present outlook is that there will be no laborers to gather the crop. All the produce for the city markets is brought in by the women, the men not in the army not daring to come to the cities for fear of imprisonment.

The Government, as I have stated in previous dispatches, has received in loans, contracted at a high rate of interest (12 per cent) the sum of \$1,500,000. From this sum the public employees have received one month's salary. The Government is at the present time in arrears to them for six months, and there is no prospect that they will receive any further salary for many months. Early in the present week they entered into a contract for arms and ammunition to cost \$29,000, the actual cost being \$12,000. They have already paid on this contract \$20,000; these arms and ammunition, I understand, have been bought in Germany.

The German chargé, Mr. Francksen, returned on the *Panther* from St. Marc, Gonaives, and the Cape. At each place he visited he was received with great respect. At Gonaives, where the *Crête* is sunk, he went ashore. He was not molested nor insulted, Mr. Firmin sending a strong guard to the wharf to protect him while there. Another German naval vessel, the *Viscaya*, is expected during the week. She is the vessel that was at Newport News for repairs.

The papers are printing extracts from our home journals, especially the one that appeared in the *Washington Post*, stating that it is the intention of our Government to intervene; from other journals, that it is the intention of the American Government to annex the island, and that Congress had been called in a special session on October 3 for this purpose. A letter has been sent to the Provisional Government from the Haitian minister at Washington, Mr. Léger, warning the Government that the American press was calling for intervention and annexation.

I have furnished to the papers here as a contra statement that such is not the intention of our Government, and have given to the press the statement of the Hon. A. A. Adeé, the Second Assistant Secretary of State, contradicting the statement that appeared in the *Washington Post*. This action has had the tendency to allay the excitement to some extent.

The principal events of the past week are: The successive defeats of

the force of General Alexis by the troops of Mr. Firmin at Limbé. This place, during the time that Christophe was King, was one of his principal cities. Here was located one of his palaces, still in a fair state of preservation. It is here where the Firmin troops are lodged. This palace, when well manned with guns, commanded a large area of territory. These troops could easily be surrounded and compelled to surrender for want of provisions, or the place could be easily rendered untenable by the present modern field guns; but neither side has such. The town itself is situated on what is termed the northern plains. In these engagements General Nord is said to have lost heavily in men and officers. It is reported the fighting is still going on to-day, the result of which we have not learned. For the last three days the Provisional Government has been sending troops to attack St. Marc and Gonaïves. About 3,000 men are on the march, going by three routes. They are supposed to reach their destination or to attack St. Marc to-morrow or next day (September 23 or 24).

The report of the attack on these cities will possibly reach the States before this dispatch reaches the Department. It is the settled purpose of Mr. Firmin to destroy both cities if he finds his troops can not hold them, to prevent them from being occupied by the Government troops. A report has reached here of the death of General Jumeau; it is not yet confirmed. If it be true, it will be a severe blow to Mr. Firmin's hopes, as it was upon this man he relied for success, and without his help Firmin's cause is doomed.

Another important event has been the blockade by the Provisional Government of the ports of Gonaïves and St. Marc. I have informed the Department of this in a separate dispatch. On account of the present condition of affairs the cost of living is very high. Exchange, though, remains low, being quoted to-day at 133 per cent.

I have, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 25, 1902.

(Mr. Powell reports that there are no Haitian naval vessels at the blockaded ports: that Nord has captured Limbé, and that his troops are on a vessel bound for Port de Paix.)

Mr. Powell to Mr. Hay.

No. 1175.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 27, 1902.

SIR: I have the honor to state to the Department that the political situation remains unchanged, as stated in my last dispatch, No. 1171. The House of Deputies has not been able yet to secure a quorum to hold a session during the week. There have been plenty of rumors current, but when one attempts to have them confirmed he fails.

It was reported early in the week that Limbé had fallen into the

hands of the troops under General Nord, but up to this writing the rumor has not been confirmed; in fact, subsequent events lead us to doubt the truth of the rumor on account of the reticence on the part of the Government to confirm the same. All that is known here is that General Nord made a third attempt to dislodge the troops of Mr. Firmin from this place and was seriously repulsed, losing heavily in men and officers. We have also been informed that troops have been sent from the Cape to Port de Paix, to capture that place, but we do not know the result. From the Firmin side we learn that his troops are deserting, that he is unable to recruit his army; as with the Provisional Government, the men are in hiding in the mountains, so, in order to bring them from their places of concealment he is having the women placed in prison, trusting by this means, as he thinks, to compel the men to leave their retreats in order to secure the release of their female relatives.

Placards are still being posted upon the residences and business houses of the Germans, notwithstanding the presence of two German naval vessels in these waters.

Mr. Fouchard, one of the candidates, has endeavored to have the Provisional Government offer terms of peace to Mr. Firmin and his friends, but President Canal, on the part of that Government, has replied that peace can only be secured by unconditional surrender, or that overtures must come from Mr. Firmin and not from the Provisional Government, so no further attempts can or will be made in this direction unless one side or the other reaps a substantial advantage in the present contest. I also understand that on Monday (October 29), a simultaneous attack is to be made on St Marc, Gonaïves, and one or two other strongholds now held by Mr. Firmin's troops. The success of these movements may decide the future of the two parties. In the meanwhile the Government is hurrying reinforcements, arms, and ammunition to General Nord.

One of the events of the week was the attempt to capture the commandant, General Monplaisir, of one of the expeditions that is to operate against Gonaïves, by some of his officers, and to deliver him and the troops under his command to Mr. Firmin. Before the conspirators were able to carry their plan into execution the commander was made aware of it. The chief conspirator escaped but the others, including the man's sons, who were with him, were immediately executed.

The death of Gen. Jean Jumeau appears to be confirmed, though the news is kept by Mr. Firmin from the people and the soldiers. His death will be a heavy blow to Mr. Firmin, as he (General Jumeau) had great influence with the people in that section as well as with the troops. When Mr. Firmin was compelled to leave the Cape he went to Gonaïves, and with the promised support of this man he instituted his present government.

The attempt to blockade the ports of Gonaïves and St. Marc appears to have been a failure. A vessel was kept at each place for one or two days. I have since been informed that neither vessel has been there for a week, they being employed by the Government to carry reinforcements and ammunition to the Cape for General Nord. At the present time they are here and leave to-night. Their destination is the Cape.

An open letter has been addressed to President Canal and the two

members of his cabinet, calling their attention to a contract made by the Government, to which I referred in my No. 1171, of September 22, in which the writer (Hon. R. E. Deetzen, president of the Chamber of Deputies) states the Government has made a contract in Germany for 2,000 Remingtons and 400,000 cartridges, paying for the same \$39,000; that these guns cost in Hamburg \$2 each, and the cartridges \$10 a 1,000, the actual cost of which would be \$8,000. He desires to know about the difference, \$31,000, or in other words, what has been done with it.

It is also stated to-day that the German naval vessel *Falke* will take the place of the *Panther* in these waters. This vessel has left for Venezuela. The *Vineta* is to leave Monday.

I have, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 28, 1902.

(Mr. Powell reports that the manager of the Haytian Company requests that a United States naval vessel be sent to Port de Paix on account of impending danger to American interests; that the national troops are to land at that place on September 29.)

Mr. Powell to Mr. Hay.

No. 1176.]

LEGATION OF THE UNITED STATES,
Port au Prince, October 2, 1902.

SIR: I have the honor to inform the Department that * * * the foreign commercial houses located here are making money out of both parties in this conflict. * * *

They are loaning money at a heavy rate of interest. Within the last four months the Provisional Government has contracted loans to the amount of \$1,500,000 paper, to be repaid in gold at the face value of the paper, and interest at 1 per cent a month, the loans guaranteed by a certain per cent of the customs revenue. Money is loaned to General Firmin at even a higher rate. Aside from this fact, they supply arms and munitions of war at double their value to each party. They well know that this money is secured whichever side wins, as their diplomatic representatives will compel whatever government may be in power to pay the same, so there is no way for them to lose.

As long as the Government has anything to mortgage in the way of customs receipts they will get money; this will continue until there is nothing left to borrow upon, or rather upon which to predicate a loan.

Another Government loan of \$300,000 is about to be placed upon the market, and possibly others to follow when this is expended, so no cessation of the pending condition of affairs may be looked for until these firms refuse to supply money.

* * * If it had not been for this assistance the political situation would have regulated itself within three weeks after it commenced.

I have, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

No. 1178.]

LEGATION OF THE UNITED STATES,
Port au Prince, October 3, 1902.

SIR: I have the honor to state the Provisional President, General Canal, called at our legation to-day to state that he had been informed that General Firmin had had some money printed in the States, and intended to put the same in circulation.

In the course of our conversation the President informed me of the efforts being made on the part of the Provisional Government to bring hostilities to a close through the forces now operating against Gonaives, St. Marc, and Port de Paix. He dwelt especially upon the effort the Provisional Government had made to prevent General Firmin from securing supplies, in closing certain ports, and later in issuing a "decree" blockading the same. This gave to me the opportunity to present to him the views of the Department in reference to these matters. I informed him it was not possible for a government to decree the closing of ports in territory over which they held no control; it was possible for his Government to blockade the same providing they had an adequate naval force to do so, but simply to issue a decree stating that certain ports were closed, and later that these ports were in a state of blockade and forbidding ingress to all commercial vessels, with no physical force present to prevent the entrance of such vessels, was contrary to all principles of international law, and could not be respected by my Government. While it sympathized with the present Government in its efforts to suppress those who desired to institute another government, it could not accept a decree issued by executive authority stating a blockade had been established, without a sufficient force to prevent the entrance of vessels. My Government had at all times in the past refused to acknowledge a blockade where there was no physical force to enforce it, and this must be continuous, except when stress of weather compelled the blockading vessel to seek shelter from a violent storm; that this had been its policy, a policy that had been accepted by the great continental powers.

In reply, he stated the object in issuing this decree was to warn, and thus prevent merchants in the States from sending merchandise and ammunition to General Firmin; that they were unable to station a vessel at each of the places named, as they did not have them.

In answer to this, I stated it was a known fact that vessels were entering these ports without hindrance, discharging and taking on cargo, and that no naval vessel was at either of these stations. In view of these facts my Government could not respect the blockade as it was not rigid or effective. He admitted the position taken by our Government was correct, but that he had looked for a different result from the blockade. Here our interview ended. The utmost courtesy was extended to the President during the time he was our guest.

In this connection I have the honor to give the views of our German colleague, the Hon. Mr. Francksen, who insists that it is our duty as members of the diplomatic corps to respect the "decree of Government," and thus prevent Mr. Firmin from receiving any further supplies. The French minister, the English *chargé d'affaires*, and myself do not share in this opinion, and each has stated that he could not recognize the existence of a blockade.

The German chargé d'affaires states his Government would respect it. Notwithstanding this statement, the first vessel to enter the port of Gonaives after being informed that the same was in a state of blockade was a German vessel, and to make the matter more interesting, it brought arms and ammunition to General Firmin. I may also add that the first vessel that brought coal and ammunition to the *Crête* was a German vessel and belonged to the same line as the *Markomannia*, the vessel from which ex-Admiral Killick took certain arms and ammunition, which resulted in his death and the destruction of the *Crête*.

I am informed that the vessels of this line (Hamburg-American) on every trip to Gonaives bring large supplies to General Firmin. The last vessel that was here (*Valencia*) was the one that supplied the *Crête* with coal but a few weeks before she was destroyed by the *Panther*, and but a few days ago, while the German naval vessels were in the harbor of Gonaives, brought there additional supplies. A report has reached us to-day that one of the vessels of this line (*Alps*) has been sold to Mr. Firmin's agent in New York, to take the place of the *Crête*, and that she is to sail within a few days for Gonaives.

On the other hand, no French or English vessels have entered this port since the decree was issued, and but one American (*Paloma*, carrying the Cuban and American flags), and this was on her present trip from New York.

I have, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, October 6, 1902.

(Mr. Powell reports that the Provisional Government will, on October 7, issue decree fixing date on which blockade is to become effective; that the Government states it will, commencing October 10, place armed vessels at Gonaives and St. Marc.)

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, October 7, 1902.

(Mr. Powell reports that the time of blockade has been changed to commence October 12.)

Mr. Powell to Mr. Hay.

No. 1181.]

LEGATION OF THE UNITED STATES,
Port au Prince, October 7, 1902.

SIR: I have the honor to inform the Department that the political situation is slightly improved from what it was when my last dispatch was written, as there is a slight prospect that within the next two or three weeks the political troubles in the section known as the Artibonite will

possibly be adjusted, though at the present time hostilities are still going on. The friends of both parties are endeavoring to bring about a peaceable solution of the present difficulties, first, by a cessation of hostilities; secondly, by the appointment of a commission on the part of the Provisional Government and General Firmin to consider terms that would be honorable to both victor and vanquished.

I have received a letter from General Firmin, which, though vague in statement, shows a willingness to consider terms of conciliation. On its receipt I had an interview with the President, General Canal, and learned from him that he was willing to end this fratricidal contest, but he would not take the initiative, as he considered General Firmin an insurgent. I informed him that my Government would be glad to see this unfortunate condition of affairs ended, and trusted that each party would be magnanimous toward the other, and all lend themselves to restore the prosperity of the country instead of devastating it. At the same time I informed him that it was not the intention of my Government to intervene in their troubles, or to annex this Republic, as had appeared in several of the leading papers in the States, and that it trusted in the wise counsel of its leading men to bring about peace. He replied that his cabinet, as well as himself, would be willing to treat with General Firmin and desired to do so. I did not state to him that I had received a letter from General Firmin. I afterwards addressed a letter to General Firmin, stating if he desired to address or to communicate with the Provisional Government the services of our legation were at his disposal. I then requested the Hon. C. Fouchard and S. Pierre to call at our legation on different days, and suggested to them that the wisest course for each to pursue was to see the President and advise him to bring about an amicable arrangement in the interest of peace that would be honorable to all concerned. This each promised to do. * * *

I informed each at these interviews that my Government was absolutely neutral as to the candidature of either. All that it desired was to see a peaceable adjustment of the present political troubles and to see a President peacefully elected. As to who that candidate should be it had nothing to say. * * * Both thanked me for this expression, each stating in reply that if elected as President he would court a closer alliance with our Government than had been done in the past, and would rely upon the directing hand of our Government in shaping the future of the Republic, one of the candidates being a little more pronounced in this respect than the other. The President, as well as the two candidates named above, informed me that General Nord had written to each that he would not be a candidate for the Presidency.

Notwithstanding what each has stated, I do not believe the grave danger to be over, even if General Firmin should consent to terms of peace. The final struggle is yet to come between these two men, as each believes the Presidency to be within his grasp, and for this reason neither will give way to the other, I fear, without a bitter fight, which will take place here; yet, with the political situation cleared at the north, that may be considered as so much gained toward the end.

The Provisional Government daily exhibits greater weakness and inability to cope with the present situation. There are virtually but two men in the cabinet. General Nord Alexis, one of the members, is in the field in the north. The members of the cabinet here are the Pres-

ident, General Canal, who is also filling the following cabinet places: Secretary of foreign relations, war and marine (ad interim), justice, public worship, agriculture, and public works; Hon. Mr. Dennery, minister of finance and commerce, and Gen. St. Fort Colin, minister of the interior and police. He is also the commander of the arrondissement (military district which embraces this city).

The President, who has taken these several cabinet places upon himself, is 77 years old.

The events of the week are briefly told.

First. No meeting of the Chamber of Deputies has been held.

Second. The arrival of the German naval vessel *Falke* and the departure of the *Vineta* for St. Thomas and Europe. The German chargé, Hon. Mr. Franksen, left with the *Vineta* for Gonaives to view the wreck of the *Crête*; was met there by the *Falke* and returned on her. She is to be stationed here for some little time.

Third. The government has been busy during the week sending troops to the Cape and arranging to reenforce those who are to operate against St. Marc and Gonaives. In the early part there was dispatched from here 3,500 Remingtons, 250,000 rounds of ammunition, and several rapid-firing guns. With them were sent the two artillery instructors (foreigners).

I mentioned in my previous dispatch, No. 1175, the open letter of the Hon. R. Deetzen, requesting of the Government information in reference to the contract made for the purchase of arms and ammunition at the cost of \$39,000, stating in his letter that the market value of the same was but \$8,000. The secretary of finance in his reply states he had nothing to do with the contract except to draw the order, by the direction of the President, on the bank for one-third of the amount named (\$39,000). Gen. St. Fort Colin states in reply that it was never considered at any cabinet meeting he attended, and he was not consulted in regard to making it, as the purchase of these guns, etc., did not come in his department. The denial of these members throws the whole responsibility of the contract on the President, General Canal.

I received a telegram from Mr. Siordet, manager of the Compagnie Haïtienne, requesting that a naval vessel be sent to Port de Paix to protect American interests there. I immediately cabled his request to the department. Since then I have received a letter from Mr. Abegg, our consular agent, stating that the Firminists who hold this place had detected a conspiracy to hand the same over to General Alexis, and had arrested many persons; others fearing arrest had fled to the consular agency for protection, and that he had secured permission for them to leave for Inagua.

No word has been received from the troops operating either against Limbé, Gonaives, or St. Marc; that is, the public knows nothing. What information the Government may have is not given to the public. All that is known is that one or two of the commandants are quarreling as to which is in command.

There are many other rumors afloat, but no reliance can be placed in them as to their truth. I stated, as I supposed on good authority, that General Jumeau was dead. Later I have been informed that such was not the case. It is unsafe to make a statement of an event, even when received on what is supposed to be good authority.

I have, etc.,

W. F. POWELL.

Mr. Terres to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, October 16, 1902.

(Mr. Terres reports that St. Marc has capitulated to the Provisional Government.)

Mr. Terres to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, October 17, 1902.

(Mr. Terres reports the surrender of Gonaives, and that Firmin, with his followers, has embarked on the *Adirondack*.)

Mr. Terres to Mr. Hay.

No. 1193, Haitian series.] LEGATION OF THE UNITED STATES,
Port au Prince, October 22, 1902.

SIR: I have the honor to state that since the surrender of St. Marc and Port au Paix and the evacuation of Gonaives the civil war has ceased, and all for the time being is very quiet.

It is supposed that the Provisional Government will grant a general amnesty, which will have a good effect in assuring peace.

The Chamber has been called together to proceed to the election of the Senators, and then conjointly they will elect a President. It is to be hoped that nothing of a serious nature will occur in Port au Prince during the time of the elections. There are many different parties in the field, each one thinks it has the best chance to elect its candidate, and passion may run very high; so that during that time we may possibly have some trouble.

I am, etc.,

JOHN B. TERRES.

Mr. Terres to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, November 5, 1902.

(Mr. Terres reports that Gonaives political refugees are claimed by General Nord; that consul has been instructed not to deliver them, and that Livingston has been instructed to advise the U. S. S. *Cincinnati*.)

Mr. Terres to Mr. Hay.

No. 1196, Haitian series.]

LEGATION OF THE UNITED STATES,
Port au Prince, November 5, 1902.

SIR: I have to report that I received this morning a telegram from our consular agent at Gonaives, reading as follows:

Political refugees claimed by Délégué Nord. Advise.

To which I replied:

Do not deliver.

And immediately I telegraphed the following to—

LIVINGSTON, *Cape Haitian:*

Gonaives political refugees claimed by Délégué Nord. Inform *Cincinnati*.

I called on Gen. Boisrond Canal, President of the Provisional Government, informed him of the telegram received and requested that he would use his influence with General Nord to prevent any violent measure being taken by him, as such an act on his part might cause serious trouble.

President Canal at once telegraphed to General Nord the information that he had received, and informed him that the Provisional Government would not assume the responsibility of such act.

Later, President Canal communicated to me the reply of General Nord, in which he states that he had no intention to take the refugees at the consulates by force, but that he only wished to have delivered up such as were accused of offenses against common law.

I will state that telegrams similar to that received at this legation were received by French, German, and Dominican legations; the cablegram to the former added that the presence of the cruiser *D'Assas* at Gonaives was urgent.

In a conference on the subject with Mr. Desprez, the French minister here, it was thought best that the *D'Assas*, which returned here on Monday morning from Kingston, Jamaica, where she had gone for coal, should remain here to protect the interests of all foreign residents of this city, on account of the very unsettled condition of affairs existing, and the liability of some disorder breaking out at any moment.

On my return from my visit to President Canal I found a cablegram from Cape Haiti, which reads as follows:

Cincinnati departed; *Montgomery* expected.

LIVINGSTON.

I have, etc.,

JOHN B. TERRES.

Mr. Terres to Mr. Hay.

No. 1197, Haitian series.]

LEGATION OF THE UNITED STATES,
Port au Prince, November 7, 1902.

SIR: I have the honor to report that some 300 volunteers, who had left this city about three weeks ago for Gonaives, to operate against the army of Firmin, returned to the capital on the 3d instant about 5 p. m. On entering, Gen. St. Fort Colin, minister of the interior

and commandant of the arrondissement of Port au Prince, demanded them to disarm. They refused to give up their arms and the consequence was a conflict between the troops of Gen. St. Fort Colin and the volunteers commanded by Gen. Emmanuel Thezan. The whole city was thrown in a commotion, a perfect panic ensuing; the firing continued during the remainder of the afternoon, all through the night, and recommenced on the following morning, continuing until 11 o'clock, when things quieted down, and the volunteers withdrew to the suburbs of the city, where they are now encamped, retaining their arms and two Gatling guns. During the disturbance there were some 10 or 12 killed and about 20 wounded; some of the victims were persons not engaged in the mêlée.

The state of affairs here is very unsettled and when the different corps return, one under Gen. J. Carrié, with volunteers who are partisans of Mr. Fouchard, one of the candidates for President, the same as those under General Thezan, and the two corps under Generals Buteau and H. Monplaisir, respectively, who support as their candidate Mr. Senèque Pierre, with Gen. Alexis Nord, who is coming with his army and who is also a candidate for the Presidency, all of whom are expected here within the next ten days, it will be very difficult to avoid very serious complications if not open conflict between the different factions, unless they can come to some amicable understanding between themselves, which is very much doubted.

I am, etc.,

JOHN B. TERRES.

Mr. Hay to Mr. Powell.

No. 550.]

DEPARTMENT OF STATE,
Washington, November 21, 1902.

SIR: I have to acknowledge the receipt of Mr. Terres's No. 1196, of the 5th instant, reporting concerning the demand made by General Nord for the surrender of refugees by the United States consular agency at Gonaives, Mr. Terres's instruction to the latter officer to refuse, and his conference with the Provisional President on the subject.

Mr. Terres's statement to the President appears to have lacked the necessary qualification.

This Government could rightly object to the taking of political refugees from one of its consulates by force, but it could not shelter fugitives from the orderly processes of the courts when charged with common crimes not political in their nature.

I am, etc.,

JOHN HAY.

Mr. Terres to Mr. Hay.

No. 1198, Haitian series.]

LEGATION OF THE UNITED STATES,
Port au Prince, November 21, 1902.

SIR: I have the honor to report that there has been little or no change in the political situation here since my last; however, tranquillity still reigns.

The political refugees that were at the various consulates at Port

au Paix and Gonaives were permitted to leave the country; at the latter place there were about 83, including Gen. Jean Jumeau, whose embarkment Gen. Alexis Nord had opposed.

Gen. Alexis Nord, with the main corps of his army, is still at Gonaives; he is expected to arrive here within the next ten days, and then we will have in this city about 15,000 troops. Should he not pose himself as a candidate for the Presidency, with a certainty of being elected, whichever one of the other two candidates that he may favor will surely be elected. It is to be hoped in any case that they will come to an understanding that will result in a peaceful choice of a President.

The Chamber has done nothing toward reorganizing and electing the remainder of the Senators. The deputies from the departments lately in rebellion, some of whom left Gonaives with Firmin for Inagua, arrived here some fifteen days ago. General Nord claims that their election should be annulled, as some of them had signed the protestation against the Provisional Government, and that others should be elected in their places. The president of the Chamber, a strong partisan of General Nord, refuses to recognize these deputies and validate their election; therefore they have not been able to get a working majority in the Chamber sufficient to continue with the election of the Senators so as to finally proceed to the election of a President for the Republic.

I am, etc.,

JOHN B. TERRES.

Mr. Terres to Mr. Hay.

No. 1199, Haitian series.]

LEGATION OF THE UNITED STATES,
Port au Prince, December 10, 1902.

SIR: Since my last dispatch, of the 21st ultimo, on the political situation tranquillity still continues. The Chamber has admitted the 23 deputies from the department of the Artibonite, who were with Firmin, to form a quorum, and after validating their election, having a majority, it was enabled to proceed with the election of the Senators. Thirty have been elected, leaving 9 still to be, which it is supposed will be done this week, and if nothing occurs in the meanwhile to prevent it they may proceed to elect a President the coming week.

Gen. Alexis Nord has not yet returned to the capital. It is expected that he will do so during the week, with his army. If his arrival with his army, said to be about 12,000 strong, does not bring on any complication, there is no reason why the President should not be elected during the next ten or fifteen days.

I have, etc.,

JOHN B. TERRES.

Mr. Terres to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, December 16, 1902.

(Mr. Terres reports the arrival of General Nord on December 16; that great excitement prevails; that shooting is going on in the city; that serious trouble is expected; that the Haitian secretary of the interior, with general police, is at the United States legation.)

Mr. Terres to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Port au Prince, December 22, 1902.

(Mr. Terres reports that General Nord has been elected President of Haiti, and that everything is quiet at Port au Prince.)

Mr. Terres to Mr. Hay.

No. 1204, Haitian series.] LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, December 22, 1902.

SIR: I have the honor to report that on the 14th instant Gen. Nord Alexis entered the capital with his army, consisting of about 5,000, men. He immediately distributed his troops at the different important posts and forts of the city.

On the 16th there was considerable excitement in the city. It was rumored that one of the factions, Fouchard's party, intended to make an attack on the office of the arrondissement, commanded by Gen. St. Fort Colin, who was also secretary of the interior, but had sent in his resignation of that office in the morning. At 11 o'clock Gen. St. Fort Colin took refuge at the consulate-general, together with General Kébreau, chief of the police. They were followed a little later by General Chrisphonte, the commandant of the place.

Gen. St. Fort Colin gave as his reasons for seeking refuge at the consulate that he was convinced that the party above mentioned intended to make an attack on his troops during the morning, and while he could defend himself, having sufficient men to resist the attack, he was satisfied that such a movement would result in the burning and pillaging of the city, besides great loss of life; that during seven months he had maintained perfect order in the city, therefore he preferred to retire rather than bring on such a calamity.

During the day there was some disorder; some 15 persons were killed; later, however, all quieted down.

On the evening of the 17th there was a salute fired about 8 p. m., and the army acclaimed General Nord as the President of Haiti. The next day General Nord, escorted by his cavalry, passed through the principal streets of the city, and then entered and took up his residence in the palace, which, since the departure of ex-President Sam, had been closed and guarded by Gen. Darius Hyppolite.

A proclamation was issued by General Nord accepting the acclamation, subject to the sanction of the National Assembly. It was thought by some that the Legislature would be dissolved. However, it was finally decided not to do so, but that they should elect General Nord as President of the Republic. For this purpose the National Assembly, composed of the Senate and the House of Deputies, was convoked for Sunday the 21st, at which General Nord received 100 out of the 115 votes cast, the 15 others being blank ballots.

* * * To-morrow is fixed for his taking the oath of office before the National Assembly. The new cabinet is composed as follows:

War and marine, General Cyriague Célestin.

Interior and general police, Mr. Léger Cauvin.

Foreign relations and public instruction, Mr. Jérémie.

Finances and commerce, Mr. D. Delinois.

Justice and public worship, Mr. U. St. Arman.

Public works and agriculture, Mr. Paulius Paulin.

General Nord is about 85 years old and has often been spoken of as a candidate for the Presidency in the past.

It is said that a general amnesty will be proclaimed. The refugees we have in the consulate-general will no doubt be permitted in a few days to return to their homes.

I am, etc.,

JOHN B. TERRES.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Powell to Mr. Hay.

No. 1102.]

LEGATION OF THE UNITED STATES,
Port au Prince, June 4, 1902.

SIR: I have the honor to inclose to the Department copies of the correspondence which has passed between the foreign office of the Provisional Government of this Republic and your legation regarding the assent of the Haitian Government to the request that United States consular officers be temporarily charged with the commercial interests of the Republic of Cuba and the protection of its citizens resident in this Republic.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

Mr. Powell to Mr. Jérémie, charged with the department of foreign relations.

LEGATION OF THE UNITED STATES,
Port au Prince, May 31, 1902.

SIR: I have the honor to call your excellency's attention to a request that has been made to my Government by His Excellency Señor Don Tomás Estrada Palma, President of the Republic of Cuba, that the United States consular officers in this Republic be charged with the protection of the inhabitants of Cuba resident here, and also the commercial interests of the said Republic, until such time as Cuban consular officers can be appointed.

I would be glad to have you inform me if this request of His Excellency Señor Palma meets with the approval of your Government in order that the necessary instructions may be transmitted from this office to the United States consular officers in your Republic.

Kindly accept, etc.,

W. F. POWELL.

[Inclosure 2.—Translation.]

Mr. Jérémie to Mr. Powell.

DEPARTMENT OF STATE FOR FOREIGN RELATIONS,
Port au Prince, June 4, 1902.

SIR: In reply to your dispatch of May 31 last, I have the honor to bring to the knowledge of your legation that the Haitian Government approves willingly the decision taken by His Excellency Mr. Estrada Palma to confide to the consular offi-

cers of the United States in Haiti the mission to protect the citizens of the Republic of Cuba residing in our territory, as well as their commercial interests, until the appointment of Cuban consular agents.

I profit by this occasion to renew to you, etc.

JÉRÉMIE,
*Member of the Provisional Government Charged with the
Department of Foreign Relations.*

**QUESTION OF "RIGHT OF ASYLUM" IN UNITED STATES
LEGATIONS.**

Mr. Powell to Mr. Hay.

No. 1119.]

LEGATION OF THE UNITED STATES,
Port au Prince, July 17, 1902.

SIR: I have the honor to call the attention of the Department to the subject of the "right of asylum." This is one of those questions that is impossible to solve in a satisfactory manner on account of the peculiar condition of affairs that exist in this Republic.

The Department has called my attention to the instructions that have been given to my predecessors, commencing with that from the Hon. Hamilton Fish to Mr. Bassett to the present time. It is impossible to follow the line of Department's instructions from the fact that the one you refuse shelter to-day is apt to be the executive the week or month after, in which case, for this indiscretion, if it may be so termed, the country that you represent suffers in its diplomatic relations, or else a request is conveyed to your Government for your recall. There is another side to this problem that prevents any representative from following strictly the instructions conveyed to him from the Department. One is compelled by the dictates of humanity to give shelter and protection to an applicant, especially when he knows that in so doing he is saving the life of a fellow-creature, who for the time being is under the displeasure of those in authority; or, if not, that saves him from the one who in excess of passion seeks to wreak his vengeance upon another, under the guise that it is done for the safety of the Republic or Government. Many times life has been saved by the prompt action of the several legations in affording protection to those who were persecuted for some unknown cause.

This "right of asylum" has been in the past a vast benefit to the Government, as it has been the means of extricating it from many unpleasant dilemmas. It has relieved them many times from consigning the victim to death, and has allowed heated passions to cool and reason again to obtain its rightful sway. The Government itself has at all times secretly favored it, as it left an open door in case it should at any time be driven from power. This is the humanitarian side of this question. It has been so long invoked that as soon as trouble arises in this unfortunate country each one thinks he has the right to enter your legation "nolens volens," and that you should not say to him "nay."

This right has been sadly abused many times, as the refugee has from within his asylum successfully formulated plans which have resulted in the disruption of the Government. This has been done in the legation unknown to the foreign representative, who has given his protection while he has at the time become unwittingly a seeming

conspirator to destroy the Government to which he has been accredited. To such an extent has this been the case that some plan should be devised to prevent this class of people from obtaining this shelter, and if allowed shelter, to surround them with some rule to prevent them from carrying into execution their nefarious plans.

I know of no way or system unless it be by the joint action on the part of the several legations to refuse to accept anyone unless he be in grave danger of immediate death. No one legation can enter into execution of such a plan. To have force, it must be through the joint action of all, and not of one singly. I believe, though, that when a member of the Government seeks asylum to escape the mad passions of an excited populace, that it is our duty to give to him the protection which he seeks. There is another class that we should refuse the right of asylum, but how to differentiate this class from the other is one of the difficult problems to solve. To allow them to enter our legations with the right to remain is not only a danger to the inmates, but the property intrusted to our care is apt to be destroyed or purloined. It has reached that degree that any rogue fleeing from justice feels that he has a right to such shelter in any legation or consulate that may be near.

There is another feature in connection with this question that is most unpleasant. When these people come into the legation or consulate we are compelled not only to provide for them a place to sleep, but to provide them with both food and drink. It must be remembered that our legation is not very commodious, and when we are compelled to share it with ten or twelve persons at a time in giving to them shelter not for a day, but at times for weeks, our comfort in a tropical climate such as this, at the best limited, is still further reduced on account of the number we are compelled to shelter, who are in many cases persons wholly unknown to us. Again, nearly all of these people have strong and durable appetites; the dangers they have escaped seem in nowise to diminish them; on the other hand they seem to increase the longer they are with us. This expense one has to bear from his own purse and is supposed to do so without a murmur. It is not a charge that one can bring against this Government, as one is giving shelter to its enemies; nor one that can be brought to the attention of my own Government, as this granting of asylum is contrary to Department's instructions, while the refugee thinks on his side that it is our duty to thus maintain him while he is in our legation and never offers to reimburse us for this expense on our part.

During the time I was absent on my official visit to Santo Domingo one of these wholesale arrests was made here, and each person who thought himself in danger fled to some legation. We at that time had eight or ten persons, some reaching us by scaling the rear walls of the legation, which are over 20 feet high. Some of these people were here four weeks, the last leaving the day before our arrival, during which time our personal effects were exposed. Since our return, owing to the changed relations, we had several, all being former Government officials. The expense of maintaining these people has cost us over \$200 above our ordinary expenses. Other legations here have had a much greater expense than ours, as they have had a larger number of refugees. This is a luxury which I can assure the Department none of the foreign representatives crave, and though we bear this expense and discomfort, many on leaving fail to express their thanks for the trouble they have caused.

I know the Department is powerless to aid us in this matter. As long as one legation grants freely the "right of asylum" all must do so. It is for this reason that no drastic measures can be taken by any one legation, but I think some steps can be taken to curtail this "right" and thus ameliorate this condition of affairs. I have therefore the honor to inclose certain suggestions, of which I would like to have the approval of the Department before carrying the same into effect.

I have, etc.,

W. F. POWELL.

[Inclosure.]

Suggestions to the Department of State regarding "right of asylum."

In order to rectify an impression that seems to be prevalent, that the right to accept any one who desires to seek an asylum is an absolute right, and one that can not be denied to any who seek it, such fact is not the case.

This legation is not bound to receive any person who may desire to seek shelter or protection from this Government. When such shelter is accorded him it is simply granted as a courtesy to the one who requests it and not as a right that he can claim. It is granted only where the life of the party who seeks it is greatly endangered, and this protection is given to allow heated passions to cool in order that the Government may determine the guilt or innocence of the party in question. These acts of kindness on the part of this legation and the consulates have so often been violated in the past that it is necessary to formulate some rules to govern this matter.

In consideration of the statement made above, the following rules have been formulated, viz:

1. No person will be allowed to use this legation as an asylum who may be guilty of murder, arson, or of any crime that comes within the penal laws of this Republic.
2. Persons charged with political offenses against the Government, or any of the members of the Government, who for their personal safety may seek asylum until such time they can either secure from the Government permission to leave the country, or permission to return to their homes under such guarantees as this Government may in its wisdom grant to them, may remain for a limited time in this legation, or its consulates; but no persons will be allowed to remain any longer than they can receive such permission; and if compelled to leave the country, shall do so at the first opportunity.
3. This legation, or its consulates, does not agree to assist in the embarkation of any person who may seek asylum therein.
4. Any persons securing asylum therein must deposit in the care of the officials of the legation or consulates all weapons they may have upon them. A like rule will be enforced toward those who desire to see them. These weapons will be returned at the time of leaving.
5. No person while in the legation or consulate, and under their protection, will be allowed to receive any persons as visitors except the direct members of his family. All persons not so connected will be refused permission to communicate with him. The only exception to this rule will be in the case where the said party has to leave the country and desires to consult with such person or persons to regulate his private matters during his enforced absence.
6. Any person who obtains asylum in this legation or its consulates must provide himself with such things as he may need for his comfort, such as bed, linens, etc. He must also provide for his maintenance while at either of the places above named, as neither can assume the expense of such maintenance.

W. F. POWELL,
United States Minister.

Mr. Adee to Mr. Powell.

No. 528.]

DEPARTMENT OF STATE,
Washington, August 6, 1902.

SIR: I have to acknowledge the receipt of your No. 1119 of the 17th ultimo, discussing the question of the right of refuge or asylum as claimed in Haiti.

In reply I have to say that the consideration of the question pre-

sented in your dispatch is to be wholly disassociated from all questions of internal politics. It is a question to be considered by itself, and on the merits and the circumstances of each particular case, and the solution of the question whether in such case refuge should or should not be accorded by you is to be determined in the light of the instructions mentioned in your dispatch.

In passing on such question you will not consider for a moment the other wholly immaterial question whether the person seeking asylum may or may not become the Executive of the Government, or whether one or the other of the contending parties may succeed or fail.

There is not known to the law of nations, nor does the Government of the United States, in practice, recognize any "right of asylum" in its legations of refugees from the scenes and disorders of civil conflict. Any claim or assertion of such right, as such, is not to be conceded or recognized for a moment. The privilege of refuge may, in the execution of a sound discretion and under the previous rulings and instructions of the Department, with which you are presumed to be familiar, sometimes be granted, under the restrictions stated and solely from motives of humanity, which is the principle governing the grant of the privilege. Questions of political expediency have no place in the consideration of the principal question. The strict observance on your part of the Department's instructions will relieve you of the many embarrassments, mentioned in your dispatch, which naturally result from disregarding them. In this connection you are referred to the Department's No. 89 of June 5, 1899, to Mr. Sampson, Foreign Relations 1899, page 257.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

ACCIDENT TO PRESIDENT ROOSEVELT.

Mr. Léger to Mr. Hay.

[Translation.]

LEGATION OF THE REPUBLIC OF HAITI,
Spring Lake, N. J., September 4, 1902.

MR. SECRETARY OF STATE: I have just heard the report of the sad carriage accident which befell on yesterday the President of the United States, and am happy to know that he sustained no serious injury.

Permit me to have recourse to your kind intercession to assure Mr. Roosevelt that I, together with the American people, congratulate myself on his escape from so great a peril.

With my sympathies for the victims' families, be pleased to accept, etc.,

J. N. LÉGER.

Mr. Adee to Mr. Léger.

DEPARTMENT OF STATE.
Washington, September 8, 1902.

SIR: The Department sincerely appreciates your note of the 4th instant expressing your satisfaction at the President's escape from serious injury in the accident at Pittsfield, Mass., and your sympathy with the families of the victims.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

ITALY.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Meyer to Mr. Hay.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Rome, May 31, 1902.

Italian Government grants request as to American consuls and Cuban interests in Italy.

MEYER.

Mr. Meyer to Mr. Hay.

No. 162.]

AMERICAN EMBASSY,
Rome, June 2, 1902.

SIR: I have the honor to acknowledge the receipt of your telegram^a of May 24. I immediately sent the request to the foreign office, and on May 29 received a reply, of which I inclose a copy with translation. The request of President Palma being thereby granted, I asked Mr. De Castro, our consul-general, so to notify American consular officers in Italy. Mr. De Castro has since reported to me that he has advised all the American consular officers within his jurisdiction to this effect.

I am, etc.,

G. V. L. MEYER.

Signor Prinetti to Mr. Meyer.

[Translation.]

ROME, *May 28, 1902.*

MR. AMBASSADOR: In reply to your excellency's note of the 25th instant, I have the honor to inform you that the Royal Government has given orders to the competent authorities throughout Italy to accept the good offices of American consuls in behalf of Cuban affairs and Cuban citizens until the Cuban Republic shall send her own representatives to Italy.

I avail myself, etc.,

PRINETTI.

ACCIDENT TO PRESIDENT ROOSEVELT.

Signor Mayor des Planches to Mr. Hay.

[Translation.]

ROYAL EMBASSY OF ITALY,
Manchester, Mass., September 5, 1902.

MR. SECRETARY OF STATE: In obedience to telegraphic instructions I have received from Rome, I have the honor to beg that your excel-

lency will express to His Excellency the President, in the name of the Government of the King, the most lively concern for his person felt by that Government on the occasion of the perilous occurrence by which his precious life was jeopardized, and the most fervent wishes that the wound, fortunately slight, suffered by him may soon heal.

I should be thankful if you would repeat to His Excellency the President on this occasion the personal sentiments which I made it my imperative duty to express directly to him on the 3d instant in a telegram from Prescott, Canada, immediately upon hearing of his providential escape.

I embrace this opportunity, etc.,

MAYOR.

Mr. Adee to Signor Mayor des Planches.

No. 70.]

DEPARTMENT OF STATE,
Washington, September 11, 1902.

EXCELLENCY: I am charged by the President to express his sincere appreciation of your sympathetic note of the 5th instant, in which you conveyed your Government's congratulations and your own in view of his fortunate escape in the accident at Pittsfield, Mass.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

JEWES IN ROUMANIA—DISCRIMINATIONS AGAINST, CONDITION OF HELPLESSNESS TO WHICH THEY ARE REDUCED, AND OBJECTION OF UNITED STATES GOVERNMENT TO IMMIGRATION OF SUCH PERSONS.

Mr. Iddings to Mr. Hay.

AMERICAN EMBASSY,
Rome, September 6, 1902.

SIR: Referring to your unnumbered instruction of August 12 last, and to the Department's circular^a of August 11, I have the honor to report that, as directed, I have to-day shown to the minister for foreign affairs the communication concerning the treatment of Jews in Roumania, and at his request left a copy of the same with him.

I am, etc.,

LEWIS MORRIS IDDINGS.

Mr. Iddings to Mr. Hay.

No. 197.]

AMERICAN EMBASSY,
Rome, October 7, 1902.

SIR: Referring to your instructions of August 11 and 12 last, and to my dispatch of September 6, I have the honor to report that Signor Prinetti, the minister for foreign affairs, being at the capital on Satur-

day last, I took occasion to see him, hoping to learn the Italian Government's views in regard to the American note relative to the treatment of Jews in Roumania, a copy of which had been left with the minister on September 6. As I expected no official reply to the embassy's informal communication, I asked if His Majesty's Government had yet replied to the similar note presented by the British chargé d'affaires. Signor Prinetti answered that no reply had been sent; that the Italian Government was waiting to learn the attitude of the other powers, this being one of the matters in which this nation would follow the course of the other continental governments. He expressed no personal views, and appeared averse from doing so, saying that questions concerning Jews interested Italy very little, as there were comparatively few of them in the Kingdom. This lack of interest was indicated, he remarked, by the few comments on the matter in the daily press. The conversation then turned upon other subjects.

I am, etc.,

LEWIS MORRIS IDDINGS.

PASSPORT APPLICATION OF ANTONIO BASILE.

Mr. Meyer to Mr. Hay.

No. 204.]

AMERICAN EMBASSY,
Rome, November 6, 1902.

SIR: I have the honor to inclose herewith a copy of an application^a for a passport presented at the embassy last month before my return. The applicant, Antonio Basile, a boy not yet 12 years old, claimed American citizenship through his father's naturalization; but as he had never been in the United States Mr. Iddings refused to issue the passport. The case is submitted for your opinion.

I have, etc.,

G. V. L. MEYER.

Mr. Hay to Mr. Meyer.

No. 125.]

DEPARTMENT OF STATE,
Washington, December 9, 1902.

SIR: The Department has received your No. 204, of the 6th ultimo, in which you submit the application of Antonio Basile, a boy of 11 years of age, born in Italy, whose father was naturalized as a citizen of the United States September 7, 1902. As the boy had never been in the United States Mr. Iddings refused to issue him a passport, and you ask the Department's opinion on the propriety of this action.

The question is whether he is a citizen of the United States within the meaning of section 2172 of the Revised Statutes of the United States, which provides that the minor child of parents duly naturalized as citizens of the United States shall be considered a citizen of the United States "if dwelling in the United States." In the instruction of January 22, 1900, of this Department to the legation at Vienna, in

^aNot printed.

the case of Anton Macek (Foreign Relations, 1900, p. 13), it was stated:

In practice, therefore, it may be said that the naturalization of the father operates to confer the municipal right of citizenship upon the minor child, if he be at the time of the father's naturalization within the jurisdiction of the United States, or if he come within that jurisdiction subsequent to the father's naturalization and during his own minority.

And in a recent memorandum on a case arising in Switzerland, the assistant solicitor of the Department, Mr. Van Dyne, said:

To construe the statute (sec. 2172, Rev. Stats.) as conferring citizenship upon a minor who is not in the United States at the time of the father's naturalization, nor subsequently, would be to needlessly open the door to further abuses of our citizenship.

The action of the embassy in refusing the passport to Antonio Basile is accordingly approved.

I am, etc.,

JOHN HAY.

JAPAN.

SUBMISSION TO ARBITRATION OF QUESTION OF TAXATION OF BUILDINGS ON PERPETUALLY LEASED GROUND IN JAPAN.^a

Mr. Buck to Mr. Hay.

No. 591.]

UNITED STATES LEGATION,
Tokyo, October 24, 1901.

SIR: Referring to previous correspondence on the perpetual lease questions, and, notably, to my dispatch No. 587 of the 2d instant, in which I mentioned that there had been no pronouncement respecting the tax on buildings standing on lands held under perpetual leases, I now have the honor to inclose for your information a copy of a note from the minister for foreign affairs stating the position maintained by the Japanese Government.

* * * * *

I have, etc.,

A. E. BUCK.

[Inclosure.—Translation.]

Japanese minister for foreign affairs to Mr. Buck.

No. 41.]

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, October 21, 1901.

MONSIEUR LE MINISTRE: His Imperial Majesty has been pleased to sanction and to order to be promulgated the law relating to leases in perpetuity granted to foreigners, which received the consent of the Diet in its last session. His Majesty has also caused two imperial ordinances to be issued in aid of the law, and departmental ordinances and notifications, in execution both of the law and imperial ordinances, have been issued.

I have the honor to refer your excellency for the full text of these several enactments to the Official Gazette of the 21st ultimo.

These measures were conceived in a spirit of conciliation, and I venture to hope that your excellency will find it possible to agree with me that they furnish a just and equitable solution of the several questions which have been raised respecting perpetual leases.

I should, however, point out that the enactments referred to do not have the effect of exempting the buildings standing on lands held by foreigners under perpetual leases from the taxes and registration fees which are leviable in respect to other buildings; neither do they relieve foreigners from the obligation to pay income taxes in respect of incomes derived from property held under such leases.

The Government of His Imperial Majesty have given the most careful consideration to the observations which several of the foreign representatives have been pleased to address to them on the subject, and, although anxious to meet as far as possible the views of the interested powers on this, no less than on other branches of the question, they have been unable, I regret to say, to bring themselves to the conclusion that the provisions of the treaties now in force exempting property held under

^a See "Registration of titles to perpetual leases in Japan," Foreign Relations, 1901, page 313.

perpetual leases from taxation have the extended meaning which has been claimed for them.

The Imperial Government experience no difficulty in admitting the wide significance of the word "property" which appears in the conventional stipulations referred to and which is chiefly responsible for the issue which has been raised. The word is generic in its nature, and, when used in its generic sense, it comprises everything, movable as well as immovable, that is susceptible of individual appropriation and exclusive enjoyment. But in the context in which it is employed in the treaties the term is subject to a controlling qualitative limitation.

That limitation specifically restricts the guaranty against taxation to property held under leases in perpetuity. The property held under perpetual leases is, in the opinion of the Imperial Government, necessarily limited to the property granted by those leases, for it seems clear to them that no property not actually granted by the leases can be held under the leases.

By reference to the leases and the arrangements of an international character under which the leases were issued, it will be found that the property granted by the leases was exclusively land. The buildings standing on the leased land formed no part of the granted property. On the contrary, they have, without exception, been erected since the leases were issued, and, equally without exception, are the absolute property of the lessees.

The Imperial Government have drawn from this chain of circumstances what seems to them to be the natural and inevitable conclusion that the buildings standing on the leased land, not having been included in the original grants and being still held wholly independently of those grants, can not be said to be held under the leases in question, and are, therefore, outside the purview of the conventional engagements exempting property held under such leases from taxation. Nor is it perceived how it would be possible to bring such buildings within the scope of those engagements, unless it be assumed, in contradiction of actual facts, that they, equally with the land, belong to the Imperial Government and that they actually form a part of the property granted by the leases.

If the contentions of the Imperial Government are correct, it follows as a necessary corollary that the buildings in question are subject in all respects to the revenue laws of the empire. They are, by treaty, guaranteed national and most favored nation treatment in the matter of taxation, and the Imperial Government are prepared to assert that the taxes imposed are neither discriminatory nor excessive.

The Imperial Government find it equally impossible to reconcile their convictions with the claims which have been made respecting the applicability of the income-tax law to incomes flowing from property held by foreigners under leases in perpetuity.

The tax in question is limited to actual incomes. In no cases is it applicable to sources of income. It is in its incidence and attributes essentially a personal and not a property tax, and the Imperial Government are unable to persuade themselves that the general imposition of that tax contravenes to any extent the provisions of existing treaties, which exempt property held by foreigners under leases in perpetuity from taxation.

Many foreigners have voluntarily paid both the building and income taxes. Others, however, knowing that the question was under consideration, have delayed action. The Imperial Government were not in a position to express any decided opinion on the various points raised in connection with perpetual leases until the necessary enactments had been issued; and, accordingly, grace has hitherto been allowed in the matter of the payment of the taxes in question. But in view of what has been said, it will now be necessary to let the provisions of law relating to the collection of taxes take their usual course.

I avail, etc.,

KOMURA JUTARO,
Minister for Foreign Affairs

Mr. Buck to Mr. Hay.

No. 599.]

UNITED STATES LEGATION,
Tokyo, November 15, 1901.

SIR: Referring to my dispatch No. 591 of the 24th ultimo, inclosing a note from his excellency the minister for foreign affairs, stating the position of the Japanese Government in respect of taxation of buildings erected on lands held under leases in perpetuity in the former

foreign settlements of the Empire, I have the honor to inclose herewith a memorandum submitted to me in behalf of foreign holders of such leases, contending that, under treaty provisions, buildings on the lands so leased became a part of the property to be exempted from tax equally with the lands.

In dispatches heretofore submitted with inclosed memoranda prepared in behalf of American and other leaseholders, giving their grounds of opposition to the tax on buildings and other taxes, the question has been quite exhaustively discussed; but since transmitting the note of the minister for foreign affairs above mentioned and the receipt of the inclosed memorandum, I have thought proper to make further inquiry into the merits of the matter as presented in the note of the minister for foreign affairs and as traversed in the memorandum.

In the second paragraph of the memorandum it is claimed that "in case of failure to pay the annual ground rent reserved, the land and buildings revert to the Japanese Government." This seems to be an incorrect statement. In such case, the condition, as expressed in the title, reads:

This deed shall become null and void and the buildings on the said land shall become the property of the Japanese Government.

There can be no *reversion*, as the buildings were not a part of the property leased, but become the property of the Government only by breach of contract.

As to the expression in the third paragraph respecting the use of the word "fudosan," upon investigation I learn that in the Japanese version of the treaty with the United States the word "zaisan" and not "fudosan" is used, as it is also in the treaty with Great Britain and some other powers. "Zaisan" means "things" or "property." In the German treaty the word "jisho" is used, which means "land." The use and meaning of these different words in the treaties is explained in Mr. Wilson's dispatch of April 1 last.

In respect of the claim made in paragraph 4, subdivision (a) as to the understanding of the negotiators of the several treaties with Japan now in force, I find in paragraph 3 of the diplomatic note of the minister for foreign affairs of Germany, addressed to Viscount Aoki, then minister of Japan in Berlin, of date of April 4, 1890, as the treaty was about to be signed by them, the following—

That since the right of property in the land in the foreign settlements mentioned in Article XXIII of the treaty will in future also belong to the Japanese State, the owners thereof, or their successors, shall not be obliged to pay for their land any taxes or duties of any kind, except the rent settled by the lease—

which would seem to cover land only. The terms of this note were agreed to by the Japanese minister.

In this connection my attention has been called to the British Parliamentary Blue Book, Japan, No. 1, 1894, pages 108 and 114, in which, during the negotiation of the treaty, the following British proposition appears:

When such incorporation takes place the existing leases in perpetuity under which property is now held in the said settlements shall be confirmed and no increase of rental nor any additional charges or other conditions whatsoever shall be imposed in respect of such property.

The expression "increase of rental of the property" would seem to refer to land. At the instance of the Japanese Government the

phraseology was changed to that as it appears in the treaty. As regards the understanding of the negotiators of the other treaties with Japan, whether or not the facts in respect to them justify the statement made in the memorandum, I can find no authority on the subject.

In consideration of the several previous dispatches relating to the tax on buildings, among other questions which have been raised concerning rights of perpetual lease holders in the foreign settlements, I need not touch further upon the points made in the argument in support of the contention as presented in the memorandum. If the argument is not convincing, it is a very plausible presentation of the question.

* * * * * * *

I have, etc.

A. E. BUCK.

[Inclosure.]

Notes on the sole reason given by the Japanese Government for insisting on its contention that buildings are not included in the word "property" as it occurs in the treaty.

1. In some of the earlier grants of perpetual leases the Japanese Government insisted, as a condition of the grant, the requirement that houses should be erected on the land.

2. In Yokohama the conventions governing these land grants contain a provision, inserted by the Japanese, that in case of failure to pay the annual ground rent reserved, the land and buildings on it shall revert to the Japanese Government.

3. When the text of the new treaties was officially promulgated in Japanese by the Japanese foreign office, immediately after their negotiation, the equivalent used by them for the word "property" was the word "fudosan," which is defined by the Japanese civil code as "land and things fixed thereto." The civil code now in force provides that the word "fudosan" includes land and all accessories attached to it by the same owner. The act recently passed by the Japanese Diet, in article 1, states that the holders of these perpetual leases have all the rights of ownership.

4. The Government of Great Britain has officially informed the Japanese Government that under its legal interpretation the word "property" includes, with the land, the buildings on it, and that the word as used in this treaty is to be so construed. The Government of France has notified the Japanese Government that it places the same construction on the word "propriétés" in its treaty. The Government of Germany, it is understood, has made, in effect, the same announcement.

While the Government of the United States has, for reasons of courtesy and fairness, refrained from making any announcement of its views pending the statement of a position by the Government of Japan, it is well known that its views as to the inclusive force of the word "property" in its treaty are similar to the views expressed by the Government of Great Britain.

(a) It has been supposed that, in construing a treaty, it is proper to attempt, on broad lines, to discover the purposes and understanding which were uppermost in the minds of the negotiators at the time that the treaty was made and concluded, giving full weight to the established custom and usage, to admitted history, and to all circumstances which surrounded the subject-matter of the treaty and which led to its negotiation. If this course were followed in the present case no doubt could be entertained as to the fact that houses attached to the granted lands had been treated as a part of the lands for all purposes, and that that understanding was accepted and acted upon by all the negotiators (both Japanese and foreign) who took part in the negotiation of the treaties that Japan has made.

(b) The diplomatic note recently issued by the Japanese Government indicates clearly, however, that that Government does not wish to follow this broad and fair rule of interpretation, but wishes, rather, to confine the discussion to the strictly technical meaning of a phrase and a reference in the foreign text (sole official text) of the treaties, the force of which, as authoritatively given by the foreign governments, in whose language the treaties were drawn and concluded, they do not understand, or do not wish to understand. It is narrowly insisted by the Japanese, in their recent diplomatic announcement, that the reference made in the treaties to proper-

ties, textually includes only the naked property as it existed at the time of the grant, and that, since, at the time of the grant, there were no houses on the land, houses which had been attached to the land can not be included with it to make up the properties as they had been held, and as they had been referred to in the treaties. They wish to give to the word "property" the narrow meaning of the naked land stripped of all of its fixtures and improvements, which the intent of the land grants and custom and usage had attached to it. They forget that the status of the property to be considered is not its status at the time of the making of the grants (covering a period running back about forty years), but is its status at the time of the making of the treaties.

(c) The paragraph to which the Japanese note refers as supporting its technical contention indicates, in its opening phrase, the time which the negotiators selected for establishing the status and component character of the properties that they referred to; it reads as follows:

"When such incorporation takes place, existing leases in perpetuity by virtue of which property is now held in the settlements shall be confirmed, and no conditions whatever other than those contained in such existing leases shall be imposed in respect of such property."

(d) The first treaty making this provision was negotiated in 1894, and all treaties took effect in 1899. The first phrase of the above quotation fixes the time at which the property, included in its provisions, is to be determined as the time of the taking effect of the treaties (1899); the second phrase refers to the property "which is now held under the leases" (1894). There is no room left, even on the most narrow technical construction of the treaties, for the supposition that the negotiators meant to strip their reference down to the naked land of the original grants, which were, in many cases, about forty years old at the time of their discussion.

(e) At the time of the making of the treaties, and at the time of their taking effect, these properties were, unquestionably, held under extritorial law, which fully recognized not only on established legal principle, but by official records, that the properties were, unless divided by specific contract, held as solid properties, including land and its fixtures and improvements.

(f) It is undoubtedly true that the treaty should be construed, in its reference to these properties, according to the law of the extritorial jurisdiction in force and applicable at the time that the treaty was made, with due respect to the laws, usages and customs in force at the time and the place when and where it was to take effect. Under this extritorial law, in force at the time that the treaties were made, and at the time and place that they took effect, the house was recognized, by both foreign and native authorities, as a part of the properties held by virtue of the leases in perpetuity, and, therefore, on any reasonable and fair construction of the words of the treaty, the improvements and fixtures must be taken to have formed a part of the properties referred to by the negotiators.

(g) The Japanese argument also attempts to ignore the fact that some of the earlier grants of land provided, as a condition of the title, that houses should be built, and to ignore the fact that, as to all titles in Yokohama, in the provision for the reversion of the land to the Japanese Government, in case of failure to pay the ground rent, it was expressly provided that the houses, though to be erected after the grant, were to revert with the land to the Japanese Government. It seems, therefore, that at the time of the grants it was intended that the houses, when erected, should become a part of the land.

(h) The Japanese argument also loses sight of the fact that in the preliminaries of all of the conventions which led to the making of the grants it was distinctly understood that the Japanese Government recognized that in order to live in Japan foreigners must have land on which to erect structures for residence and business purposes, and the lands were conveyed to them by the Government for this special purpose.

(i) But leaving aside all these side lights of history and established usage and custom and confining ourselves to the technical letter of the treaties, we find that the paragraph of the treaties on which the technical position assumed in the Japanese diplomatic note rests is as follows:

"When such incorporation takes place existing leases in perpetuity under which property is now held in the said settlements shall be confirmed, and no conditions whatsoever other than those contained in such existing leases shall be imposed in respect of such property." (This quotation is taken from the British treaty.)

The French treaty states that "the properties of this nature shall not be made to bear any imposts, taxes, charges, contributions, or conditions other than those expressly stipulated in the leases in question."

(j) The clause protecting the properties against the imposition of taxes and new

conditions is (in the above quotation from the British treaty) the second clause, and the phrase "such property" at the end of this clause refers to the phrase in the first clause, where the word "property" first occurs, and where it is described as that property which is held by virtue of leases in perpetuity at the time of the making of the treaty. In the text of the British treaty the description of the property is, property held "under" the leases; in the text of the United States treaty, property held "upon" the leases, and in the text of the French treaty, property held "by virtue of" the leases. (It must be kept in mind that the time referred to for this description of the property is fixed as the time of the making of the treaty—1894—and not the time of the grants.)

(k) The technical textual effect of all of these phrases, in their proper construction and natural meaning, is to describe the property held in 1894 or 1899 as a result of the making of the leases. The houses were certainly built and attached to the lands as a result of the receipt of the leases. As has been seen, some of the earlier grants made the building of a house a condition of the title granted, and as to all grants, they were made by the Japanese Government, not to be held for investment or speculation, but for the specific purpose of enabling foreigners to erect buildings for residence and business uses.

(l) Further than this, under exterritorial law which has governed and controlled these properties and their ownership for years, and which governed and controlled them at the time that the treaties took effect, the houses have been so completely attached to and merged into the land that, with the exception of those cases where they have been separated by specific agreement, there is no record of a title to a house, and if a householder were to-day required to show a recorded title to his house he could do so only by showing a recorded title to the land on which it stands. A situation could not well be conceived of which would more clearly show that the houses were held as a result of the making of the leases.

(m) The necessary answer to the Japanese argument may be summarized, on this point of the technical construction of the treaty text, as follows: They make the mistake of basing their argument on the assumption that the properties referred to in the protective clauses of the treaty are the properties as they were included in the original grants, at the time of the grants, under the component conditions then relating to them. The language of the treaty is perfectly clear and fully disposes of any reasoning based on this assumption. Under the treaty text the properties protected from taxation and the imposition of new conditions are not the properties as they existed at the time of granting, but the properties "now held" by foreigners under the original grants, i. e., in 1894, the date of the treaty, or in 1899 the time of the taking effect of the treaty. No reference is made to the conditions influencing the composition of the properties at the time of the grants—in fact such a reference is positively precluded by the phrase "now held." There is and can be no dispute as to what this property consisted of under exterritorial law and on the consular property records of the various nationalities at the time that the treaty was negotiated, 1894, or at the time that it took effect, 1899.

(n) While it can have no logical or legal bearing on the technical construction of the treaties, which must be taken to finally establish the rights and exemptions of foreigners, it may be interesting to call attention to a few practical considerations relating to this house tax which the Japanese insist, in the face of the provisions of the conventional grants and in the face of the treaties, that they have a right to levy on foreigners who hold property in Japan:

(1) The house tax is not controlled by the Central Government, but is levied and collected by the local assembly of the ken (provincial district) and by the local assembly of the municipality.

(2) The house tax under Japanese law may be levied by these assemblies whenever in their opinion revenue becomes necessary. It is therefore an unlimited tax, since there is no limit to the number of levies that may be made in a year. It is believed to be the only tax which under the Japanese system is unlimited.

(3) Foreign property holders (having the benefit of no tax limitation) have and can have no representation in either of the assemblies authorized to levy this tax.

(4) The house tax is levied, not on a building in the abstract, but as a percentage on the number of square feet of the superficial area or each floor of the building. The foreigner, from long usage and the customs of civilization, finds it impossible to house a whole family in the space of one small room; he requires, not only for reasonable comfort but for decency, more rooms, and consequently more room space than the average Japanese requires. The house tax therefore falls with more weight on him than on the Japanese.

(5) While the foreigner objects, as a matter of principle controlling future liability, to the admission of the right to levy this tax on him and his property, he has

no practical present objection to the single house tax now levied, since it may as a matter of loose argument be fairly conceded that it is not now very far without the limits of financial reason and necessity (if the treaties have not exempted him from it entirely), but since there is no limit to the number of times that it may be collected in a year, and the discretionary authority to levy it is vested in a very roughly constituted local assembly in which he can have no representation, he feels certain that if the broad right to levy is in a concessive spirit admitted, contrary, as he believes, to the clear provisions of the treaties that protect him, the house tax will very soon rise to an annual percentage that will become most burdensome and unfair.

(6) Leaving the text of the last treaties entirely out of the question, the foreign property holder can not admit that the municipal assembly has the right to levy the house tax on him and his property in the settlements, since in the convention under which the grants were made the Japanese Central Government, as the lord of the land, assumed all municipal charges, and it is distinctly stated that in paying his ground rent to the Central Government he pays all municipal charges. The foreigner admits that the municipal assembly may have the abstract right to collect taxes for running expenses, but not from him on his settlement properties, because when the settlements were formed the Central Government refused to allow him to have dealings of any sort relating to fixed property and the charges incident to it with native subjects, but said to him, "You must deal directly with us and pay us your ground rent, which covers and includes all municipal charges against you and your property in the settlements, and we will take care of all these charges for you." The foreigner believes that the city assembly should collect the tax that it wishes to levy on these settlement properties by securing it from the Central Government, which has received it in the form of ground rent.

(o) The foreigner can not see that there is now involved in the discussion of this matter any general or moral question of his duty to contribute to local expenses in the form of a house tax, or to discuss the sufficiency of the contribution that he has made in paying his ground rent; he has paid the ground rent reserved in the lease contracts and confirmed as a duty by the treaties, and he pays the other numerous taxes of Japan, to which the treaties have made him subject, without objection. He is not making a treaty—it is simply a question of the enforcement of one that his Government made for his benefit several years ago. The moral effect of the exemption of his settlement property, held under old grants free of taxation other than the stipulated ground rent, might have been discussed in the making of a treaty, but not now in the carrying out of the provisions of one made and in force. Neither is he nor his Government called upon to show any specially concessive spirit on moral questions of right, outside of the strict enforcement of the terms of the treaties, since a spirit far from concessive has been shown to him. The Japanese Government failed and refused for more than two years to confirm his titles as the treaties required, thus causing a reduction of their market value and putting him to a heavy expense to secure recognition of this important right; this recognition has been tardily and grudgingly given in halting language. In every possible way and on all collateral questions a wish has been clearly shown to ignore and override without discussion rights that he honestly believes he has under the treaties. When it has been impossible to decide a question against him on the most technical construction, he has been repeatedly informed that he must continue to suffer infringement of his rights, satisfying himself with a protest, "because the Central Government can not control the action of local officials." He knows that the Government of Japan has more centralized power than most governments, and he sees every day exhibitions of its power to control absolutely the action of all officials in cases where it wishes to do so. He learns from the constitution of Japan that the treaties promulgated by His Majesty the Emperor form a part of the higher law of the nation, and he wonders that the Government admits a lack of ability to require and enforce respect for that law, and concludes, with some reason, that the trouble does not lie so much in a lack of ability on the part of the Central Government as in the utter lack of any wish to hear him and protect him.

The foreigner in Japan has been forced to ask for "his pound of flesh" which the treaties have allowed him, since that is all that he can hope to receive.

Yokohama, October 26, 1901.

Mr. Buck to Mr. Hay.

No. 601.]

UNITED STATES LEGATION,
Tokyo, November 22, 1901.

SIR: I have the honor to inclose herewith a copy of my note to his excellency the minister for foreign affairs of date the 21st instant in respect of payment of taxes levied on buildings erected on land held under leases in perpetuity in the former foreign settlements.

Many of our people in Yokohama hesitate to pay that tax, fearing that, in event of the contention of some of the interested powers in opposition to the tax being successful in the end, the amount paid by them would not be refunded. Hence I thought it proper to address the minister for foreign affairs reserving the right of reimbursement.

I have, etc.,

A. E. BUCK.

[Inclosure.]

Mr. Buck to the Japanese minister for foreign affairs.

No. 322.]

UNITED STATES LEGATION,
Tokyo, November 21, 1901.

MONSIEUR LE MINISTRE: In consideration of the conclusion of the Imperial Government in respect of the tax on buildings erected on property held by foreigners under leases in perpetuity in the former foreign settlements, as declared in your excellency's note of the 21st ultimo, notwithstanding the fact that, up to this time, I have taken no position in behalf of my Government in opposition to that tax, I think it not improper, under the circumstances and in behalf of American residents in Japan concerned, to state to your excellency that, on their paying such tax, I reserve for them all rights of reimbursement, if, perchance, it should at any time be determined by your excellency's Government that it had been wrongfully or erroneously levied.

I avail, etc.,

A. E. BUCK.

Mr. Buck to Mr. Hay.

No. 602.]

UNITED STATES LEGATION,
Tokyo, November 29, 1901.

SIR: * * * I have the honor to inclose a copy of the note of the minister for foreign affairs of this date, in reply to my note to him of the 21st instant, a copy of which accompanied my dispatch of the 22d instant.

In a conversation with the minister to-day, before the receipt of his note, he assured me that in event, though improbable, that the Japanese Government should at any time in the future change its views and find that taxes had erroneously been paid, they would be refunded, and I had supposed his reply to my note would so state, which it fails to do, though the law, I understand, in such cases requires repayment.

The attitude assumed by the representatives of Great Britain, France, and Germany in opposition to the "house tax," so called, is still adhered to notwithstanding the decision of the Government, and many of their people subject to the tax in Yokohama, as also some of our people, still refuse payment. The representatives of those countries still protesting against the tax has caused a stronger feeling of opposition among some American leaseholders in that city than has

heretofore been manifested, though there are a portion of our people who take a different view—that the tax is not violative of treaty provisions—and who have willingly paid the tax. No protests or other manifestations of opposition to the position taken by the Japanese Government, that I am aware of, have been made by our people in Nagasaki, Kobe, or Tokyo, the only cities where there were foreign settlements, though some persons in Tokyo have expressed to me their opinion that the tax was unjust.

I have, etc.,

A. E. BUCK.

[Inclosure.—Translation.]

The Japanese minister for foreign affairs to Mr. Buck.

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, November 29, 1901.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's note of the 21st instant which, having in view the declaration contained in my note of the 21st of October on the subject of the taxation of buildings erected on land held by foreigners under leases in perpetuity in the former foreign settlements, you state that while you have hitherto taken no position in behalf of your Government in opposition to the tax in question you deem it proper, under the circumstances, to reserve for citizens of the United States who pay such tax rights of reimbursement, should the Imperial Government come to the conclusion that the tax had been wrongfully or erroneously levied.

While the Imperial Government are not prepared to admit the existence of any reason for modifying to any extent the position assumed by them in reference to the question, I have no hesitation in assuring your excellency that there shall be no discrimination between the citizens of the United States and the subjects or citizens of any other interested power in respect to the question of house tax levied on buildings erected on land leased in perpetuity in the former foreign settlements.

I avail, etc.,

KOMURA JUTARO,
Minister for Foreign Affairs.

Mr. Hay to Mr. Buck.

No. 377.]

DEPARTMENT OF STATE,
Washington, December 12, 1901.

SIR: I have to acknowledge the receipt of your dispatches No. 591 of October 24 last and No. 593 of the 15th ultimo on the subject of the taxation of buildings erected on land held under leases in perpetuity in the former foreign settlements in Japan.

The view of the Japanese Government that buildings on perpetual leases are subject to the same taxes as other buildings, is plausibly and clearly stated. Not so cogent, however, is the reasoning adduced in support of its position that taxes on incomes derived from lands (or buildings and lands together) held in perpetual lease may be levied in addition to the annual rents stipulated in the lease or conveyance. For the present, however, the Department withholds the expression of any definite opinion on these points and will await your report of the action and views of other governments. If other interested governments contest these points, the Department would be glad to obtain copies of their notes or arguments in support of their contention.

* * * * *

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Buck.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 18, 1901.

(Mr. Hay acknowledges the receipt of Mr. Buck's dispatch No. 601 of November 22, 1901, and states that Americans should pay the tax referred to, under protest, reserving all legal rights, which can be subsequently determined.)

Mr. Buck to Mr. Hay.

No. 606.]

UNITED STATES LEGATION,
Tokyo, December 20, 1901.

SIR: I have the honor to acknowledge the receipt of and to confirm the telegraphic instruction of the 18th instant.

I have notified United States Consul-General Bellows, at Yokohama, of the course to be taken by Americans of that city as directed by the instruction, and also our consuls at Kobe and Nagasaki, though no complaint from these cities in respect of the "house tax" or other taxes has yet been received.

In relation to this subject, I inclose a copy of a communication from me to Consul-General Bellows of date of October 31 last, giving my opinion upon the subject, having inadvertently omitted sending it as an inclosure with a previous dispatch.

While many foreigners, including Americans, in Yokohama still refuse to pay the "house tax," though formal demands have been made upon them, no seizure of property has yet been made, which, possibly, may be somewhat due to a suggestion I made to the minister for foreign affairs some weeks ago, that such course be not taken before I had received further instruction, after the receipt at Washington and consideration by the Department of the decision of the Imperial Government upon the "house-tax" question, which decision I had forwarded. The minister, however, gave no assurance of delay in enforcing collection of taxes by distraining property.

In an interview with the minister for foreign affairs some time ago, I took the liberty to suggest arbitration of the questions at issue respecting the "house tax" and tax on incomes derived from property held by foreigners under leases in perpetuity, on the ground that such a course would satisfactorily settle all differences. I thought that, since the United States had not joined with other powers in protesting, the minister's mind might be more open to a favorable consideration of such a suggestion from me than from some others, but I found him not willing to accede to such a proposal. He said that the representative of another power had already suggested that course and he had declined to consider it, as there was nothing in the case to justify recourse to arbitration, and that his colleagues in the cabinet fully agreed with him in that view.

I have, etc.,

A. E. BUCK.

[Inclosure.]

*Mr. Buck to Consul-General Bellows.*LEGATION OF THE UNITED STATES,
Tokyo, October 31, 1901.

SIR: Referring to the note of his excellency the minister for foreign affairs, addressed to me on the 21st instant, a copy of which I forwarded to you by mail on the 24th instant, which announced the position taken by the Japanese Government respecting the tax on buildings erected upon property held under leases in perpetuity by foreigners in the former foreign settlement, and respecting the applicability of the income tax to incomes derived from such property, I think it well to say to American taxpayers who regard such taxes as unjust and violative of treaty provisions that, in paying such taxes as they are now compelled to do in order to avoid dis-traint upon their property, it might be for their interest to make protest and ask that their protests be acknowledged by the collector upon their receipts. That having been done, then, in event that the claims of certain powers that such taxes are in violation of treaty stipulations should prevail, they would have better ground perhaps to claim that such taxes paid by them should be refunded.

I have forwarded a copy of the note referred to to Washington for consideration and instruction, should our Government have any to give me.

I am, etc.,

A. E. BUCK.

Mr. Buck to Mr. Hay.

No. 611.]

UNITED STATES LEGATION,
Tokyo, Japan, January 4, 1902.

SIR: Referring to my dispatch No. 606 of date of 20th ultimo, confirming your telegram of the 18th ultimo respecting payment of taxes by Americans in Japan under protest, I have the honor to inclose an informal communication from the minister for foreign affairs concerning receiving and receipting for protests when presented by persons paying "house tax."

The tax officials in Yokohama up to this time have persisted in refusing to acknowledge protests, claiming it to be unnecessary and that the law did not recognize such a procedure. On making a personal appeal at the foreign office urging that tax officials be instructed to receive and receipt for protests when presented by parties paying that tax, since, certainly, no reasonable objection to it could be made and because American residents would not be satisfied otherwise, I received the inclosed response, which it is hoped will result in obtaining acknowledgments of receipts of protests.

I have, etc.,

A. E. BUCK.

[Inclosure.]

Notes on the question of the payment supra protest of house tax levied on buildings erected on land leased in perpetuity in the former "foreign settlements."

Japanese law does not recognize the process of payment supra protest in regard to internal taxes. In the matter of the imposition of customs tariff a written protest is necessary in order to reserve the rights of any person who considers himself unjustly affected by the action of the customs authorities (see article 51 of the regulations for the execution of the customs duties law). But the remedy prescribed by the laws of Japan in case of unjust imposition of house tax does not begin by the filing of a protest. In fact, a protest is not necessary to reserve the right of complaint or of appeal, but a person feeling himself aggrieved by the action of the municipal author-

ities in the matter of the imposition of house tax (which is a municipal tax) should seek the remedy in accordance with articles 104 and 105 of the law of organization of cities (law No. 1 of the twenty-fourth year of Meiji).

According to the provisions of these articles opposition against the house tax should be presented to the municipal council within three months from the date of imposition of the tax in question. Party not satisfied with the decision of municipal council may appeal to the fu or ken council, and from the decision of the latter lies a further appeal to the administrative court.

As far as the reservation of the rights of American citizens are concerned in the matter of the house tax imposed on buildings erected on land leased in perpetuity in the former foreign settlements, that reservation has already been made by the minister of the United States in his official letter addressed to the minister for foreign affairs on November 21, 1901, to which Mr. Komura replied by giving the positive assurance that there shall be no discrimination between the citizens of the United States and the subjects or citizens of any other power in this connection. It follows, therefore, that in the event the justice of the claims of British, German, or French Government is recognized United States citizens will stand in exactly the same position as British or German subjects or citizens of the French Republic. In other words, the rights of the citizens of the United States have been reserved through the diplomatic channel exactly to the same extent as those of the subjects or citizens of three other powers.

The respective Governments having thus reserved the rights for their own nationals in this respect, it would be superfluous for the individuals concerned to file protests individually, even if the Japanese law on the subject recognized the process of payment *supra* protest. As above stated, the Japanese law does not recognize the process of payment *supra* protest in regard to internal taxes, and the question at issue being in the hands of the Governments concerned, the natural course for the individuals affected would be to look to their own Governments for the adjustment of the question. It appears, however, that some of the foreign taxpayers in Yokohama are particularly anxious to file individual protests upon the payment of the house tax in question. Hence, valueless as such protests are, unnecessary friction will, perhaps, be avoided if the municipal authorities in Yokohama will accept protests from whatever foreign resident desires to file them upon payment of the house tax imposed on buildings erected on land held under leases in perpetuity. The mayor of Yokohama will therefore be advised in this sense, so that he might, unless he has grave objections to the course suggested, instruct the municipal tax collectors to accept protests and to give receipts for them, if desired.

Mr. Buck to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,

Tokyo, January 18, 1902.

(Mr. Buck reports that payment of taxes, even under protest, is still refused by many Americans; that enforcement has been suspended until January 25; and inquires whether he shall, having unofficially suggested arbitration, also suggest it officially in the event that the representatives of the other powers do so.)

Mr. Hay to Mr. Buck.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,

Washington, January 18, 1902.

(Mr. Hay, replying to Mr. Buck's telegram of January 18, directs that he officially suggest arbitration, and that he endeavor to have suspension of enforcement of collection of tax continued during arbitration.)

Mr. Buck to Mr. Hay.

No. 616.]

LEGATION OF THE UNITED STATES,
Tokyo, January 20, 1902.

SIR: I have the honor to acknowledge the receipt of your instruction No. 377, of the 12th ultimo, concerning the question of tax on buildings erected on property held by Americans under leases in perpetuity in the former foreign settlements in Japan, and concerning the tax on incomes derived from such property.

Immediately upon the receipt of the instruction, following the directions given, I applied to my British, French, German, and Netherlands colleagues for copies of such notes and arguments as they had presented to the Japanese Government upon those questions. Each having kindly complied with my request by furnishing copies of such notes and parts of notes as touched upon those subjects, I inclose them herewith.

As to the tax on incomes derived from property held under perpetual leases, none of the representatives of the powers here who protest against the house tax seem to be of opinion that there is much if any ground on which to base a protest, and have not contended for exemption from such tax, the present representative of France included, though his predecessor had claimed exemption from that as well as the "house tax."

The representatives of other powers have taken little if any interest in the questions at issue, having few if any nationals interested, and, except the Russian and Belgian ministers, have expressed no opinion of which I am aware. Each of those have given consideration to these matters, and have expressed great doubt if oppositions to these taxes are well founded.

* * * * *

I have, etc.,

A. E. BUCK.

[Inclosure 1.—Translation.]

The German chargé d'affaires to the Japanese minister for foreign affairs.

TOKYO, August 24, 1900.

MR. MINISTER: Count von Leyden, the Imperial German minister, now absent on leave, had the honor to submit to your excellency in his notes dated the 22d September and 27th October of last year, a series of observations in respect to the treatment given by the Japanese Government to the landed property in the former foreign settlements in Japan. Count von Leyden presented a report to the foreign office in Berlin on the above observations, as well as on the arguments propounded against them by the Imperial Japanese Government in the two memoranda of November 15, 1899. At the same time he asked for instructions as to the attitude to be assumed by this legation.

Being now in receipt of those instructions, I have the honor to lay before your excellency, in the following manner, the standpoint taken by my Government in reference to the contentions which have arisen between the representatives of the foreign powers and the Japanese Government.

* * * * *

4. Taxation of the buildings erected on the land in question.

For deciding the question whether buildings on land in the settlements may be subjected to communal or prefectural taxation, No. 3 of the note appended to the German-Japanese commercial treaty of the 4th April, 1896, the contents of which were confirmed by your excellency, is of most important significance. From that it is evident that the intention of the Imperial Government was to protect the owners

of landed property in the settlements as such, against taxation of whatever nature beyond the stipulated ground rent. As, however, those pieces of land were to serve in the first place the purposes of residence, the guaranty in question would have been, from the very beginning, of no practical value if the buildings erected thereon could be burdened with taxes of optional amount.

I have, therefore, been instructed to demand for the German subjects settled in Japan the exemption from house taxes imposed in respect of landed property in the settlements.

I avail, etc.,

GRAF VON WEDEL.

[Inclosure 2.—Translation.]

The German minister to the Japanese minister for foreign affairs.

TOKYO, October 29, 1901.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's note (No. 62) of the 21st instant, in which you are good enough to call my attention to law No. 39, of the 20th of September, 1901, which was promulgated on the 21st of last month. I have submitted that law to my Government.

In the note above referred to your excellency further informs me that, according to this new law, buildings on land in the foreign settlements are subject to the same taxes and rates as other buildings.

Your excellency is aware that my Government, on account of the existing treaty, do not share that view, and that they have claimed exemption from those taxes and rates for the German subjects.

This point of view is still maintained by my Government, and I have therefore, in accordance with instructions received by me, the duty to herein expressly repeat the same declaration, to protest against the collection of house tax from German subjects, and to reserve the rights of the latter against all losses and disadvantages which they may suffer in consequence of the collection of these taxes and rates.

Accept, etc.,

GRAF VON ARCO VALLEY,
Imperial German Minister.

[Inclosure 3.—Translation.]

Mr. Harmand, minister of France, to the Japanese minister for foreign affairs.

TOKYO, June 17, 1900.

MR. MINISTER: * * * Mr. Delcassé likewise informs me that we agree with the British Government in considering the collection of a special tax on the houses of the former foreign concessions to be contrary to the spirit and to the letter of the treaties which bind us. Without wishing to revert here to the considerations set forth in my former letters, and notably to the argument based upon the meaning, which is so very precise and definite, of the word "propriété" written in the fourth paragraph of article 21 of the Franco-Japanese treaty of 1896, I will confine myself for the present to recalling a fact which should be mentioned which may have escaped your excellency's recollection. At the time of the discussion of the Anglo-Japanese treaty of 1896, the Japanese negotiator, the Viscount Okabe, had adopted for Article XII in his first draft of a convention a wording in which the continuance of the (*taxe foncière*, land rate or rent?) land tax set down in the perpetual leased concerned only property in land (*biens foncières*, real property). The British counter proposal (p. 108, Annex B of the Blue Book sent to the British Parliament in August, 1896) omits the qualifying word "real," which was not again brought up in the course of the subsequent discussions. That is a circumstance of a positive value, the importance of which can not but be recognized. It makes the complement of all the arguments that I have previously had the honor to give you, and which all militate in favor of the good foundation of the French citizens' claims of exemption from the payment of the house tax.

[Inclosure 4.—Translation.]

Mr. Harmand, minister of France, to the Japanese minister for foreign affairs.

TOKYO, August 16, 1900.

MR. MINISTER: Under date of April 30 last I had the honor to communicate to your excellency a petition of the French citizens of Yokohama against the claim of

the financial administration of Japan to include, in determining the apportionment of the income tax due from them, the resources or profits that they obtain from the houses or lands which they possess in the former European concession.

Under the same date I brought the same document to the knowledge of my Government. In reply to that communication the minister of foreign affairs has just transmitted to me instructions in which he sets forth the way in which the Government of the Republic views this subject; and I hasten to make known to your excellency their tenor.

My Government considers that the wording itself of article 21 of the Franco-Japanese treaty of 1896 formally indicates not only that no new tax can be imposed upon the properties to which that article refers, but also that no charge other than those determined by the lease can be borne by the perpetual tenant (*locataire perpétuel*) of the lands, from the fact of their being in possession. Now it is incontestable that if the revenues of these properties were included in the calculation of the taxes that each resident must pay to Yokohama upon his income, the said properties would give rise to taxes from which their holders are expressly exempted by the terms of article 21 of our treaty.

Placing the question upon a juridical footing, our nationals have therefore protested (*reclamé*) with good reason, relying upon article 21 of our treaty, against the fact of the "Yokohama revenue administration bureau's" putting upon the income-tax rolls the rents or the estimated value of their properties within the limits of the former concession.

Consequently my Government asks me to call the attention of the Imperial Government to the fact that in so doing the "Yokohama revenue administration" has lost sight of the above-cited stipulation of article 21 of the treaty of 1896.

It is important, moreover, to call your excellency's attention to the fact that it is in carrying out a formal convention, entered into after a very long and exhaustive discussion between our two Governments, that the lands forming the former concessions in the Japanese ports have been placed upon a special footing (determined in respect to what concerns France by article 21 of our treaty), not only from the point of view of taxes, but also from every other standpoint. It is not understood, then, why the Japanese authorities persist in wishing to ignore it. This exceptional regimen applies, moreover, to so inconsiderable and limited a space that its annulment really has not any practical interest. There is no country where, as a result of geographical, political, or other conditions, exceptional instances of the same sort may not be observed; to speak only of France, have we not exempted zones where our customs tariff system can not be applied, neutral zones where our military activity can not be carried on, and these limitations to our sovereignty are far more irksome than those created by the recent treaties in favor of the former European quarters of the open cities of Japan. Much more, they have, in our country, lost their *raison d'être*, no longer meeting any need, in consequence of the modification, in other respects, of the state of things to meet which they had been instituted. Nevertheless, we have never sought to free ourselves from them of our own arbitrary will (*de notre seule volonté*) because the principle which should outweigh all others in the relations between civilized nations is respect for conventions.

So my Government does not wish to doubt but that the Imperial Government will take into consideration from the lofty point of view which is appropriate in such cases, the difficulties which arise from the properties situated in the former concessions, and that they will recall to a scrupulous observance of the conventions the agents of the Administration who violate, in their zeal, the text of solemnly concluded and ratified international arrangements.

[Inclosure 5.—Translation.]

Article 21 of the Franco-Japanese treaty of August 4, 1896.

The Government of the French Republic gives, in so far as they are concerned, their consent to the following arrangement:

The various foreign quarters which exist in Japan shall be incorporated into the respective municipalities of Japan, and shall thenceforward form part of the municipal system.

The competent Japanese authorities shall consequently take upon themselves all the obligations and all the municipal duties which result from this new order of things, and such municipal funds and properties as may belong to those quarters shall be, by consummation of law (*ipso facto? de plein droit*), handed over to the said Japanese authorities.

When the changes indicated above shall have been effected, the leases in perpetuity in virtue of which foreigners now hold property in the quarters shall be confirmed, and properties of this nature shall not give rise to any imposts, taxes, charges, contributions, or conditions whatsoever other than those expressly stipulated in the leases in question. It is, at the same time, understood that for the consular authorities mentioned therein the Japanese authorities shall be substituted.

Such lands as the Japanese Government may have given rent free in consideration of the public purposes for which they were appropriated shall remain, under the limitations of the rights of territorial sovereignty, permanently free from all imposts, taxes, or charges, and they shall not be deflected from the use for which they were originally intended.

[Inclosure 6.]

The British minister to the Japanese minister for foreign affairs.

MEMORANDUM.

TOKYO, September 29, 1899.

His Britannic Majesty's minister desires to lay before his excellency the Japanese minister for foreign affairs for his consideration the following observations on the subject of the charges proposed to be levied on property held by British subjects in the foreign settlements in Japan, under perpetual leases granted by the Imperial Government.

By article 18 of the treaty of the 16th of July, 1894, by which the consent of His Britannic Majesty's Government is given to the incorporation of the foreign settlements in Japan with the respective Japanese communes, and by which it is provided that the competent Japanese authorities shall thereupon assume all municipal obligations and duties in respect thereof, it is further provided that "When such incorporation takes place existing leases in perpetuity under which property is now held in the said settlements shall be confirmed, and no conditions other than those contained in such existing leases shall be imposed in respect to such property."

The first observation which His Britannic Majesty's minister desires to make is that the property referred to in the article cited above includes not only the land comprised in the respective leases, but also all the buildings erected thereon. If any doubt existed on this point it would be dispelled by a consideration of the circumstances under which land in the foreign settlements was originally granted.

The proposed charges to which it is desired to call the attention of his excellency are:

1. The imperial and local taxes on land.
2. The imperial and local taxes on buildings.
3. The charge of 2½ per cent which it is sought to make on the registration of transfers.

From all these charges the land and buildings have been hitherto entirely exempt, with such exceptions only as are contained in the respective title deeds, and under the provisions of article 18 it is clearly intended that they should continue to be so exempted.

With regard to local taxation on land or buildings, it may be observed that under the regulations for the original leasing of land at Yokohama and Nagasaki it was agreed that "the streets, roads, and jetties will at all times be kept in thorough order, and sewers or drains will be made when necessary by the Japanese Government, and no tax will be levied on renters in the foreign quarters for this purpose." And the obligation thus undertaken by the Japanese Government was subsequently extended to the policing and draining of the settlements.

And again, with regard to Kobe and Osaka, it was provided that the annual rent of one bu per tsubo reserved by the title deeds "shall be paid in advance into the municipality of each place, and shall be appropriated to the repairs of roads and drains, lighting the streets, or other municipal purposes, subject, however, to a first charge of one thousand five hundred and twenty-four bus at Osaka and one thousand six hundred and forty-one bus at Hiogo, which sums shall be paid annually to the Japanese Government as the ordinary land tax due on the said ground."

If no stipulation whatever on the subject had been made in the treaty of 1894, justice and good faith would call for the due observance of the contractual obligations thus created between the Japanese Government and the foreign renters, but the

stipulations of the treaty go much further and are intended to secure the exemption of the property referred to from every impost not expressly provided for by the respective title deeds, and such intention, it is submitted, extends to all the three categories of charges mentioned for whatever purpose the charges are intended to be levied.

[Inclosure 7.]

The British minister to the Japanese minister for foreign affairs.

MEMORANDUM.

TOKYO, *September 4, 1899.*

Sir Ernest Satow is pointing out "the necessity of an express confirmation of the leases and of such provisions being made as will prevent any incidents being annexed to the leases which it is not intended by the treaty should be annexed to them, and that they should all continue to have the characteristics of a perpetual lease, the principal of which is most aptly expressed in the form adopted by His Imperial Japanese Majesty's Government in 1868, namely, the land being leased in perpetuity subject to the conditions mentioned in the lease and the wording then employed being that 'the Japanese Government forego all rights and title to the occupancy of the same lot or any buildings thereon so long as the ground rent shall be paid as aforesaid.'"

[Inclosure 8.]

The British minister to the Japanese minister for foreign affairs.

TOKYO, *May 23, 1900.*

MR. MINISTER: * * * On the subject of the claim of the Japanese authorities to levy rates and taxes in respect of such land and the buildings thereon (land in the former foreign concessions in Japan), I have the honor to inform your excellency that I have now received a dispatch from His Majesty's principal secretary of state for foreign affairs stating the conclusions at which His Majesty's Government have arrived upon considering these questions with the law officers of the Crown.

* * * * *

As regards the claim of the Japanese authorities to levy local rates in respect of the buildings on such land, His Majesty's Government can not recognize as valid the distinction which your excellency makes in the memorandum inclosed in your excellency's note of the 15th of November last, between the right to tax the land and the right to tax the house. The house is the property of the perpetual leaseholder just as much as the land on which it has been built.

In the opinion of His Majesty's Government, the provision in article 18 of the treaty that no conditions other than those contained in the leases shall be imposed in respect of the property, protects the perpetual leaseholder from local rates as well as from any additional rent or taxation. If any doubt could be entertained on the point, it would, they consider, be removed by the terms of article 21 of the French treaty and the note attached to the German treaty, to the benefits of which British subjects are entitled under the most favored nation article of the British treaty.

I have, etc.,

JAMES BEETHOM WHITEHEAD.

[Inclosure 9.—Translation.]

The Netherlands minister to the Japanese minister for foreign affairs.

TOKYO, *January 12, 1901.*

* * * * *

I should also be glad to know whether the Imperial Government is of opinion that the "house tax" is due upon the houses that are built upon the lands received in

perpetual lease, and what the arguments are that can be put forward to show the levy of that tax to be consistent with article 3 of the protocol to the treaty of commerce and navigation between the Netherlands and Japan.

Pray accept, etc.,

H. TESTA.

[Inclosure 10.—Translation.]

The Netherlands minister to the Japanese minister for foreign affairs.

TOKYO, November 8, 1901.

* * * * *

Your excellency at the same time points out to me that the said law has not the effect of exempting the buildings erected upon the lands occupied by foreigners in virtue of perpetual leases from the taxes and the registration charges which are leviable in regard to other buildings.

You will be good enough to excuse me, Mr. Minister, from sharing that view, which, in my opinion, would not be in harmony with the spirit of the treaties with reference to the history of perpetual leases.

When the lands in question were put up at auction and the rents for the perpetual leases were fixed, those rents were very high for that time, and much higher than the taxes levied upon other lands of the same kind. It is incontestable, then, that the object of the said rents was to exempt the lands, and, no less, the houses—which the purchasers were, moreover, obliged to build upon them—from taxes of every kind, present and future. Now, the new treaties have simply aimed at the confirmation of the rights acquired. Consequently, it was stipulated that the perpetual leases should be confirmed, and that the exemption from all taxes in respect to those properties should be maintained. Now, the acquired exemption from taxes evidently refers equally to the lands held in virtue of perpetual leases and to the buildings erected upon those lands.

In submitting these considerations to the favorable attention of the Imperial Government, I avail, etc.,

H. TESTA.

Mr. Buck to Mr. Hay.

No. 618.]

UNITED STATES LEGATION,
Tokyo, February 3, 1902.

SIR: Referring to my dispatch No. 616 of the 20th ultimo, respecting the "house tax" matter, in which dispatch I made mention of having called a meeting of my colleagues who were interested in the subject on behalf of their nationals, I have the honor to report that on the 22d ultimo the British, French, German, Russian, and Netherlands ministers met at this legation, and upon full discussion it was concluded that no further official action upon the subject of the tax could well be taken for the present.

As only the British minister and I had, as yet, been authorized to officially suggest arbitration, and only in conjunction with others whose nationals were interested in the question, it was concluded that it was best, before doing so, to await instructions to our colleagues from their Governments.

As to the matter of obtaining extension of time for enforcing payment of the tax, pending instructions to my colleagues respecting arbitration it was thought useless, because of the fact that postponement from time to time had been granted, and there was no additional reason to urge it further. However, I have since informally discussed the matter with the minister for foreign affairs, and distraint of property for nonpayment of tax, which was supposed to begin on the 25th ultimo, has not yet been actually enforced.

I have, etc.,

A. E. BUCK,

Mr. Buck to Mr. Hay.

No. 625.]

UNITED STATES LEGATION,
Tokyo, March 11, 1902.

SIR: Referring to * * * the house tax question, I have the honor now to report that in an interview with the minister for foreign affairs to-day he confidentially informed me that the Japanese Government had finally decided to submit the question to arbitration, and that an official announcement of that conclusion might be expected in a few days.

I have, etc.,

A. E. BUCK.

Mr. Buck to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Tokyo, March 17, 1902.

(Mr. Buck reports that a proposal to arbitrate has been made by the Japanese Government to the representatives of the powers protesting; that the United States, not having protested, is not included, and inquires whether it would be proper to ask that the United States Government be made a party to the arbitration.)

Mr. Buck to Mr. Hay.

No. 627.]

UNITED STATES LEGATION,
Tokyo, March 18, 1902.

SIR: I have the honor to confirm my telegram dispatched last night. This telegram was occasioned partly because of inquiries embodied in a resolution passed at a meeting of American residents in Yokohama yesterday. The resolution was submitted to United States Consul-General Bellows, who inclosed it and a copy of a letter of request from N. W. McIvor, esq., with his dispatch of yesterday, the 17th instant. A copy of Mr. Bellows's dispatch, with accompanying inclosures, is hereto attached, as also a copy of my reply of the same date.

On the 14th instant the conclusion of the Japanese Government to submit the question of "house tax" to arbitration was officially communicated by the minister for foreign affairs to the representatives of the interested powers in personal interviews with each. He, at the same time, informed them that the collection of the tax, previously announced by the municipal authorities at Yokohama to be enforced to-day, the 18th instant, would not be postponed. The minister also said that, as a natural consequence of the question being referred to arbitration, should the decision prove to be adverse to the position already taken by the Imperial Government, any taxes which might have been collected inconsistently, in consideration of the decision, would be refunded. This information was promptly communicated to our consuls for the benefit of Americans interested.

On the 15th instant the minister for foreign affairs, in reply to the British minister's note, formally communicated to him the fact that

the Japanese Government proposed arbitration of the question of "house tax" with the powers protesting against the levy of the tax. Great Britain, Germany, France, and the Netherlands only were mentioned as the powers to be recognized as parties to the arbitration, and I am informed by the minister for foreign affairs that the United States and other powers are not expected to participate in the proceedings, because they have not officially protested through their representatives.

Under the circumstances I have not thought it proper to ask that the United States be included as one of the powers to participate in the arbitration proceedings unless so instructed.

I have, etc.,

A. E. BUCK.

[Inclosure 1.]

Mr. Bellows to Mr. Buck.

No. 896.]

CONSULATE-GENERAL OF THE UNITED STATES,
Yokohama, March 17, 1902.

SIR: I have the honor to transmit for your consideration a copy of a letter received this morning from the secretary of a general meeting of American property holders in Yokohama, held on the 17th instant, together with a resolution adopted by said meeting.

From the remarks of the delegation that waited upon me to-day, it appears that an official report has come from Tokyo to the effect that the American Government has not joined the other powers, through her minister, in protesting against the payment of the house tax. Upon this point the committee are very anxious to receive official information, as upon its answer their future action will be based.

I am, etc.,

E. C. BELLOWS, *Consul-General.*

[Subinclosure 1.]

Mr. McIvor to Mr. Bellows.

MARCH 17, 1902.

DEAR SIR: I have the honor, acting under instruction, to transmit herewith a resolution and a list of three questions passed at a meeting of certain responsible American landholders in Yokohama, with the request that you will be good enough to receive the information for us from the minister of the United States.

Respectfully, yours,

N. W. McIVOR.

[Subinclosure 2.]

Resolution.

Resolved, That in our opinion it is imperatively necessary that our Government shall be a party to the arbitration agreement, more especially because otherwise that Government will have nothing to say in fixing the terms of the arbitration, and also because the defection of our Government will materially weaken the moral position of other powers who are making the contest on the questions at stake, and will therefore materially injure our interests.

The following information is respectfully requested:

1. Is our Government a party to the arbitration agreement?
2. Can we be heard in fixing its terms?
3. We understand that the Japanese authorities intend to enforce the collection of the tax before the submission, and that both the central and local authorities refuse to give a note of protest upon payment; our Government, we understand, advises us

when we pay to pay under protest. Can this protest be made in any other way than by allowing distraint on the property?

The above draft was, on vote, passed unanimously by American property owners present or duly represented at a meeting held on the 17th of March, 1902.

JOHN LINDSLEY, *Chairman.*
N. W. McIVOR, *Secretary.*

[Inclosure 2.]

Mr. Buck to Mr. Bellows.

No. 591.]

LEGATION OF THE UNITED STATES,
Tokyo, March 17, 1902.

SIR: I have to acknowledge the receipt of your dispatch No. 896, of this date, inclosing a letter to you from N. W. McIvor, esq., accompanied by a resolution unanimously passed by American property owners present or duly represented at a meeting held to-day, asking questions respecting arbitration proceedings upon the subject of the house tax, and whether protest against payment of the tax can be made in any other way than by distraint when the authorities refuse to give a note of protest upon payment.

As to the first and second questions, "Is our Government a party to the arbitration agreement?" and "Can we be heard in fixing its terms?" I have to answer that, as the case now stands, our Government is neither a party nor can it be heard in fixing terms of arbitration, because it has not officially protested against the imposition of the tax. Only those powers who have formally contended against the levy of the house tax are now recognized by the Japanese Government as parties at interest or to be heard in fixing terms of arbitration. Whether our Government will become a party depends upon telegraphic instructions I expect to receive from Washington in a few days. If I am instructed to submit a claim in behalf of the United States to become a party, I shall expect the Japanese Government to accede to it.

Concerning the third question, I have to reply that a simple receipt for a paper of protest, in my judgment, is sufficient for purpose of protest. The failure to give a formal note of protest is, in my opinion, unnecessary. Of course, allowing distraint is the highest form of protest; but I do not think it wise or necessary, except in default of any simple acknowledgment of receipt for the protest when presented.

I am, etc.,

A. E. BUCK.

Mr. Hay to Mr. Buck.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 19, 1902.

(Mr. Hay directs Mr. Buck to inform the Japanese Government that, it having given assurance that citizens of the United States will receive equality of treatment with nationals of other States in the house-tax question, this Government would like to agree by an exchange of notes with Japan that the two Governments will abide by the decision of the principle involved which may be settled in arbitration between Japan and other States touching both the house and income tax; and that Japan will apply the principle equally to nationals of the United States, France, Germany, and Great Britain.)

If Japan declines this proposition, Mr. Hay instructs Mr. Buck to request that the United States become party to the arbitration, but suggests that the first alternative is better for both the Government of Japan and that of the United States.)

Mr. Hay to Mr. Buck

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 24, 1902.

(Mr. Hay states that assurance has been given by the Japanese Government through its minister at Washington that the United States shall have the benefit of the award in tax arbitration, and that Mr. Buck need take no further action on Department's telegram of the 19th of March.)

Mr. Buck to Mr. Hay.

No. 629.]

UNITED STATES LEGATION,
Tokyo, March 26, 1902.

SIR: I have the honor to confirm the two telegraphic instructions of dates of the 19th and 24th instant.

On receipt of the telegram of the 19th instant I communicated by note to the Japanese Government the desire of the United States Government, as directed (copy herewith). On yesterday I received a reply (copy herewith), and, some hours later, your telegram was received.

* * * * *

I have, etc.,

A. E. BUCK.

[Inclosure 1.]

*Mr. Buck to Baron Komura.*UNITED STATES LEGATION,
Tokyo, March 22, 1902.

MONSIEUR LE MINISTRE: In compliance with telegraphic instructions from my Government, I have the honor to inform your excellency that His Imperial Majesty's Government having given the assurance that citizens of the United States in Japan will receive equality of treatment with the nationals of other states in the matter of house tax, the United States Government would like to agree, by an exchange of notes with the Imperial Government, that the two Governments will abide by the decision of the principle involved which may be settled by arbitration between Japan and the other states, touching both the house and income tax, and that the Imperial Government will apply the principle of equality to nationals of the United States, France, Germany, and Great Britain.

I avail, etc.,

A. E. BUCK.

[Inclosure 2.—Translation.]

Baron Komura to Mr. Buck.

No. 11.]

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, March 25, 1902.

MONSIEUR LE MINISTRE: In reply to the note which your excellency did me the honor to address to me under date of the 22d instant respecting arbitration, I beg to say that the Imperial Government would be willing to agree by an exchange of notes with the Government of the United States, that the two governments will abide by the decision of the principle involved, which may be settled by arbitration between Japan and any other power touching the house tax, and that the Imperial Govern-

ment will apply the principle to citizens of the United States equally with the subjects and citizens of Germany, France, and Great Britain.

But, I should point out that, as the contemplated arbitration is restricted to the single issue of the house tax, the Imperial Government would wish to exclude from the notes which it is proposed to exchange, any reference to the income tax. I may add in further explanation of this point that France was the only power to raise the question of the income tax, and that she has now accepted the principle of arbitration limited to the single question of the house tax.

I avail, etc.,

BARON KOMURA JUTARO,
Minister for Foreign Affairs.

Mr. Hill to Mr. Buck.

No. 399.]

DEPARTMENT OF STATE,
Washington, April 12, 1902.

SIR: I inclose herewith a copy of a memorandum from the British embassy relative to the reference to arbitration of the question of the Japanese Government's right to the imposition of the house tax in respect of buildings which are held under perpetual lease.

The memorandum states that the reference is confined to the house tax only, and that, in the opinion of His Majesty's Government, the question should be settled in all its bearings. Inquiry is made as to whether the United States Government shares the view of His Majesty's Government that perpetual lease holders still enjoy the same immunities and privileges as to taxes and other charges, imperial or otherwise, in respect to their buildings as existed prior to the revision of the treaties, and is disposed to instruct its representative at Tokyo to support His Majesty's representative in contending for the wider reference.

I also inclose a copy of the Department's memorandum in reply, in which it is stated that in its opinion the scope of the reference should be such as to include and settle all questions in controversy relative to the imposition of charges and taxes of whatever style and character. It has accordingly instructed the United States minister at Tokyo to make proper representations to the Japanese Government in support of the view that the question in all its bearings should be referred for final settlement by the proposed arbitration.

You will act accordingly.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

[Inclosure 1.]

Lord Pauncefote to Mr. Hay.

BRITISH EMBASSY,
Washington, April 8, 1902.

DEAR MR. SECRETARY: Being still prevented by indisposition from leaving the house, I write to say that I have just received a telegram from my Government respecting the taxation of buildings held by foreigners in Japan.

It appears that the question is to be referred to arbitration, but that the Japanese Government desire to limit the scope of the reference, whereby the decision would lose much of its practical value.

I inclose an explanatory memorandum, from which you will see that my Government desire to know whether you are disposed to support them in their efforts to obtain a wider reference.

I am, etc.,

PAUNCEFOTE.

FOREIGN RELATIONS.

[Subinclosure.]

Memorandum.

The Japanese Government have agreed in principle to refer to arbitration the question of their right to the imposition of the house tax in respect of buildings which are held under perpetual leases.

They thus confine the reference to the house tax only.

It is important, in the opinion of His Majesty's Government, that the question should now be settled in all its bearings. They contend that the point at issue is whether or not perpetual leaseholders still enjoy the same immunities and privileges as to taxes and other charges, imperial or otherwise, in respect of their buildings, as existed prior to the revision of the treaties.

His Majesty's Government would be glad to learn that the United States Government share their view in this matter and are disposed to instruct their representative at Tokyo to support His Majesty's representative in contending for the wider reference. British Embassy, Washington, April 8, 1902.

[Inclosure 2.]

Mr. Hill to Lord Pauncefote.

Personal.]

DEPARTMENT OF STATE,
Washington, April 12, 1902.

MY DEAR MR. AMBASSADOR: I inclose a memorandum in reply to the one inclosed with your personal note of the 8th instant in regard to the proposed arbitration of the question of the Japanese Government's right to the imposition of the house tax in respect of buildings which are held under perpetual leases.

I am, etc.,

DAVID J. HILL.

[Subinclosure.]

Memorandum.

The Government of the United States having been heretofore advised of the proposed arbitration has expressed to the Japanese Government its willingness to abide the result of the arbitration.

But the Department is of the opinion that the scope of the reference should be such as to include and settle all questions in controversy relative to the imposition of charges and taxes of whatever style and character. It has accordingly instructed the United States minister at Tokyo to make proper representations to the Japanese Government in support of the view that the question in all its bearings should be referred for final settlement by the proposed arbitration.

Mr. Hill to Mr. Buck.

No. 400.]

DEPARTMENT OF STATE,
Washington, April 14, 1902.

SIR: I have to acknowledge the receipt of your dispatch No. 627, of the 18th ultimo, confirming your telegram of the preceding night in relation to the proposal of the Japanese Government to arbitrate the question of the tax on buildings erected on lands held by perpetual leases in the former foreign settlements in Japan.

The Department approves your view that you ought not to ask that the United States be included as one of the powers to participate in the arbitration proceedings, unless so instructed.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Hay to Mr. Buck.

No. 402.]

DEPARTMENT OF STATE,
Washington, April 25, 1902.

SIR: Referring to the Department's No. 399, of the 12th instant, I inclose herewith copies of further memoranda exchanged between the British ambassador and the Department relative to the reference to arbitration of the question of the Japanese Government's right to impose a house tax in respect to buildings which are held under perpetual lease.

The Department desires it to be made clear to the Japanese Government that the Government of the United States is of the opinion that the scope of the reference should be such as to include and settle all questions in controversy relative to the imposition of charges and taxes of whatever style and character.

I am, etc.,

JOHN HAY.

[Inclosure 1.]

Memorandum.

Lord Lansdowne has learned with much pleasure that Mr. Hay's views with regard to the scope of reference to arbitration of the question of the Japanese Government's right to impose house tax coincides with his own, but his Lordship has received a telegram from the British minister at Tokyo from which it appears that the Japanese minister for foreign affairs has frequently informed him that the United States Government have not protested, and are in agreement with the Japanese Government respecting the interpretation of the disputed clause of the treaty.

Lord Lansdowne trusts therefore that Mr. Hay may see his way to send further instructions immediately to the American representative at Tokyo requesting him to press for the wider scope of reference to arbitration which is being urged by His British and German colleagues.

April 19, 1902.

[Inclosure 2.]

Memorandum.

The memorandum of the British ambassador dated April 19, 1902, states, with reference to the matter of the arbitration of the question of the Japanese right to impose a house tax with respect to buildings which are held under perpetual lease, that the Marquis of Lansdowne has received a telegram from the British minister at Tokyo from which it appears that the Japanese minister for foreign affairs has frequently informed him that the United States Government have not protested and are in agreement with the Japanese Government respecting the interpretation of the disputed clause of the treaty, and expresses the hope that the American representative at Tokyo may be instructed to press for the wider scope of reference to arbitration which is being urged by his British and German colleagues.

While the Government of the United States may not have actually protested against the imposition of the house tax, its minister at Tokyo was, as long ago as December 18, 1901, instructed that American citizens should pay the taxes under protest, reserving all legal rights.

Upon the assurance of the Japanese Government that the United States Government and citizens should have the full benefit of the award, whatever it may be, as though they were a party to the arbitration, the Government of the United States expressed to the Japanese Government its willingness to abide by the result of the proposed arbitration.

As was stated in the memorandum of the Department of State of April 12, 1902, the minister of the United States at Tokyo was on the same day instructed to make proper representations to the Japanese Government in support of the view that the question in all its bearings should be referred for final settlement by the proposed arbitration.

It is not seen wherein these instructions can be augmented. The minister has, however, this day been instructed to make it clear to the Japanese Government that in the opinion of the Government of the United States the scope of the reference should be such as to include and settle all questions in controversy relative to the imposition of charges and taxes of whatever style and character.

Department of State, Washington, April 25, 1902.

Mr. Buck to Mr. Hay.

No. 637.]

UNITED STATES LEGATION,
Tokyo, Japan, April 26, 1902.

SIR: As a matter of interest, as respects the controversy over the troublesome question of tax on buildings erected on perpetual leaseholds in the foreign settlements, and in respect of the proposal of the Japanese Government to arbitrate that issue, I have the honor to inclose a copy of the note presented to the Japanese minister for foreign affairs by the British minister, of date February 25 last, and the reply of the minister for foreign affairs of the 15th ultimo proposing arbitration.

It will be observed that the British minister disclaimed having had any purpose to include the question of "income tax" as involved in the controversy.

As a result so far of the proposal of the Japanese Government to arbitrate the question of the house tax, the French minister, in behalf of his Government, accepted at once, and the Netherlands Government has informed the Japanese Government that it will not take part in the arbitration proceedings, but will abide by the result of the arbitration, taking a similar position to that of the United States; but the British minister has not yet signified an acceptance for his Government, and he is now endeavoring to have collateral questions submitted.

* * * * *

On the 22d instant the British minister called upon me and said that he had received a telegram from his Government informing him that the British ambassador at Washington had reported that he had been informed at the State Department—since your telegraphic instruction of the 24th ultimo that I need not take further action on your telegram of the 19th ultimo, as I understood him—that I had been instructed to contend for arbitration of all questions arising under Article XVII of our treaty with Japan, and he seemed to be surprised that I had not yet received such instruction.

The arbitration of the house-tax issue as proposed would, in my opinion, logically settle the important question of the right to impose the charge of 2½ per cent of the value for registration of buildings and, perhaps, some other matters concerning which there is a difference, or a possibility of it. If the buildings should be declared free from municipal taxation, as is the land, then it would follow that they would be free from the registration and other charges, as the land is.

I have, etc.,

A. E. BUCK.

[Inclosure 1.]

The British minister to Baron Komura.

No. 16.]

BRITISH LEGATION,
Tokyo, February 25, 1902.

MONSIEUR LE MINISTRE: My attention has lately been called to a rumor which is current to the effect that the imperial foreign office is not satisfied with the dispatch which I had the honor to address to your excellency on October 29 last on the subject of the house tax, inasmuch as it was not considered to contain any arguments of a nature to invalidate the contentions put forward in your excellency's note No. 57, of October 21, and which was under reply.

In the event of there being truth in this rumor, I hasten now to expose to you more fully the grounds on which His Majesty's Government base their objections to the proposed measure, confining myself, however, for the present moment, to the points raised in your excellency's above-mentioned communication.

In the first place, it is therein stated that "the guaranty against taxation is specifically restricted to property held under leases in perpetuity," and that "the property held under perpetual leases is, in the opinion of the Imperial Government, necessarily limited to the property granted by these leases;" * * * that the property granted by the leases was exclusively land, and that the building erected on that land formed no part of the granted property.

From this the Imperial Government draw the conclusion that the houses, not having been included in the original grants, are outside the purview of the conventional engagements exempting property held under such leases from taxation.

I beg leave to point out to your excellency that the land was granted, specifically, for purposes of trade and residence; the very situations of the concessions rendered them useless, nor can it ever have been contemplated to use them for any other purpose than for the construction of buildings.

Further, to show even more clearly how definite was the view of the Imperial Government in regard to the nature of such property, in some of the decrees regulating the grant of these lands a provision was inserted in the regulations to be observed to the effect that leaseholders "will be required, under penalty of forfeiture of title deed, to erect, within six months after date of title deed, in accordance with these regulations, buildings of a value not less than," etc.

In the face of such documents as these, it appears difficult to perceive how the buildings standing on the leased land can be considered as "still held wholly independently of these grants," whereas the very lease became invalid were the buildings not erected.

It is truly observed, however, that the buildings can not be said to belong, equally with the land, to the Imperial Government, as they were obligatorily constructed in fulfillment of the terms of the contract, at the expense and risk of the leaseholders. Moreover, the lands assigned were, at the time of cession, of an almost nominal value, and have only now assumed a position of importance owing to the industry and enterprise of those leaseholders.

I would next beg to call your excellency's attention to article No. 21 of the treaty of navigation and commerce concluded between the Imperial Government and that of the French Republic and ratified at Tokyo in 1898, the conditions of which, under most-favored-nation treatment, apply no less to the subjects of His Britannic Majesty than to French citizens. This article runs as follows:

"Les divers quartiers étrangers qui existent au Japon et feront dès lors partie du système municipal du Japon.

"Les autorités japonaises compétentes assumeront en conséquence toutes les obligations et tous les devoirs municipaux qui résultent de ce nouvel état de choses et les fonds et biens municipaux qui pourraient appartenir à ces quartiers seront, de plein droit, transférés aux dites autorités japonaises.

"Lorsque les changements ci-dessus indiqués auront été effectués, les baux à perpétuité, en vertu desquels les étrangers possèdent actuellement des propriétés dans les quartiers, seront confirmés, et les propriétés de cette nature ne donneront lieu à aucuns impôts, taxes, charges, contributions ou conditions quelconques autres que ceux expressément stipulés dans les baux en question. Il est entendu toutefois qu'aux autorités consulaires dont il y est fait mention, seront substituées les autorités japonaises."

The wording of this clause, owing doubtless to the superior lucidity of the tongue in which it is expressed, is more clear and specific than that of the parallel passage in the treaty concluded with Great Britain. The word "quartier" is, and can be, applied in no other sense than to indicate a portion of a town, that is to say, land which is occupied by buildings, and the treaty proceeds to state, in the most open

terms, that property of this nature shall not give rise to any form of charge other than those expressly stipulated in the leases. I have as yet seen no lease in which any mention, however indirect, is made of a house tax.

Until this principle has been successfully impugned, it appears to me to be beside the question to discuss whether the tax, which it is proposed to enforce, be discriminatory or excessive.

I would next point out that no representation on the question of income tax has yet emanated from this legation.

With regard to the number of persons who have voluntarily paid the house tax—though I am unable to perceive how facts of this nature can tend materially either to strengthen or invalidate the main point at issue—I find that even at the present date the total amount paid for the house tax amounts roughly to 20 per cent of the sum claimed, of which about 3 per cent has been contributed by British subjects, or about 7 per cent of the sum due from them. The interests of British subjects are very much more seriously affected than are those of the subjects of any other power, and their reluctance to pay is naturally proportionate. But if, indeed, such facts are to be adduced as arguments on either side, I venture to express a belief that, even if the total of contributions of all nationalities be adopted as the criterion, the balance will still incline in favor of the reasons which I have had the honor to maintain.

These are replies to some of the arguments set forth in your excellency's note, but in conclusion I would again beg to point out that the whole question is one of the interpretation of a clause in a treaty (the official text of which is English) as between the Government of Japan and the British Government, and that Great Britain has a right in the treaty text, and its interpretation, fully equal to that of Japan.

I avail, etc.,

CLAUDE M. MACDONALD.

[Inclosure 2.—Translation.]

Baron Komura to the British Minister.

No. 15.]

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, March 15, 1902.

MONSIEUR LE MINISTRE: I have the honor to acknowledge the receipt of your excellency's note of the 25th ultimo, in which, referring to a rumor to the effect that this department was not satisfied with your excellency's note of October 29 last, respecting the house tax question, inasmuch as it was not considered to contain any arguments invalidating the contentions advanced in my communication of the 21st of the same month, your excellency exposes more fully the grounds on which His Britannic Majesty's Government base their objections to the measure.

Before addressing myself to those objections, I wish to say that the rumor to which you advert was without foundation. The Imperial Government, desiring to give fresh evidence of their spirit of conciliation, endeavored, so far as possible, to meet the views of your excellency's Government on all points connected with the former settlements. So far, however, as they felt bound to adhere to the position previously taken by them, they assigned the reasons which controlled their action.

It has seemed to them that those reasons were conclusive, and they had confidently expected that their arguments would also carry convictions to His Britannic Majesty's Government. That that expectation was not realized was a source of regret to the Imperial Government. I must also admit that it was a disappointment to them that your excellency deemed it sufficient to confine your reply to a renewal of the protest previously formulated on the subject, because it was feared that that course could not have the effect of lessening the difficulty of finding a solution of the question. Your excellency will accordingly understand that I was especially glad to receive the note now under acknowledgment, since it seemed to open the way for a possible adjustment of the point at issue.

I am, however, at the same time compelled to say that, notwithstanding your excellency's exposition, the Imperial Government remain unshaken in the conviction of the accuracy of their previously announced attitude.

Your excellency, in combatting the views of the Imperial Government, relies upon the single proposition that the land held under perpetual leases in the former settlements "was granted, specifically, for purposes of trade and residence" and was intended exclusively "for the construction of buildings." In support of that proposition you refer to the building requirements which appear "in some of the decrees regulating the grant of these lands," and you also cite article 21 of the treaty of 1896 between Japan and France, the conditions of which, under most-favored-nation treat-

ment, you add, "apply no less to the subjects of His Britannic Majesty than to French citizens."

Your excellency will, no doubt, be surprised to learn that the building requirements to which you invite attention had reference exclusively to land granted freely upon application without the payment of any purchase money, and not to holdings which were bought and paid for. Those requirements were imposed, like several other restrictive conditions, for the unique purpose of preventing land speculation. When the reasons which gave rise to those conditions disappeared, as they did very shortly after the first settlements were formed, the conditions themselves fell into desuetude and are in no case recognized as having binding force.

I should, moreover, point out, in order to remove the danger of future misapprehensions, that the instruments in which the building requirements appeared, were not "decrees" in the sense of domestic enactments, but were regulations agreed to by the local Japanese authorities and the foreign consuls.

With the same object in view I wish to say that, while the Imperial Government have no intention in practice to withhold from British subjects, in the matter under consideration, any rights or immunities which are enjoyed by the subjects or citizens of any other power in virtue of treaty stipulations, they can not admit, in principle, that your excellency's nationals can, under the most-favored-nation rule, claim, by reference to the Franco-Japanese treaty, any rights or immunities superior to those which have actually been recognized as belonging to French citizens, and I may add that the question of the nature and extent of the rights and immunities really granted by article 21 of the Franco-Japanese treaty is now under discussion between the two powers directly interested.

Turning next to your excellency's principal contention, you will permit me to say that I am unable to see how the object for which the land was granted—assuming that it was granted in all cases for building purposes alone—can be said to affect the right of taxation in respect of property other than that actually granted.

If land is granted it must in the nature of things be granted for some purposes, and I fail to perceive why the mere declaration of the object of the grant should be held to deprive the granting state of rights which would belong to it if the object of the grant remained undeclared. I can not believe that a limitation upon an essential attribute of sovereignty, such as the right of taxation undoubtedly is, can be inferred from such a distinction.

Japan's ancient treaties provided that the subjects and citizens of the treaty powers should have the right, at the several open ports and towns, to lease ground and to purchase buildings thereon and to erect dwellings and warehouses.

In pursuance of that stipulation ground has been leased and buildings have been purchased and erected. The land having been granted by the State, subject to a rent charge, is exempt from taxation, but the Imperial Government claim that the buildings so erected, equally with all other property, saving only the property so leased, are subject to the revenue laws of the Empire. Nor can they admit that the confirmation of the leases or the exemption of the property held under such leases from taxation, which is guaranteed by the new treaties, extends to the buildings standing on the leased property any more than it does to other property belonging to the land renters.

Your excellency seems to regard the fact that the leases in perpetuity make no mention of a house tax, as inconsistent with the contentions of the Imperial Government.

It should be remembered that the leases in question are leases of land and of land alone, and, viewed in the light of this fact, it is thought that any reference in such leases to taxes on property not granted by the leases was not only unnecessary but would have been entirely out of place.

The leases containing the forfeiture clause to which your excellency alludes also provide, under the same penalty, that any transfer of the leased ground must be reported to the proper consul and through him to the governor for their joint assent and concurrence and for due registration. Buildings standing on the leased land are constantly purchased and sold and removed without the consent or authorization of either of the functionaries mentioned in the leases, such consent and authorization not being regarded as essential to pass good titles. It was in this sense that I wished your excellency to understand my assertion that the buildings in question are "still held wholly independently of those grants."

And in order to draw more sharply, if possible, the distinction which really exists in the matter of title between the leased land and the buildings thereon, I beg to invite your excellency's attention specifically to the forfeiture clause in the leases which you cite. It is therein declared that in case of default in any of the specified directions, the lease "shall become null and void and the buildings on said land shall become the property of the Japanese Government."

It may, I think, be fairly assumed from this provision that those who were responsible for the form of the leases in question shared the view of the Imperial Government that the buildings can not be said to be held under the leases, for if the leases cover both kinds of property, then the mere cancellation of those instruments would be sufficient to vest title to the buildings equally with the land in the Government.

The Imperial Government concur entirely with your excellency in the opinion that the question of the number of persons who have voluntarily paid the house tax does not tend to strengthen or invalidate the main contention any more than would reference to the number of persons who have failed to pay that impost, and I believe your excellency will find if you will turn to my previous communication on this subject that I did not cite the fact in support of the arguments of the Imperial Government.

In conclusion I wish to say that the Imperial Government still hope that His Britannic Majesty's Government will find it possible to accept their conclusion as to their right, in view of their treaty engagements, to impose the house tax in respect of buildings standing on land held under governmental leases in perpetuity in the former settlements. If, however, they are disappointed in that hope, the Imperial Government—recognizing, as your excellency justly observes, that the question depends upon treaty stipulations, in the interpretation of which neither contracting party can claim any exclusive right—will in principle consent to submit the point at issue to impartial arbitration.

The Governments of Germany, France, and the Netherlands have also raised objections to the imposition of the tax in question. It would manifestly be impossible for the Imperial Government to agree to separate arbitration in each of these cases; and your excellency will, I am confident, agree with me that the rights of all should be definitely determined by a single reference. If this proposition is agreed to by the powers interested, the details of the submission can very readily be elaborated.

I should add that the laws affecting the question which the Imperial Government are prepared to refer to arbitration will, pending the final determination of the matter, naturally continue to take their normal course.

I avail, etc.,

KOMURA.

Mr. Hay to Mr. Buck.

No. 405.]

DEPARTMENT OF STATE,
Washington, May 7, 1902.

SIR: Referring to the Department's No. 399, of April 12, 1902, the Department being of opinion that perpetual leaseholders still enjoy the same immunities in respect to all taxes and other charges on their estates as stipulated by their leases and as existed prior to the revision of the treaties, you were instructed to make proper representations to the Japanese Government in support of the view that the question in all its bearings should be referred for final settlement by the proposed arbitration, in order to terminate all further controversy relative to the imposition of charges and taxes of whatever style and character.

There appears, however, to be some misapprehension in relation to the actual attitude of the United States Government in respect of the controversy. The United States Government has not, indeed, made any protest to the Japanese Government with regard to any of these taxes or charges, although it has expressed doubt of the validity of both the house tax and of the income tax, so far as the latter is levied or assessed on that portion of income derived from rentals of perpetual leasehold estates. These doubts it still entertains, but before it had reached any definitive opinion on the questions the Department was advised of the proposed arbitration between Japan and other interested States. In view, however, of the expectation that citizens of the United States should enjoy equal treatment with the nationals

of other States, resulting from the effects of the arbitration, the Government of the United States, without becoming a party thereto, is willing to abide the result thereof.

But in view of its impartial friendship toward all the arbitrating States, and in order to settle finally all controverted questions, it is its opinion that it would be better that all questions which the parties to the arbitration wish to include should be referred. The reference of these questions the United States Government is willing to leave to be determined by them, but not being itself a party to the arbitration, it would not, at present, urge or ask the reference of any question, except so far as such reference is requested by one or more of those States. If there is no question raised for reference other than that of the house tax, your advice will be confined to the reference of that tax.

I am, etc.,

JOHN HAY.

Mr. Buck to Mr. Hay.

No. 642.]

UNITED STATES LEGATION,
Tokyo, Japan, May 14, 1902.

SIR: I have the honor to acknowledge the receipt of instruction No. 399, of date April 12 last, relative to memoranda exchanged between the Department of State and the British embassy at Washington on the subject of the reference to arbitration of the question of the Japanese Government's right to the imposition of the house tax in respect of buildings which are held under perpetual lease.

The opinion of the Department, as set forth in the quotation from its memorandum embodied in the instruction, is that "the scope of the reference should be such as to include and settle all questions in controversy relative to the imposition of charges and taxes of whatever style and character," and I am instructed to make proper representations to the Japanese Government in support of the view that the question in all its bearings should be referred for final settlement by the proposed arbitration.

I have the honor to state that upon the receipt of the above instruction I communicated the views of the Department to the Japanese minister for foreign affairs in a note of date the 13th instant, copy of which is herewith inclosed.

I have, etc.,

A. E. BUCK.

[Inclosure.]

Mr. Buck to Baron Komura Jutaro.

No. 350.]

UNITED STATES LEGATION,
Tokyo, May 13, 1902.

MONSIEUR LE MINISTRE: Referring to the proposal of the Imperial Government to refer to arbitration the question of the tax on the buildings erected on perpetual leaseholds in the former foreign settlements, under instructions from my Government I have the honor to represent the desire of the United States that the scope of the reference be widened so as to include and settle all questions in controversy relative to the imposition of charges and taxes of whatever character upon such buildings.

The view of my Government is that this question of taxes in all its bearings should be referred for final settlement by the proposed arbitration.

I avail, etc.,

A. E. BUCK.

Mr. Buck to Mr. Hay.

No. 643.]

UNITED STATES LEGATION,
Tokyo, Japan, May 16, 1902.

SIR: I have the honor to inclose herewith a copy of the reply of the Japanese minister for foreign affairs of this date to my note of the 13th instant, a copy of which was inclosed with my dispatch No. 642 of the 14th instant, in which note I stated the view of the United States that the question of taxes in all its bearings should be referred for final settlement by the proposed arbitration.

It appears from the minister's note that the Japanese Government will not widen the scope of arbitration so as to include any question other than the one of the house tax, which they claim to be the only question at issue.

I have, etc.,

A. E. BUCK.

[Inclosure.—Translation.]

*Baron Komura to Mr. Buck.*DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, May 16, 1902.

MONSIEUR LE MINISTRE: I have the honor to acknowledge the receipt of your excellency's note of the 13th instant, in which, in pursuance of instructions from your Government you represent the desire of the United States that the scope of the proposed arbitration respecting the house tax be widened so as to include and settle all questions in controversy relative to the imposition of charges within the purview of the suggested reference.

I hasten to assure your excellency in reply to the friendly suggestion of your excellency's Government that the proposal of the Imperial Government to have recourse to arbitration in the present case was precisely as wide as the controversy which gave rise to that proposal. The only question at issue was the question of the so-called house tax, and it was in respect of that question that the Imperial Government suggested an arbitral solution.

I should add, in order to prevent any misapprehension on the subject, that the Imperial Government could not consent to submit to arbitration any point not in actual controversy or which had not been made the subject of diplomatic discussion and to the amicable adjustment of which the usual diplomatic processes had not been unsuccessfully applied.

The revised treaties have been in operation for nearly three years, and I confidently believe that your excellency will agree with me that rights which have been openly, and with full knowledge, and without objection, exercised by the Imperial Government during all that time, ought not now to be brought into the arena of diplomatic discussion or made the subject of international arbitration.

I avail, etc.,

BARON KOMURA JUTARO.

Mr. Buck to Mr. Hay.

No. 651.]

UNITED STATES LEGATION,
Tokyo, June 9, 1902.

SIR: I have the honor to acknowledge the receipt of your instruction No. 405, of the 7th ultimo, as to the past attitude of the United States Government toward the controversy over the house tax and the income tax, and as to their actual attitude toward the reference to arbitration of the questions at issue.

Dispatch No. 642, of May 14, showed my representations, made in obedience to instruction No. 399, of April 12, to which reference is made in the instruction under reply, in support of the view that the question in all its bearings should be referred to arbitration.

The result of the suggestion that the scope of the arbitration offered by the Japanese Government should be widened so as to include all subsidiary questions as well as that of the house tax, to which alone their offer of arbitration had reference, was the minister for foreign affair's note of May 16, a copy of which I had the honor to forward with my dispatch No. 643, of the same date, in which he declined to widen the scope of arbitration, on the ground that the house-tax question was the only one at issue.

The positions which the British and other ministers have taken, from first to last, upon the house tax and the income tax and other points raised throughout the controversy, and the present positions of those ministers upon the reference to arbitration having been laid before the Department, in the absence of any new development in the situation, I have done nothing further since the receipt of the Baron Komura's note of the 16th ultimo.

The instruction to which I now have the honor to reply, while recalling the fact that the United States Government still entertain doubts as to the validity both of the house tax and of the income tax (on incomes from property held under perpetual leases), reiterates their decision not to become a party to the arbitration, in view of the fact that the enjoyment of the results thereof is vouchsafed to American citizens.

The instruction further expresses the opinion of the United States Government that all questions which the parties to the arbitration wish included should better be referred, while they, not being a party to the arbitration, will leave the determination of questions to be referred to the participating powers, refraining from asking the reference of any question not requested by one or more of those powers.

I shall not fail to bear in mind the Department's position as outlined in the instruction under acknowledgment, and shall act accordingly as the situation may require.

I have, etc.,

A. E. BUCK.

Mr. Hay to Mr. Buck.

No. 411.]

DEPARTMENT OF STATE,
Washington, June 11, 1902.

SIR: I have to acknowledge the receipt of your dispatch No. 642, of the 14th ultimo, inclosing a copy of a note addressed by you to the Japanese Government communicating the views of this Government respecting the submission to arbitration of the question of the right of the Japanese Government to impose a tax on buildings erected on lands held by perpetual lease in the former foreign settlements in Japan.

The Department approves your note to the Japanese Government.

I am, etc.,

JOHN HAY.

Mr. Buck to Mr. Hay.

No. 660.]

UNITED STATES LEGATION,
Tokyo, June 26, 1902.

SIR: Referring to the matter of arbitration of the house-tax question, having obtained copies of the several notes of the British, German, and French ministers to the Japanese minister for foreign affairs of dates of the 21st, 22d, and 25th ultimo, respectively, the British and German ministers requesting that the scope of the arbitration be widened that the controversy might be settled in all its bearings, and the French minister suggesting a definition of the question to be submitted, I have the honor to inclose them herewith. Having also obtained copies of the replies of the minister for foreign affairs to each of the ministers respectively, of date of the 21st instant, I have the honor to inclose them attached to the copies of the notes of the three ministers.

I have, etc.,

A. E. BUCK.

[Inclosure 1.]

The British minister to the Japanese minister for foreign affairs.

No. 49.]

BRITISH LEGATION,
Tokyo, May 21, 1902.

MONSIEUR LE MINISTRE: In your excellency's dispatch No. 15, of March 15, 1902, dealing with the disputed interpretation of Article XVIII of the treaty of commerce and navigation of 1894, your excellency states that you are in accord with me in thinking that the question in dispute between the Governments of Great Britain and Japan depends upon treaty stipulations in the interpretation of which neither contracting party can claim any exclusive right, and that therefore the Imperial Government will in principle consent to submit the point at issue to impartial arbitration.

I have the honor to inform your excellency that I have submitted your dispatch to my Government, and have now received a reply stating that they are in accord with the Imperial Japanese Government in thinking that the matter in dispute being one of the interpretation of an article in a treaty should be submitted to impartial arbitration, and in order that the matter should be settled finally and completely, they are of opinion that the dispute should be referred in all its bearings for final settlement by the proposed arbitration. They have therefore directed me to put before you, for the consideration of the Imperial Japanese Government, the following as the point to be decided by the arbitrators:

"Whether or not perpetual leaseholders still enjoy in respect of their property, both land and buildings, the same right of exemption from taxes or other charges, imperial or otherwise, and the same rights as obtained prior to the revised treaties."

The nature and extent of the rights and privileges possessed by perpetual leaseholders by virtue of their leases should be elaborated in due course and submitted to the arbitrators.

As your excellency will observe, this formula covers the entire question in dispute. His Majesty's Government therefore hope that it will meet with the earnest and favorable consideration of the Japanese Government.

I avail, etc.,

CLAUDE M. MACDONALD.

[Inclosure 2.]

*The Japanese minister for foreign affairs to the British minister.*DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, June 21, 1902.

MONSIEUR LE MINISTRE: The note which your excellency did me the honor to address to me under date of the 21st ultimo, respecting the offer of the Imperial Gov-

ernment to refer the question of the house tax to impartial arbitration was duly received.

The Imperial Government find it impossible, I regret to say, to share the views of your excellency's Government regarding the scope of the suggested reference.

In their estimation it would be both inadvisable and contrary to well-established practice to invoke an arbitral award touching matters which are not in actual controversy, or which have not been made the subject of diplomatic discussion and to the amicable adjustment of which the usual diplomatic processes have not been unsuccessfully applied. If your excellency will be good enough to refer to the correspondence which has passed between your legation and this Department, and more especially to your notes of February 25 and March 13, 1902, and to mine of March 15 last, I believe your excellency will join me in the conclusion that the only question in the present case, which fulfills what the Imperial Government conceive to be the essential prerequisites to arbitration, is the one relating to the imposition of taxes on buildings standing on land held under governmental leases in perpetuity in the former foreign settlements.

While the Imperial Government are still ready to accept an arbitral solution of the actual point at issue, and while they will always be prepared to meet, as they arise, concrete questions affecting their international relations, they are unwilling to enlarge their original proposition so as to embrace uncontroverted questions or hypothetical issues in anticipation of possible future disputes.

From what has been said your excellency will understand that the formula which your excellency has proposed is not acceptable to the Imperial Government. It may not, however, be out of place to point out specifically that the Imperial Government are not aware of the existence at this time of any dispute, in an international sense, either in respect of the land held under leases in perpetuity in the former settlements, or in respect of rights and privileges in such land or the buildings thereon other than the house tax; and equally the Imperial Government are unable to admit that the owners of the buildings in question enjoyed in respect of such buildings any right of exemption from taxes or other charges prior to the enforcement of the revised treaties.

The Imperial Government are not disposed strongly to insist upon any particular form in which to state the point at issue, but they believe it to be due to themselves as well as to the court of arbitration whose good offices are to be invoked, to ask that the actual issue be formulated with sufficient clearness and precision to exclude all doubt regarding the exact nature and scope of the reference. The desired end may, it is thought, be attained either by a recital of the actual facts of the case in the preamble of the arbitral agreement, or by a definite statement in the body of the agreement, of the point to which the arbitral tribunal is to be requested to address its decision.

Responding to that idea I beg to inclose herewith for your excellency's consideration alternative proposals on the subject, either of which, if it is fortunate enough to receive the approval of the Governments of Great Britain, Germany, and France, will be acceptable to the Imperial Government.

I should add that I am also communicating these same projects to the German and French representatives, and at the same time announcing to them, under a similar reservation, the willingness of the Imperial Government to agree to either formula.

I avail, etc.,

BARON KOMURA JUTARO.

[Subinclosure 1.]

Statement which might be inserted in the preamble of the arbitral agreement and from which the actual point at issue would be clearly deducible.

Whereas the competent Japanese authorities have, since Japan's revised treaties took effect in 1899, levied and collected in respect of buildings in the former foreign settlements of Japan standing on land held by persons other than Japanese subjects, under leases in perpetuity granted by or on behalf of the Japanese Government, the same municipal and local taxes as are imposed in Japan generally on buildings independently of the land on which they stand; and

Whereas the Governments of Germany, France, and Great Britain, in view of the provisions of their revised treaties with Japan, deny the right of said authorities to impose the taxes in question so far as the subjects and citizens of Germany, France, and Great Britain are concerned; and

Whereas the question in controversy which has thus arisen is not amenable to ordinary diplomatic methods; and

Whereas the powers at variance, cosignatories of the convention of The Hague for the peaceful adjustment of international differences, have resolved to terminate the disagreement by referring the question in controversy to impartial arbitration in accordance with the provisions of said convention.

[Subinclosure 2.]

Question at issue to which the arbitral tribunal might be requested to address its decision.

Whereas in view of the provisions of the revised treaties between Japan on the one hand and Germany, France, and Great Britain, respectively, on the other, which came into full force in August, 1899, the buildings in the former foreign settlements of Japan, standing on land held by subjects or citizens of Germany, France, and Great Britain under leases in perpetuity granted by or on behalf of the Japanese Government, are entitled to exemption from such municipal and local taxes as are generally imposed in Japan on buildings independently of the land on which they stand.

[Inclosure 3.—Translation.]

The German minister to the Japanese minister for foreign affairs.

IMPERIAL GERMAN LEGATION,
Tokyo, May 22, 1902.

MONSIEUR LE MINISTRE: In your note of the 18th of March last, on the subject of the interpretation of Article XVIII of the treaty of commerce and navigation of April 4, 1896, your excellency has been good enough to inform me that you recognize that the existing controversy rests upon an interpretation of a treaty in which neither of the contracting parties has an exclusive claim, and that therefore the Imperial Japanese Government will in principle agree to submit this controversy to an impartial arbitration.

I have the honor to inform your excellency that I have submitted your note to my Government, and that I am now authorized to declare that my Government, no less than the Imperial Japanese Government, is of the opinion that the controversy over the interpretation of this treaty stipulation should be submitted to an impartial arbitration. In order, however, that this question may in this manner be finally and completely settled, my Government considers it a matter of course that the controversy should be decided in all its parts through the proposed arbitration, and that more especially all those questions relating to the legal relation of the former foreign settlements which have formed the subject of the various representations and notes of this Imperial legation to the Imperial Japanese Government should be included in the arbitral proceedings. My Government, however, will no doubt willingly join in any proposal of your excellency or of other interested powers *which responds to this consideration*. (The meaning of these *italicised* words not being clear, Mr. Amano inquired of Dr. Ohrt, the secretaire-interpreter of the German legation, what they meant. Dr. Ohrt paraphrased them as follows: "Durch welchen dieser Gedanke erfuehlt wird,"—i. e., through which this thought will be fulfilled.)

Accept, etc.,

COUNT ARCO-VALLEY, *Imperial Envoy.*

[Inclosure 4.—Translation.]

The Japanese minister for foreign affairs to the German minister.

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, June 21, 1902.

MONSIEUR LE MINISTRE: I have the honor to acknowledge the receipt of your excellency's note of the 22d ultimo, in which, referring to the offer of the Imperial Government to submit the question of the house tax to impartial arbitration, your

excellency states that the Imperial German Government are of opinion that all questions concerning the legal relation of the former foreign settlements which have formed the subject of the various representations and notes from your excellency's legation to the Imperial Government should be included in the arbitral proceedings.

All the questions connected with the former foreign settlements which were brought into the field of discussion between our respective Governments in consequence of the new régime established by the revised treaties found, with two exceptions, I believe, a satisfactory solution in the measures adopted by the Imperial Government, to which I had the honor to attract your excellency's attention in my communication of October 21 last.

Of those two exceptions, one relates to the imposition of taxes on buildings standing on land held under governmental leases in perpetuity in the former foreign settlements, and the other to the conversion of leasehold rights to actual ownership, when perpetual leases of settlement land pass into the hands of Japanese subjects.

The adjustment of the former of those points of difference is, it is believed, completely provided for by the arbitral proposals of the Imperial Government.

The second point may, perhaps, be said to have a remote and consequential relation of a problematical nature to the property interests of foreigners, but its immediate and direct bearing, it must be admitted, is exclusively upon the property rights of Japanese subjects, and besides there is involved in it the question of the sovereign power and authority of the State over the property rights of its nationals.

The fact that no reference to this issue has been made by your excellency since the promulgation of the laws and ordinances of September 20, 1901, has encouraged the belief that the Imperial German Government were satisfied with the legal treatment accorded by those laws and ordinances to the leases in perpetuity, and that looking at the matter in all its phases they had decided not to press the point.

I need scarcely assure your excellency that if your excellency's government find it necessary to again approach the subject, the Imperial Government will be prepared to enter upon a careful examination of the matter, so far as it actually affects the interests of your excellency's countrymen, but considering that the second point above alluded to is primarily a question of a domestic character, which chiefly concerns the relations between the Japanese Government and the subjects of his Imperial Majesty, the Imperial Government do not think that it can be said to be an issue which properly lends itself to international arbitration.

From what has been said, your excellency will understand that the Imperial Government do not see their way to enlarge the scope of their original proposition. They are not disposed strongly to insist upon any particular form in which to state the point at issue; but they believe it to be due to themselves as well as to the court of arbitration whose good offices are to be invoked to ask that the actual issue be formulated with sufficient clearness and precision to exclude all doubt regarding the exact nature and scope of the proposed reference. The desired end may, it is thought, be attained either by a recital of the actual facts of the case in the preamble of the arbitral agreement or by a definite statement in the body of the agreement of the point to which the arbitral tribunal is to be requested to address its decision.

Responding to that idea, I beg to inclose herewith for your excellency's consideration alternative proposals on the subject, either of which, if it is fortunate enough to receive the approval of the Governments of Germany, France, and Great Britain, will be acceptable to the Imperial Government.

I should add that I am also communicating these same projects to the French and British representatives, and at the same time announcing to them, under a similar reservation, the willingness of the Imperial Government to agree to either formula.

I avail, etc.,

BARON KOMURA JUTARO,
Minister for Foreign Affairs.

[Inclosure 5.—Translation.]

The French chargé d'affaires to the Japanese minister for foreign affairs.

LEGATION OF FRANCE,
Tokyo, May 23, 1902.

MONSIEUR LE BARON: By my letter dated March 20 last I advised your excellency that the Government of the Republic gladly accepted the arbitration proposed by the Imperial Government with a view of solving the difficulties of interpretation of article 21 of the Franco-Japanese treaty in the matter of perpetual leases.

In continuation of this communication, I have the honor to suggest to your excellency the following position of the dispute to be submitted to the arbitral tribunal:

Interpretation of article 21 of the treaty: Does the word "propriété" include houses built on ground held by virtue of perpetual leases? If so, those houses as well as the grounds are not subject to any impost, taxes, charges, contributions, or conditions whatsoever other than those expressly stipulated in the perpetual leases.

The question put in those terms will find its natural solution by arbitration in all its bearings.

Be pleased, etc.,

G. DUBAIL.

[Inclosure 6.—Translation.]

The Japanese minister for foreign affairs to the French chargé d'affaires.

No. 27.]

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, June 21, 1902.

MONSIEUR LE CHARGÉ D'AFFAIRES: I have the honor to receive your note of the 23d ultimo, in which, after referring to your note of the 23d March last announcing the acceptance by your Government of the offer of the Imperial Government to refer the question of the house tax to arbitration, you were good enough to suggest a definition of the point to be submitted to the arbitral tribunal.

In the communication which I had the honor to address to you on this subject, under date of March 18, 1902, I endeavored to make it clear that the Imperial Government considered it essential that the common rights of all the powers taking part in the arbitration should be resolved by a single reference.

Since that time Her Netherlands Majesty's Government has announced its intention not to take part in the arbitral process. The texts of the treaties between Japan and the three remaining powers in interest are in different languages, and the stipulations in those compacts, which may be said to have a bearing upon the present issue, lack identity in both form and substance.

Accordingly, while the formula which you have presented to me clearly addresses itself to the provisions of the Franco-Japanese treaty, it could not be adapted either to Japan's treaty with Germany or Great Britain.

I am happy to believe from your note now under acknowledgment, as well as from your previous favor on this subject, that a practical coincidence of views exists between our Governments respecting the compass of the projected arbitration. The Imperial Government are not disposed strongly to insist upon any particular form in which to state the point at issue. But they believe the issue should be formulated with sufficient clearness and precision to definitely limit the reference to the question in actual controversy and at the same time it should be stated in such a manner as to make it equally applicable to all the powers in interest. The desired end may, it is thought, be attained either by a recital of the actual facts of the case in the preamble of the arbitral agreement, or by a definite statement in the body of the agreement of the point to which the arbitral tribunal is to be requested to address its decision.

Responding to that idea, I beg to inclose herewith for your consideration alternative proposals on the subject, either of which, if it is fortunate enough to receive the approval of the Governments of France, Germany, and Great Britain, will be acceptable to the Imperial Government.

I should add that I am also communicating these same projects to the German and British representatives and at the same time announcing to them, under a similar reservation, the willingness of the Imperial Government to agree to either formula.

Accept, etc.,

BARON KOMURA JUTARO.

Mr. Hay to Mr. Buck.

No. 414.]

DEPARTMENT OF STATE,
Washington, July 18, 1902.

SIR: I have to acknowledge the receipt of your dispatch No. 651, of the 9th ultimo, on the subject of the arbitration of the house-tax question and of all subsidiary questions.

The United States Government, animated by feelings of impartial friendship toward Japan and all the other powers interested in the complete and final settlement by arbitration of the question known as that of "the house tax," is of the opinion that it would be conducive to the promotion of harmonious relations in the future between the Japanese Government and the other powers if, at the same time, all subsidiary questions of taxation, as well as that of the house tax, should be embraced in the scope of the arbitration, so far as each question may be raised by any of the interested powers.

Citizens of the United States are urging their Government to become a party to the arbitration, but in view of the attitude this Government has assumed and of the assurances of the Japanese Government, it is, in the opinion of the Government of the United States, desirable that the several questions agitated by any one of the interested powers and which any of them wishes to have included in the arbitral arrangement, should be thus embraced. The fact that the reference is made can not prejudice the final decision of the question, whether there is or is not any just ground to claim exemption from any species of taxation, while the refusal to make the reference, by leaving any such questions open, may render them the subject of future agitation and irritation inconvenient to the relations of the Japanese Government with the other interested Governments on account of the complaints of their subjects.

You may communicate the substance of this instruction to the Japanese Government.

I am, etc.,

JOHN HAY.

Mr. Buck to Mr. Hay.

No. 671.]

UNITED STATES LEGATION,
Tokyo, August 15, 1902.

SIR: I have the honor to acknowledge the receipt of instruction No. 414, of date of the 18th ultimo, acknowledging the receipt of my No. 651, of the 9th of June last, respecting arbitration of the "house-tax" question, and stating the opinion of the United States that it would be conducive to the promotion of harmonious relations in future between the Japanese Government and other powers if all subsidiary questions of taxation as well as that of the house tax should be embraced in the scope of the arbitration, so far as questions may be raised by any of the interested powers, for reasons therein given, and stating that the substance of the instruction may be communicated to the Japanese Government.

On communicating the substance of the instruction to the Japanese Government, I find that the question to be submitted to arbitration has already been agreed upon between the Japanese Government and the ministers of the protesting powers—Great Britain, France, and Germany—as to the scope of the arbitration in terms, as follows:

Whereas a dispute has arisen between the Governments of Japan on the one side and Great Britain, France, and Germany on the other, respecting the true intent and meaning of the following provisions of the treaties and other engagements existing between them—that is to say, paragraph 4, Article XVIII of the Anglo-Japanese treaty; paragraph 4, Article XXI of the Franco-Japanese treaty; paragraph 4, Article XVIII of the German-Japanese treaty, and paragraph 3 of the complementary note

from the German minister for foreign affairs to the Japanese minister at Berlin, dated April 4, 1896, and the pertinent clauses of the Japanese minister's reply of the same date—the question at issue upon which the parties to this arbitration request the arbitral tribunal to pronounce a final decision is as follows:

Whether or not the provisions of the treaties and other engagements above quoted exempt only land held under leases in perpetuity granted by or on behalf of the Japanese Government, or land and buildings of whatever description constructed, or which may hereafter be constructed, on such land, from any imposts, taxes, charges, contributions, or conditions whatsoever other than those expressly stipulated in the leases in question.

I am informed that the protocol will be formally signed as soon as it can be agreed between the ministers of the three protesting powers in what language it shall be. As the Japanese Government require that each of the three ministers shall join in signing one and the same instrument, and as the French minister declares that he can only sign the protocol written in the French language, there seems to be some difficulty and delay in the matter, expected to be overcome in a few days at most.

I have, etc.,

A. E. BUCK.

Mr. Buck to Mr. Hay.

No. 672.]

UNITED STATES LEGATION,
Tokyo, August 18, 1902.

SIR: Referring to the telegraphic instruction of date of January 18 last directing me to officially suggest to the Japanese Government the arbitration of the "house-tax" question, in the event the representatives of other powers did so, and to try to have the suspension of enforced collection of the tax continued pending arbitration, efforts to accomplish which, on the Government proposing to submit the question to arbitration as they did on March 14 last, having been unsuccessful then, I now have the honor to report that I have the assurance of the minister for foreign affairs that as soon as the articles of arbitration agreed upon are signed by all the parties, the terms of which were stated in my dispatch No. 671 of the 15th instant, the further collection of the house tax will be suspended pending the decision of the arbitral court.

I have, etc.,

A. E. BUCK.

Mr. Adee to Mr. Buck.

No. 424.]

DEPARTMENT OF STATE,
Washington, September 23, 1902.

SIR: I have to acknowledge the receipt of your No. 672, of the 18th ultimo, in regard to the arbitration of the house-tax question.

The assurance you report as having received from the minister of foreign affairs that the further collection of this tax will be suspended pending the decision of the arbitral court is an apparently satisfactory result of your suggestions in pursuance of telegraphic instructions of January 18 last, to which you refer.

I am, etc.,

ALVEY A. ADEE.

Mr. Wilson to Mr. Hay.

No. 685.]

LEGATION OF THE UNITED STATES,
Tokyo, September 27, 1902.

SIR: With reference to Mr. Buck's dispatch No. 671, of August 15, I have the honor to inclose an official text of the protocol signed August 28, whereby it is agreed between the Governments of Great Britain, France, Germany, and Japan that the house-tax question shall be submitted to arbitration in accordance with the provisions of The Hague convention, of which they are cosignatories, Great Britain, France, and Germany forming one and Japan the other party to the controversy.

It will be seen that each party is to select one arbitrator, and that the two so chosen are to designate an umpire. But if they fail to do this within two months after their appointment, His Majesty the King of Sweden and Norway will be requested to name the umpire. All three arbitrators are to be members of the permanent court of arbitration at The Hague.

Prefixed to the protocol is the note of the Japanese minister for foreign affairs, by which his Government promise that pending the termination of the arbitral proceedings they will suspend the forcible collection of the house tax. The assurance mentioned in dispatch No. 672, of the 18th ultimo, has thus been formally confirmed.

American holders of settlement properties under perpetual leases seem to be in a satisfactory position with regard to the house tax, since they await the results of the arbitration with rights, present and future, the same as those of British, French, and German leaseholders, and are meanwhile safeguarded from distraint for nonpayment of the tax.

I have the honor to inclose also a copy of Baron Komura's letter of this date in answer to a note conveying the substance of the instruction of July 18. At the same time he transmits the protocol and expresses appreciation of the American Government's attitude throughout the controversy.

I have, etc.,

HUNTINGTON WILSON.

[Inclosure.—Translation.]

The Japanese minister for foreign affairs to Mr. Wilson.

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, September 27, 1902.

SIR: The note which his excellency the minister of the United States did me the honor to address to me, under date of the 15th ultimo, relating to the proposed reference to arbitration of the question of the house tax was duly received.

The basis of the proposed arbitration had, some time before the receipt of Mr. Buck's note, been definitively agreed upon by the powers actively interested in the question, and the protocol, embodying the previously accepted issue, was signed by the representatives of Japan, Germany, France, and Great Britain on the 28th ultimo.

I have the honor to inclose herewith a copy of the protocol, and to assure you that the submission is as comprehensive as the controversy which it is intended to compose.

With expressions of appreciation for the attitude of impartial friendship which the Government of the United States has maintained throughout the discussion of the house-tax question, I beg to renew to you the assurances of my high consideration.

BARON KOMURA JUTARO,
Minister for Foreign Affairs.

[Subinclosure.—Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, August 28, 1902.

In view of the conclusion this day of a protocol by which the Governments of Japan, Germany, France, and Great Britain have agreed to refer to impartial arbitration the question whether or not the provisions of the treaties and other engagements mentioned in the said protocol exempt only land held under leases in perpetuity granted by or on behalf of the Japanese Government, or land and buildings of whatever description, constructed or which may hereafter be constructed on such land, from any imposts, taxes, charges, contributions, or conditions whatsoever other than those expressly stipulated in the leases in question, the Imperial Government have deemed it proper that the forcible collection of the taxes and rates in respect of such buildings should be suspended during the arbitral proceedings. The undersigned, His Imperial Japanese Majesty's minister of state for foreign affairs, has therefore the honor to acquaint His Excellency Sir Claude Maxwell Macdonald, His Britannic Majesty's envoy extraordinary and minister plenipotentiary, that the Imperial Government will suspend the forcible collection of the taxes and rates above-mentioned until the arbitral decision is pronounced or the arbitral proceedings are otherwise terminated; it being understood that such suspension shall not prevent the Japanese authorities from collecting the taxes and rates in question so far as they can do so without recourse to distraint; and it being further understood that neither such suspension, nor the consequences thereof, nor the voluntary payment of the said taxes and rates, is to be invoked against or to operate in any way to the disadvantage or prejudice of any of the above-mentioned powers in connection with said arbitration.

The undersigned avails himself of this occasion to renew to His Excellency Sir Claude Maxwell Macdonald the assurance of his highest consideration.

(Signed)

BARON KOMURA JUTARO.

His Excellency Sir CLAUDE MAXWELL MACDONALD,
His Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary.

N. B.—Similar notes have been addressed to the German minister and to the French chargé d'affaires.

Protocol.

Whereas a dispute has arisen between the Government of Japan on the one side and the Governments of Great Britain, France, and Germany, on the other, respecting the true intent and meaning of the following provisions of the treaties and other engagements respectively existing between them, that is to say:

Paragraph 4, Article XVIII, of the treaty of commerce and navigation of April 4, 1896, between Japan and Germany: "Sobald diese Einverleibung erfolgt"—that is to say, when the several foreign settlements in Japan shall have been incorporated with the respective Japanese communes—"sollen die bestehenden, zeitlich unbegrenzten Ueberlassungsverträge, unter welchen jetzt in den gedachten Niederlassungen Grundstücke besessen werden, bestätigt und hinsichtlich dieser Grundstücke sollen keine Bedingungen irgend einer anderen Art auferlegt werden, als sie in den bestehenden Ueberlassungsverträgen enthalten sind;" and section 3 of the complementary communication of the same date from the German secretary for foreign affairs to the Japanese minister at Berlin: "3. dass, da das Eigenthum an den im Artikel XVIII des Vertrages erwähnten Niederlassungsgrundstücken dem Japanischen Staate verbleibt, die Besitzer oder deren Rechtsnachfolger für ihre Grundstücke ausser dem kontraktmässigen Grundzins Abgaben oder Steuern irgend welcher Art nicht zu entrichten haben werden;" and the clause in the reply of the Japanese minister of the same date to the foregoing communication: "Dass die darin unter Nummer 1 bis 4 zum Ausdruck gebrachten Voraussetzungen, welche den Erwerb dinglicher Rechte an Grundstücken, die Errichtung von Waarenhäusern, die Steuerfreiheit der Grundstücke in den Fremdenniederlassungen und die Erhaltung wohl-erworbener Rechte nach Ablauf des Vertrages zum Gegenstande haben, in allen Punkten zutreffend sind;"

Paragraph 4, Article XXI, of the revised treaty of August 4, 1896, between Japan and France: "Lorsque les changements ci-dessus indiqués auront été effectués"—that is to say, when the several foreign settlements in Japan shall have been incorporated with the respective Japanese communes and made a part of the municipal system of Japan, and when the competent Japanese authorities shall have assumed all municipal obligations and duties, and the municipal funds and property belonging

to such settlements shall have been transferred to said Japanese authorities—"les baux a perpétuité en vertu desquels les étrangers possèdent actuellement des propriétés dans les quartiers seront confirmés, et les propriétés de cette nature ne donneront lieu à aucuns impôts, taxes, charges, contributions ou conditions quelconques autre que ceux expressément stipulés dans les baux en question;" and

Paragraph 4, Article XVIII, of the revised treaty of July 16, 1894, between Japan and Great Britain: "When such incorporation takes place"—that is to say, when the several foreign settlements in Japan shall have been incorporated with the respective Japanese communes—"existing leases in perpetuity under which property is now held in the said settlements shall be confirmed, and no conditions whatsoever other than those contained in such existing leases shall be imposed in respect of such property;" and

Whereas the controversy is not amenable to ordinary diplomatic methods; and Whereas the powers at variance, cosignatories of the Convention of The Hague for the peaceful adjustment of international differences, have resolved to terminate the controversy by referring the question at issue to impartial arbitration in accordance with the provisions of said convention:

The said powers have, with a view to carry out that resolution, authorized the following representatives—that is to say:

The Government of Great Britain: Sir Claude Maxwell Macdonald, G. C. M. G., K. C. B., His Britannic Majesty's envoy extraordinary and minister plenipotentiary;
The Government of France: M. G. Dubail, minister plenipotentiary, chargé d'affaires of France;

The Government of Germany: Count von Arco Valley, envoy extraordinary and minister plenipotentiary of His Majesty the German Emperor, King of Prussia;

The Government of Japan: Baron Komura Jutaro, His Imperial Japanese Majesty's minister of state for foreign affairs;

To conclude the following protocol:

I. The powers in difference agree that the arbitral tribunal to which the question at issue is to be submitted for final decision shall be composed of three members, who are members of the Permanent Court of Arbitration of The Hague, to be selected in the following manner:

Each party, as soon as possible and not later than two months after the date of this protocol, to name one arbitrator, and the two arbitrators so named together to choose an umpire. In case the two arbitrators fail for the period of two months after their appointment to choose an umpire, His Majesty the King of Sweden and Norway shall be requested to name an umpire.

II. The question at issue upon which the parties to this arbitration request the arbitral tribunal to pronounce a final decision is as follows:

Whether or not the provisions of the treaties and other engagements above quoted exempt only land held under leases in perpetuity granted by or on behalf of the Japanese Government, or land and buildings of whatever description, constructed or which may hereafter be constructed on such land, from any imposts, taxes, charges, contributions, or conditions whatsoever other than those expressly stipulated in the leases in question.

III. Within eight months after the date of this protocol each party shall deliver to the several members of the arbitral tribunal and to the other party, complete written or printed copies of the case, evidence, and arguments upon which it relies in the present arbitration. And not later than six months thereafter a similar delivery shall be made of written or printed copies of the counter cases, additional evidence, and final arguments of the two parties; it being understood that such counter cases, additional evidence, and final arguments shall be limited to answering the principal cases, evidence, and arguments previously delivered.

IV. Each party shall have the right to submit to the arbitral tribunal as evidence in the case all such documents, records, official correspondences, and other official or public statements or acts bearing on the subject of this arbitration as it may consider necessary. But if in its case, counter case, or arguments submitted to the tribunal either party shall have specified or alluded to any document or paper in its own exclusive possession without annexing a copy, such party shall be bound, if the other party thinks proper to apply for it, to furnish that party with a copy thereof within thirty days after such application is made.

V. Either party may, if it thinks fit, but subject to the right of reply on the part of the other party within such time as may be fixed by the arbitral tribunal, present to the tribunal, for such action as the tribunal may deem proper, a statement of objections to the counter case, additional evidence, and final arguments of the other party, if it is of opinion that those documents or any of them are irrelevant, erroneous, or not strictly limited to answering its principal case, evidence, and arguments.

VI. No papers or communications other than those contemplated by Sections III and V of this protocol, either written or oral, shall be admitted or considered in the present arbitration unless the arbitral tribunal shall request from either party additional or supplementary explanation or information, to be given in writing. If the explanation or information is given, the other party shall have the right to present a written reply within such time as may be fixed by the arbitral tribunal.

VII. The tribunal shall meet at a place to be designated later by the parties, as soon as practicable, but not earlier than two months nor later than three months after the delivery of the counter cases as provided in Section III of this protocol, and shall proceed impartially and carefully to examine and decide the question at issue. The decision of the tribunal shall, if possible, be pronounced within one month after the president thereof shall have declared the arbitral hearing closed.

VIII. For the purposes of this arbitration the Government of Japan shall be regarded as one party, and the Governments of Great Britain, France, and Germany, jointly, shall be regarded as the other party.

IX. So far as is not otherwise provided in this protocol, the provisions of the Convention of The Hague for the peaceful adjustment of international differences shall apply to this arbitration.

Done at Tokyo this 28th day of August, 1902, corresponding to the 28th day of the eighth month of the thirty-fifth year of Meiji.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Buck to Mr. Hay.

No. 647.]

UNITED STATES LEGATION,
Tokyo, June 2, 1902.

SIR: I have the honor to inclose herewith copy of the note from the minister for foreign affairs, whereby United States consuls in Japan are permitted to use their good offices in representation of the interests of Cubans in Japan.

On receipt of this note, acting on the Department's telegraphic instruction^a of the 24th ultimo, I have instructed the United States consuls to act accordingly.

I have, etc.,

A. E. BUCK.

[Inclosure.—Translation.]

Baron Komura Jutarō to Mr. Buck.

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, May 30, 1902.

MONSIEUR LE MINISTRE: I have the honor to acknowledge the receipt of your excellency's note No. 352, dated the 26th instant, asking, under instructions from the United States Government, given at the request of the President of Cuba, that the Imperial Government should permit United States consuls in Japan to use their good offices in representation of the interests of Cuba and its citizens until Cuban consuls shall have been appointed.

I beg to state, in reply, that, although the Imperial Government are not yet in receipt of any official communication as regards the establishment of the State of Cuba, yet they have no objection as to the United States consuls using their good offices in representation of the interests of Cubans in Japan.

I avail, etc.,

BARON KOMURA JUTARŌ,
Minister for Foreign Affairs.

ACCIDENT TO PRESIDENT ROOSEVELT.

Telegram from the minister for foreign affairs of Japan to the Japanese Minister to the United States, left by Count Mutsu, secretary of Japanese legation, at the Department of State, September 6, 1902.

His Majesty, the Emperor, commands you to convey to the President his sincere congratulations for the fortunate escape of the President from the consequences of the accident which might have proved very serious, and also to express His Majesty's wishes for the continual health and welfare of the President.

Mr. Adee to Mr. Takahira.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 6, 1902.

Count Mutsu has communicated the friendly message of His Majesty the Emperor, which I have transmitted to the President, by whom I am charged to make known his high appreciation.

ALVEY A. ADEE, *Acting Secretary.*

DEATH OF ALFRED E. BUCK, UNITED STATES MINISTER TO JAPAN.

Mr. Ferguson to Mr. Hay.

[Telegram.]

LEGATION OF THE UNITED STATES,
Tokyo, December 4, 1902.

It is my painful duty to announce the sudden death to-day of Minister Buck. * * *

FERGUSON.

Memorandum from Mr. Takahira to Mr. Hay.

JAPANESE LEGATION,
Washington, December 4, 1902.

Copy of telegram from Baron Komura to Mr. Takahira, received December 4, 1902:

“His Excellency Buck, while attending duck-hunting party December 4, taken suddenly ill and died.

“Convey to the United States Government deepest condolence of Imperial Government.”

Mr. Hay to Mr. Takahira.

No. 88.]

DEPARTMENT OF STATE,
Washington, December 11, 1902.

SIR: I have the honor to acknowledge the receipt of the telegram, dated the 4th instant, from Baron Komura to you, in which he announces the death of Mr. Alfred E. Buck, United States minister to Japan, and expresses the condolence of the Japanese Government at the sad event.

In reply I beg to say that the Government of the United States greatly appreciates the courtesy and sympathy of the Japanese Government.

Accept, etc.,

JOHN HAY.

KOREA.

AMENDMENT TO LAND REGULATIONS OF FOREIGN SETTLEMENT AT CHEMULPO.

Mr. Paddock to Mr. Hay.

No. 445.]

LEGATION OF THE UNITED STATES,
Seoul, March 15, 1902.

SIR: I have the honor to inform you that at a meeting of the foreign representatives held on October 29 last, an application submitted by Mr. Pavlow, then Russian chargé d'affaires, for the acquisition by his Government of a consular site in the general foreign settlement of Chemulpo, under the same conditions as those under which other governments had acquired such sites, was considered, and it was unanimously decided that there could be no objection to the same.

At a subsequent meeting Mr. Pavlow raised a question as to the anomaly which would exist in the case of governments and their consuls at Chemulpo, whose nationals did not hold land within the settlement, since under Article VI of the present regulations of the general foreign settlement of Chemulpo, such governments and their consuls, although owners of land, would not be entitled to representation on the municipal council and would therefore be less favored than private lot owners.

He pointed out that in 1897, owing to a number of similar faults discovered in the regulations of the Chemulpo settlement, on the occasion of the signature of the regulations of the new foreign settlements at Chemulpo and Mokpo, the foreign representatives decided to submit to the approval of their respective governments a proposal to substitute the new regulations for those of the Chemulpo settlement. This proposal was submitted to the Department of State by minister Allen in a dispatch (No. 38, diplomatic) of November 27, 1897, and was approved by the Department in a dispatch (No. 36) dated December 31, 1897. Such complete substitution of the new regulations for those of the Chemulpo settlement, however, has never been effected.

Mr. Pavlow then suggested, as the application to Chemulpo of the whole of the regulations for the new settlements mentioned would appear to be a complicated matter and require much time to arrange, that Article VI alone of the Chemulpo regulations be at once amended by the substitution for it of Article XIV of the regulations of the new settlements mentioned, viz, the municipal council to consist of:

1. The Kamni or a Korean local official of suitable rank;
2. The local consuls;
3. Not more than three members elected by the registered lot holders.

Article VI of the present Chemulpo regulations reads as follows:

The municipal council shall consist of a Korean local official of suitable rank; the consuls of the treaty powers whose subjects or citizens hold land in the settlement; and of three registered landholders, who shall be elected, etc.

At a meeting of the representatives held February 22 and at a later meeting the matter was discussed and the question was raised as to whether the term "local consuls" might not be liable to misconstruction, since the present Chemulpo council has in its membership several consuls whose consulates are in Seoul, as in the case of myself. I suggested that the reading "local consuls" be made more explicit by adding that the term "local consuls" shall be understood to include "those consuls whose consulates, located in the city of Seoul, are at present represented in the municipal council of Chemulpo." My idea being that, while this would rectify the fault complained of by Mr. Pavlow, it would not increase the membership of the council by admitting thereto consuls whose consulates are at Seoul and who have no nationals holding land within the settlement, as is the case with the French and Belgian consuls. After some discussion, however, it was decided that Article VI of the existing Chemulpo regulations could be better amended by striking out the words "whose subjects or citizens hold land in the settlement," so as to make the article read:

The municipal council shall consist of a Korean official of suitable rank; the consuls of the treaty powers; and three registered landholders, etc.

I approved of this change, but stated that I could not officially consent to it without submitting it to my Government, as it was not such a substitution of the new regulations as the representative of my Government had been authorized to make, as before mentioned.

The proposition was unanimously adopted by all the representatives who agreed provisionally to authorize the change in Article VI, pending sanction to be applied for from their respective governments. In the meantime a joint note, a copy of which is inclosed, was drafted, and sent on March 7 to the minister for foreign affairs of the Korean Government by Mr. Hayashi, doyen of the diplomatic corps.

The matter seems not so much one of importance as of convenience, for it is evident that any of the treaty powers having consulates at Seoul could at any time obtain membership in the Chemulpo council by having one of its nationals purchase a lot in the settlement. I therefore submit the proposed change in Article VI of the regulations of the general foreign settlement of Chemulpo for approval in accordance with action of the other representatives.

I have, etc.,

GORDON PADDOCK.

[Inclosure.]

Joint note to the Korean minister for foreign affairs.

SEOUL, March 7, 1902.

MONSIEUR LE MINISTRE: Considerable inconvenience has been experienced in the working of the sixth article of the Chemulpo land regulations owing to the provision which it contains excluding from the municipal council those consuls of the treaty powers whose subjects or citizens do not hold land in the settlement.

At ports which were more recently opened to trade this defect has been remedied by the insertion of a stipulation in the regulations under which the right of membership to the municipal council is unconditionally vested in the local consuls.

At a recent meeting of the foreign representatives it was considered advisable to modify the above article of the Chemulpo regulations, so as to bring it more into conformity with the fourteenth article of the regulations of the foreign settlements at the new ports, and it was therefore decided to eliminate the words "whose subjects or citizens hold land in the settlement" from the article in question.

Instead, however, of adopting the wording of the later regulations—"local consuls"—the foreign representatives preferred to retain the expression "consuls of the treaty powers," in order to include those consuls who, though they reside in Seoul, exercise jurisdiction over Chemulpo.

This modification has been adopted by the foreign representatives subject to the approval of their respective governments, and in notifying it to your excellency, I have the honor to request that you will be pleased to signify your assent thereto, as required by the ninth article of the Chemulpo regulations.

I avail, etc.,

G. HAYASHI,
Doyen of the Diplomatic Corps.

Mr. Allen to Mr. Hay.

No. 456.]

LEGATION OF THE UNITED STATES,
Seoul, May 7, 1902.

SIR: On March 15, Mr. Paddock, in his dispatch No. 445, informed you of a proposed change in the land regulations for the general foreign settlement of Chemulpo. It was proposed that Article VI, which is as follows:

The municipal council shall consist of a Korean local official of suitable rank; the consuls of the treaty powers whose subjects or citizens hold land in the settlement, and of registered landholders who shall be elected, etc.

should be so changed as to read:

The municipal council shall consist of a Korean official of suitable rank, the consuls of the treaty powers and three registered landholders, etc.

At a meeting of the foreign representatives held on yesterday to discuss this matter further, Mr. Hayashi, the Japanese minister, stated that his Government objected to the form of this amendment and proposed that the following be substituted for it:

The municipal council shall consist of a Korean local official of suitable rank, the consuls of the treaty powers whose Governments or whose subjects or citizens hold land in the settlement, etc.

As this suggestion on the part of the Japanese Government covers the ground better than the one already sent you, and as it prevents the filling up of the council with consuls whose Governments or people do not hold land in the settlement, and as the Korean Government have not yet replied to the request of the foreign representatives to have the former amendment accepted, it was unanimously agreed that we each ask our respective Governments to accept this proposed amendment suggested by the Government of Japan, instead of the one already sent forward.

I have the honor to request, therefore, that I be instructed to accept this last proposed amendment.

I have, etc.,

HORACE N. ALLEN.

Mr. Hay to Mr. Allen.

No. 196.]

DEPARTMENT OF STATE,
Washington, June 12, 1902.

SIR: I have to acknowledge the receipt of your dispatch No. 456, of the 7th ultimo, requesting that you be instructed to accept a substi-

tute amendment proposed by the Japanese Government, of Article VI of the land regulations for the general foreign settlement of Chemulpo, and to inform you in reply that you may agree to the amendment proposed by Japan.

I am, etc.,

JOHN HAY.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Allen to Mr. Hay.

No. 472.]

LEGATION OF THE UNITED STATES,
Seoul, June 3, 1902.

SIR: I have the honor to acknowledge the receipt on the 25th ultimo of your cablegram^a in regard to the matter of obtaining permission for the consuls of the United States to attend to the interests of Cuba and its citizens pending the establishment of Cuban consulates.

I at once addressed acting foreign minister as per inclosed copy of my letter.

After much delay I received a reply merely acknowledging the receipt of my letter.

This dispatch I returned with the explanation that as I had asked for permission for United States consular officers to act, I must have a definite statement as to whether such permission is granted. This brought a satisfactory reply, a copy of which I inclose, in which permission is granted.

I have, etc.,

HORACE N. ALLEN.

[Inclosure 1.]

Mr. Allen to the acting minister for foreign affairs.

LEGATION OF THE UNITED STATES,
Seoul, May 28, 1902.

YOUR EXCELLENCY: I am informed by telegraph by my Government that the President of Cuba asks the Government of Korea to permit the United States consular officers within its jurisdiction to use their good offices in representation of the interests of Cuba and of its citizens until Cuban consuls shall have been appointed, and I am instructed to ask that this permission be granted.

You will remember that Cuba revolted against the dominion of Spain and the United States went to war with the latter country in order to end the revolution and free Cuba. After the close of the war the United States assisted Cuba in preparing for the establishment of a free and independent government. This has now been accomplished, and the first President, Estrada Palma, having been duly elected, was inaugurated on the 20th instant, at which time the troops and officials of the United States were withdrawn from the Island Republic.

Pending the conclusion of foreign treaties, it is evidently the wish of the Cuban Government that the United States consular officials should attend to Cuban interests abroad.

I take this opportunity, etc.,

HORACE N. ALLEN.

[Inclosure 2.]

*The acting minister for foreign affairs to Mr. Allen.*FOREIGN OFFICE, *May 29, 1902.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your letter in which you inform me that the Cuban Government asked the United States Government to have the American consuls under its jurisdiction protect the rights of Cuban citizens; that you have been instructed by your Government to ask permission from the Korean Government for the exercise of these functions by the United States consuls in Korea, and you relate the history of the establishment of the Cuban Government as a republic, by the assistance of the United States.

I beg to inform you that Cuba shall have equal treatment with other nations as she now has the right of independence. However, no treaty between Cuba and Korea has been made. Therefore, consular officers can not be established at present. But the American consular officers are empowered to protect the rights of Cuban citizens, under their jurisdiction, and the Korean Government grants the same right according to custom.

I have, etc.,

CHEY YUNG HA.

ACCIDENT TO PRESIDENT ROOSEVELT.*The Emperor of Korea to President Roosevelt.*

[Telegram.]

SEOUL, *September 16, 1902.*

I regret exceedingly your excellency's recent carriage accident, and heartily congratulate you on your happy escape. I trust you will speedily recover from the effects of the collision.

HIUNG, *Emperor Daicher of Daihan.**President Roosevelt to the Emperor of Korea.*

[Telegram.]

WHITE HOUSE,
Washington, September 16, 1902.

I esteem Your Majesty's sympathetic message.

THEODORE ROOSEVELT.

MEXICO.

CLAIM OF THE CATHOLIC CHURCH OF CALIFORNIA (PIOUS FUND) v. MEXICO.^a

Mr. Wharton to Mr. Ryan.

No. 563.]

DEPARTMENT OF STATE,
Washington, August 3, 1891.

SIR: Among the claims presented against the Government of Mexico before the American and Mexican Joint Commission under the convention of July 4, 1868, was one by the archbishop and bishops of the Roman Catholic Church of California, entitled "The case of Joseph S. Alemany, archbishop, etc., and Thaddeus Amat, bishop, etc., v. The Republic of Mexico, No. 493." The claim was for a share of the income of the so-called "Pious Fund of the Californias," which it was alleged that the Government of Mexico simply possessed in trust for the benefit of its intended beneficiaries, of whom the Catholic Church of California represented a part.

Upon a difference of opinion between the American and Mexican commissioners the case was referred to Sir Edward Thornton, as umpire, who decided that one-half of the annual income of said fund, or \$43,080.99, should be paid by the Government of Mexico to the Roman Catholic Church of California for the period of twenty-one years from the 30th of May, 1848, making a total award of \$904,700.79. This sum was duly accounted for in the settlement between the two Governments and has been paid to the claimants. The authority of the commission to make a specific award of damages did not extend beyond such claim as was perfected at the time of the exchange of ratifications of the foregoing convention. The decision authoritatively established, however, the responsibility of the Government of Mexico to the Roman Catholic Church of California for its share of the annual income of said fund as above; also that its bishops and archbishop are the proper parties to demand and receive it; that the claimant is a corporation of American citizens, and that the case is a proper one for the diplomatic intervention of this Government.

A copy of the decision of the umpire is herewith inclosed.^b

The archbishop of San Francisco and the bishop of Monterey, representing and acting for said church, now represent to the Department that they have not received any further payments on account of the income of said fund which has accrued subsequent to the 30th of May, 1869, and they ask the intervention of this Government to obtain from the Government of Mexico the payment thereof, as well as of future installments regularly as they shall become due. The amount so due at this time is \$904,700.79 and interest.

^a For arbitration of this claim see Appendix II to this volume.

^b Not printed.

You will respectfully call this matter to the attention of the foreign office and make proper inquiries concerning it. It is hoped that the Mexican Government is prepared to make some satisfactory adjustment of the same.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Ryan to Mr. Blaine.

No. 737.]

LEGATION OF THE UNITED STATES,
Mexico, August 17, 1891.

SIR: In obedience to your instruction No. 563 of the 3d instant, I have addressed to the Mexican foreign office an official representation in behalf of the claim made by the archbishop and bishops of the Roman Catholic Church in California against the Government of Mexico for the payment of a sum held by the claimants to be the unpaid part of their legal share of the income of the so-called "Pious Fund of the Californias," which it was alleged that the Government of Mexico simply possessed in trust for the benefit of its intended beneficiaries, among which was the Catholic Church of California—the claim being made under the decision of the umpire to whom was referred the question of the difference of opinion between the American and Mexican commissioners appointed to consider the case.

I am, sir, with much respect, your obedient servant,

THOS. RYAN.

[Inclosure.]

Mr. Ryan to Mr. Mariscal.

UNITED STATES LEGATION,
Mexico, August 17, 1891.

SIR: I am specifically instructed to draw your excellency's notice to the legal relations of the Mexican Government pertaining to the so-called "Pious fund of the Californias," as defined by Sir Edward Thornton, as umpire of the American and Mexican Joint Commission under the convention of July 4, 1868, in a decision bearing date the 11th of November, 1875.

Among the claims presented against the Government of Mexico, before that Commission, was one by the archbishop and bishops of the Roman Catholic Church of California, entitled the case of Joseph S. Alemany, archbishop, etc., and Thaddeus Amat, bishop, etc., *v.* The Republic of Mexico, No. 493.

The claim was for a share of the income of the "Pious fund of the Californias," which it was alleged that the Government of Mexico possessed in trust for the benefit of its intended beneficiaries, of whom the Catholic Church of California represented a part.

Upon a difference of opinion between the American and Mexican Commissioners, the case was referred to Sir Edward Thornton, as umpire, who decided that one-half of the annual income of said fund, to-wit, \$43,080.99, should be paid by the Government of Mexico to the Roman Catholic Church of California, for the period of twenty-one years from the 30th of May, 1848, making an award, on account thereof, of \$904,700.79.

This sum was duly accounted for in the settlement between the two countries, and has been paid to the claimants.

The authority, however, of the Commission to make a specific award of damages did not extend beyond such claim as perfected at the time of the exchange of ratifications of the foregoing convention.

But the suggestion of my Government is that the decision authoritatively established:

First. The responsibility of the Government of Mexico to the Roman Catholic Church of California for its share of the annual income of said fund;

Second. Also the annual amount of such share;

Third. That the archbishop and bishops of that church are the proper parties to demand and receive it;

Fourth. That the claimant is a corporation of American citizens; and

Fifth. That the case is a proper one for the diplomatic intervention of the United States Government.

The archbishop of San Francisco and the bishop of Monterey, Cal., representing and acting for said church, now represent to the Department of State, at Washington, D. C., that they have not received any further payments on account of the income of said fund which has accrued subsequent to the 30th of May, 1869, and they pray the United States Government for the exercise of its proper offices in that behalf, to the end that the attention of your excellency's Government may thereby be duly drawn to the consideration of its obligations respecting the payment of the accrued sum as well as of future installments regularly as they become due.

It would appear that the amount now due is \$904,700.79; and I am directed to respectfully express to your excellency the hope of my Government that there will be an early and satisfactory adjustment of the same.

It gives me pleasure to reiterate to your excellency the assurance of my highest regard and esteem.

THOS. RYAN.

Mr. Blaine to Mr. Ryan.

No. 684.]

DEPARTMENT OF STATE,
Washington, February 19, 1892.

SIR: In your No. 737 of August 17 last you reported that in obedience to my instruction No. 563 of August 3 last you had addressed a note to the Mexican foreign office relative to the claim of the Roman Catholic Church of California to a share in the income of the so-called "Pious fund" of the Californias.

Not having been notified of the receipt of any reply thereto, I have to ask that you will—in such proper and discreet way as may seem best—solicit from Mr. Mariscal some reply to the above-named representation of this Government.

I am, etc., your obedient servant,

JAMES G. BLAINE.

Mr. Foster to Mr. Ryan.

No. 820.]

DEPARTMENT OF STATE,
Washington, September 15, 1892.

SIR: Referring to instructions No. 563 of August 3, 1891, and 684 of February 19, 1892, I have to state that in a letter of the 11th ultimo the Messrs. Pillsbury, Blanding, and Hayne, of 324 Pine street, San Francisco, Cal., call attention to the claim of the Roman Catholic archbishop of California against Mexico, which formed the subject of those instructions. In view of the long period which has elapsed since the date of your No. 737 (August 17, 1891), informing the Department that you had addressed a note to the foreign office on the subject, I have no doubt the Mexican Government will recognize the propriety of presently apprising you of its conclusions in the matter, should you now make a further representation, as you are hereby requested to do in such terms as appear to you pertinent under the circumstances.

I am, etc.,

JOHN W. FOSTER.

Mr. Day to Mr. Clayton.

No. 57.]

DEPARTMENT OF STATE,
Washington, July 17, 1897.

SIR: I inclose herewith a copy of a letter from the Hon. Stephen M. White,^a United States Senate, transmitting a letter from the Hon. John T. Doyle, in which Mr. Doyle again calls the Department's attention to the claim of the Catholic Church of California against Mexico, known as the "Pious fund of California," and requests favorable action on it.

You will please familiarize yourself with the previous correspondence relating to this case (instructions Nos. 563, 684, 820, and 35, of August 3, 1891, February 19, 1892, September 15, 1892, June 8, 1893, respectively, and dispatch No. 737 of August 7, 1891), and bring the matter again to the attention of the Mexican Government, endeavoring to ascertain its attitude toward the claim.

Respectfully, yours,

WILLIAM R. DAY
Acting Secretary.

Mr. Clayton to Mr. Sherman.

No. 96.]

LEGATION OF THE UNITED STATES,
Mexico, September 1, 1897.

SIR: Referring to your No. 57 of July 17th ultimo, I have the honor to inclose herewith copy of my note bringing to the attention of the Mexican Government the claim of the Roman Catholic Church of California growing out of the so-called "Pious fund of the Californias," and requesting that I may be informed of the purposes of the Mexican Government in relation to this claim.

I have the honor to be, sir, your obedient servant,

POWELL CLAYTON.

[Inclosure.]

Mr. Clayton to Mr. Mariscal.

LEGATION OF THE UNITED STATES,
Mexico, September 1, 1897.

MR. MINISTER: I am instructed by my Government to bring to the attention of your excellency the claim of the Roman Catholic Church of California against the Mexican Government growing out of the so-called "Pious fund of the Californias."

Of the history of this claim you are doubtless well informed. I need only refer to the findings of the American and Mexican Joint Commission under the convention of July 4, 1868, which established the following propositions:

1. That the Roman Catholic Church of Upper California is a corporation of citizens of the United States.

2. The obligation of the Mexican Government to pay to the bishops of California and their successors the interest on the proceeds of the property belonging to the fund, same being held in trust by the Mexican treasury for the purpose of carrying out the wishes of the founders of the fund.

3. That the claimants are the direct successors of the bishops of California, and should, therefore, receive a fair share of the interest upon the proceeds of the fund.

4. That the archbishop and bishops of that church are the proper parties to demand and receive it.

5. That the case is one in which all inhabitants of the State of California, and even the whole population of the United States, are interested, and is, therefore, a proper one for the diplomatic intervention of the United States Government.

These propositions being, as it were, "res adjudicata," and the Mexican Government having paid no interest upon the fund since the payments made under the award of the joint commission, I respectfully call your excellency's attention to that fact, and request that I may be informed of the purposes of the Mexican Government in relation to this claim.

I have the honor to renew to your excellency the assurances of my high consideration.

POWELL CLAYTON.

Mr. Clayton to Mr. Sherman.

No. 152.]

LEGATION OF THE UNITED STATES,
Mexico, October 21, 1897.

SIR: Referring to your Nos. 57, 81, and 114, of July 17, August 12, and September 18, 1897, respectively, and to my No. 96, of September 1, 1897, concerning the claim of the Roman Catholic Church of California growing out of the so-called "Pious fund of the Californias," I have the honor to report that I am in receipt of a note from Minister Mariscal, dated October 4, 1897, copy and translation inclosed, replying to my note of September 1, 1897, in which the minister takes the position that the proceedings of the joint commission created by the convention of July 4, 1868, can have no bearing or force upon any claim which the Catholic Church of California may set up for interest falling due since February 1, 1869. He seems to indicate that the church should exhaust judicial remedies in Mexico before such a claim could properly become the subject of diplomatic intervention, and states, in express terms, "that at the present time this (his) Government will have to consider diplomatic intervention as premature."

Having under your instructions thus ascertained the attitude of the Mexican Government toward the claim in question and conveyed said information to you, in the absence of further instructions I shall consider my duty in this case performed.

I have the honor to be, sir, your obedient servant,

POWELL CLAYTON

[Inclosure.]

Mr. Mariscal to Mr. Clayton.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, October 4, 1897.

MR. MINISTER: The necessity of examining the voluminous data collected in this department in relation to the claim presented by the Catholic archbishop and bishops of Upper California in 1871 before the joint commission created by the convention of July 4, 1868, has been the cause of the delay in replying to the note of September 1, ultimo, in which your excellency calls my attention to said matter and asks me what the Mexican Government proposes to do regarding the payment of interest on the so-called "Pious fund of the Californias," subsequent to the interest paid by virtue of the decision pronounced by the said joint commission.

A study of the antecedents has made me form the opinion that the Catholic Church of Upper California has no right to demand interest from the Mexican Government on the said fund subsequent to the interest that formed the subject of this

claim in the year 1871; that is, the interest computed from February 2, 1848, to February 1, 1869.

The convention of July 4 excluded from the consideration of the joint commission which it created the claims which originated before the date on which it was signed, as well as claims that may not have been presented to the said commission. Neither was it authorized to decide more than the claims for injuries caused by authorities of the Mexican Republic during the period from the day on which the convention was signed to the date on which the exchange of ratifications was effected.

Therefore claims arising or filed against either of the contracting Governments after the 1st of February, 1869, were not the object of said convention; neither could they, therefore, nor in a general way could the questions which, not treating directly upon injuries indemnifiable in money, refer to points of fact or of right such as those set forth in the note which I answer, and which your excellency considers as decided in the decision pronounced by the arbitrator on the 11th of November, 1875, be a matter for the arbitration provided in said convention.

Said decision condemned the Mexican Republic to pay to the Catholic Church of Upper California a determined sum of money, which amounted to the interest calculated on one-half of the so-called "Pious fund of the Californias," corresponding to the twenty-one years included between the dates of the signature and exchange^a of ratifications of the said convention. The Government of Mexico paid punctually the sum indicated, being free forever from all responsibility with respect to the claim treated as finally settled and inadmissible in the future, according to the express language at the end of Article V of said treaty.

From what has been stated it follows that the debt imposed upon the Mexican Republic by the arbitral decision of November 11, 1875, or the res adjudicata, as your excellency designates it, was extinguished; and that a new claim for interest, that the Catholic Church of Upper California might attempt to make valid against the Mexican Government, supposing it to be due after February 2, 1869, is not included among the claims for the settlement of which the convention of July 4, 1868, was celebrated; that it was not, nor could it be, within the jurisdiction of the joint commission created by said treaty, nor can the decision pronounced November 11, 1875, restricted to the claim that it decided, be invoked as a sentence rendered under authority of res adjudicata, in order to decide a subsequent demand regarding new interest arising from the so-called "Pious fund of the Californias."

If it is now alleged that the reasons on which said decision was founded justify an analogous claim, though subsequent to the one decided by it, such argument lacks the force attributed to it. It is well understood that only the conclusion of a sentence or decision passes into authority of res adjudicata. The considerations that served it as premises are subject to controversy in the future, are perfectly impugnable, and therefore do not constitute the legal truth.

Now, the propositions laid down by the arbitrator in order to deduce from them that Mexico owed to the Catholic Church of Upper California twenty-one annuities of interest, are not exact in the historical conception nor reasonable in the judicial. These defects would have been sufficient to deny to the decision, even in the case decided, the authority of res adjudicata, according to jurisprudence universally admitted and especially observed by the Government of the United States, in its high sense of justice, regarding the celebrated claims of "Weil" and "La Abra" decided also against Mexico by the said commission.

The Mexican Government will demonstrate fully the falsity and injustice of the foundations of the decision pronounced in favor of said church, whenever it shall present before a competent tribunal of this country another demand for interest similar to the one presented in the year 1871. At the present time this Government would have to consider diplomatic intervention as premature; which, as is well known, only occurs when the legal recourses before the judicial authority being exhausted, the interested party complains of notorious injustice and appeals to his Government for relief against the injury alleged.

I avail of this opportunity to renew to your excellency the assurances of my most distinguished consideration.

IGNO. MARISCAL.

^a NOTE.—It is supposed that Mr. Mariscal intended to refer to the period between the signing of the treaty of Guadalupe-Hidalgo (February 2, 1848) and exchange of ratifications of the convention of July 4, 1868 (February 1, 1869).

Mr. Sherman to Mr. Clayton.

No. 169.]

DEPARTMENT OF STATE,
Washington, October 30, 1897.

SIR: I have to acknowledge the receipt of your dispatch No. 152, of the 21st instant, from which it appears that the Mexican Government holds that the award of the Mixed Commission of 1868, in the matter of the claim of the Roman Catholic Church of Upper California, has no bearing on the subject of the interest due since February, 1869; that the church should first exhaust its judicial remedies and that diplomatic intervention at the present time was regarded as premature.

I have given a copy of your dispatch to the honorables Stephen M. White, a Senator of the United States from California, and William M. Stewart, a Senator from Nevada. I have also furnished a copy to Mr. John T. Doyle, of Menlo Park, San Francisco, Cal.

For your information and files, I inclose a copy of a letter from Mr. Doyle, dated the 2d of October, giving a concrete statement of the circumstances and particulars of the claim.

Respectfully, yours,

JOHN SHERMAN.

[Inclosure.]

Mr. Doyle to State Department.

Memorandum for Hon. Assistant Secretary of State, as to the claim of the Roman Catholic Church of California against the Republic of Mexico, for arrears of interest, or the proceeds of the Pious Fund of California.

The Pious Fund of California originated in 1697, in money contributed by charitable people, to enable Fathers Salvatierra, Ugarte, and Piccolo to commence their missionary efforts in California, for which they had just secured permission from the Crown by the royal cedula of February 5 of that year. Besides collecting money for immediate expenses, it was determined to form a fund for the permanent support of the missions to be established, and the interest at 5 per cent per annum, of \$10,000 being deemed adequate for the support of each mission, invitations were extended to the piously disposed to make contributions of that sum, or multiples of it, for the purpose, the contributors being accorded the privilege of naming the missions founded by their contributions. Mention of the first contributors and their donations and other early history of the fund will be found in the second volume of Venegas "Noticia de la California, y de su Conquista Espiritual y Temporal," etc., Madrid, 1757.

This work is the oldest historical account we have of the colonization of California. It was compiled from the original papers of Venegas, in the Spanish-Mexican archives, by Andres Marc Buriel and is regarded by historical students as a work of highest authority. It is usually cited as "Venegas California." A list of the contributors and missions founded down to 1731 is also given in a little work entitled "Noticia de la Provincia de Californias en tres Cartas de un Sacerdote Religioso, hijo del real Convento de Valencia, a un Amigo suyo." (Valencia, 1794. Carta 2da, p. 48.) At that time the contributions amounted to \$120,000. In 1735, the Marquis de Villabuenta and his wife, the Marchioness of Torres de rada, made a munificent donation of estates and property valued, even in those days, at \$408,000, and the purposes and objects of the trust are fully expressed in their deed of the property, a copy of which duly certified by the notary, in Mexico, in whose archives it remains, was filed with the Mixed Commission and forms part of its record. We have also historical evidence of a bequest of sums amounting to \$120,000 by the Duchess of Gandia, and of other very large amounts from Senora Josepha Paula de Arguelles, a wealthy lady of Guadalajara, made in 1765. These important sums, together with many minor ones and the accumulation of revenues of the property in which the fund was invested, raised its capital to over \$2,000,000. It attained as much national

importance in its day as the Smithsonian bequest to the United States has in our times, and its administration was regarded as a subject of public concern.

The Society of Jesus, which down to that time had been its trustee, was, with all its members, expelled from the Spanish dominions by the Pragmatic sanction of February 27, 1767, which was put in force in California in the year following. In virtue of this decree of expulsion, all property possessed by the order was seized into the hands of the Crown. Such as was private property, as colleges, noviciates, casas de recreo, etc., was confiscated and vested in the Crown. Whatever was held in trust for specific purposes was accepted by the monarch, distinctly cum onere, and the trust character of the estate acknowledged. Among the latter was the Pious Fund of California, which was thereafter administered and its revenues applied to their appropriate purposes through the instrumentality of a commission appointed by the royal authority for the purpose. Its magnitude and importance were such that it forms the subject of a special notice in the *Pandectas Hispano-Mexicanas* (vol. 2, pp. 150, 172, et seq.) as one of the "ramos ajenos de la corona," or outside branches of the treasury, in which, although administered by the Crown, it has no proprietary interest.

On the accomplishment of Mexican independence the property of the Pious Fund which was all within the limits of the Republic was transferred with the rest of the possessions of the Crown to the Republic. The new Government loyally acknowledged the trust character of the estate, and constituted a junta directiva for its management. The missions of California had meantime been pushed up the coast as far as Sonoma by the efforts of the Franciscan Order, which had succeeded to the Jesuits in Upper California, and had founded there the missions of—

Founded in—		Founded in—	
San Diego	1769	La Purissima.....	1787
El Carmelo	1770	La Soledad	1791
San Antonio	1771	Santa Cruz	1791
San Fernando.....	1771	San Jose.....	1797
San Gabriel.....	1771	San Juan Bautista.....	1797
San Luis Obispo.....	1772	San Miguel	1797
San Francisco de Assis.....	1776	San Luis Rey	1798
San Juan Capistrano.....	1776	Santa Ynez	1802
Santa Clara	1777	San Rafael	1817
San Buenaventura.....	1782	San Francisco Solano	1823
Santa Barbara	1786		

All of which were in existence at the time of the annexation of California to the United States. The organization of the church had meantime undergone a change, naturally resulting from the growth of civilized population, bringing with it private property and social institutions. By an act of the Mexican Congress of September 19, 1836, the Holy See was invited and urged to erect the provinces of Upper and Lower California into an episcopal diocese and to put them in charge of a bishop to be selected for the purpose, and as one of the inducements to compliance with this request the sixth section of the act mentioned placed in the hands of the new bishop, when chosen, the properties of the Pious Fund, in the following words: Section 6. "The properties of the Pious Fund of California are placed at the disposal of the new bishop and his successors, to be administered by them and applied to their objects and analogous ones, respecting always the wishes of the founders." The Right Rev. Francisco Garcia Diego, who was at the time president of the missions, was accordingly, at the request of Mexico, appointed and consecrated as bishop of the Californias, Upper and Lower, and established his see at Monterey. The Pious Fund was turned over to him to be administered and applied as above provided.

The bishop's presence being required in his diocese, the property was managed for him by an agent or apoderado, Don Pedro Ramirez, a resident of the City of Mexico, of high position, eminent probity of character, and capability as a financier. Under his management it remained down to the year 1842, on the 8th of February, in which year General Santa Ana, then dictator of Mexico, under the bases of Tacubaya repealed the sixth section of the act of September 19, 1836, and devolved the administration of the trust estate on the Government; for which purpose an officer of the army, General Valencia, was appointed, the objects and purposes of the donors being, however, distinctly respected. Under this decree the property of the fund was delivered over to the representative of the Government, but in the absence of his principal Don Pedro Ramirez respectfully protested against the breach of contract involved in the seizure, and insisted on delivering the estate accompanied by an "instruccion circunstanciada" or detailed inventory of the property, a copy of which was transmitted to his principal.

Neither the Spanish nor Mexican Government has been very successful in the administration of trust estates, and within a few months General Santa Ana recognized the error of attempting the task here. It was thereupon determined to sell the properties of the Pious Fund, turn the money into the public treasury, and pay interest on it thereafter in perpetuity. To carry out this purpose the decree of October 24, 1842, was enacted, wherein, after reciting the intent, by that of the preceding February, "to fulfill most faithfully the beneficent objects of the founders, without the least diminution of the funds destined therefor, a result only to be attained by capitalizing the funds and putting them at interest, to avoid expenses of administration, etc.," it was enacted that all the properties of the fund should be incorporated into the public treasury, the real estate and other properties sold for the capital represented by its income on a basis of 6 per cent per annum, and that the national treasury should thereafter pay interest at that rate on the amount; to which purpose the revenue from tobacco was specially pledged.

The transfer of Upper California to the United States by the treaty of Queretaro worked a change in the civil allegiance of the Church of Upper California to the United States. Mexico thereafter ceased to pay to it its portion of the interest on the Pious Fund, and these arrears were made the subject of a claim by the prelates then representing and governing the Church before the Mixed Commission constituted by the convention of 1868. The Mexican Republic was defended not only by the Hon. Caleb Cushing, whose position at our bar was so eminent, but also by one of its own most distinguished and able lawyers; perhaps the only member of the profession who in all its history acted as judge-advocate of a court-martial which sent an emperor to execution. His previous position in the department of state in Mexico had made Don Manuel Aspiros familiar with all the documentary history of the Pious Fund, and independent of the legal presumption of the truth of all adjudications of a competent tribunal there is the strongest presumption of fact that no possible defense for his client escaped his learning, zeal, and vigilance. I say nothing of the character of the distinguished umpire who decided the case on a disagreement between the Mexican and American commissioners. So far was Sir Edward Thornton from favoring us that he admits in his opinion that his sympathy was with Mexico, and that he was moved by a consideration of "the troubles and difficulties to which Mexico and her Government had been subject to for several years past" to refuse interest on arrears for the principal of which he gave judgment, a tempering of justice with mercy which a legal tribunal would not have granted.

He ascertained the annual interest due to the Church of Upper California under the act of October, 1842, to be \$43,080.99, and gave judgment for arrears of twenty-one years, amounting to 904,700 Mexican gold dollars and 79 cents. This included all sums due down to May 30, A. D. 1869, and has been fully paid. We are now claiming the sums accrued since the last-named date, and the case appears strictly analogous to one wherein an annuitant, having filed a bill to enforce payment of his annuity and obtained a decree establishing his right to it and its exact amount, with orders to defendant to pay over a specific sum for arrears down to a particular date, on further default being made, files a supplemental bill to enforce payment of the installments accrued since the original decree. I can discover no difference between the two cases.

Having brought the history of the Pious Fund down to the present day, I feel that I ought not to omit from this memorandum notice of a fact in Mexican history which shows that so far from making here any extraordinary demand we are asking nothing but what Mexico has solemnly recognized as a duty properly demandable from her by a foreign government in a case precisely similar. Briefly told, it is this: The Philippine Islands having been conquered by an expedition from Mexico, were attached to that viceroyalty. The Jesuits had missions in those islands like those of California, and one-half the bequest of Señora Argualles above mentioned went to their support; the other half to those of California. After the establishment and recognition of Mexican independence, Spain demanded this Philippine Island fund from Mexico for the missions within its dominions. The justice of the claim was undeniable, and the properties in which that fund was invested were turned over to the representative of the missions, one Padre Moran. Some portions of the real estate had, however, been sold by the Mexican Government during the troublous times of the revolution and the proceeds used by it. For this an indemnity was demanded by Spain and accorded by Mexico, the amount fixed on being \$115,000 for principal and \$30,000 for interest thereon, which was agreed to and paid.

The convention is dated November 7, 1844, and its text is to be found in the "Coleccion de tratados con las Naciones extranjeras, leyes, decretos, y ordenes que forman el derecho Internacional Mexicano," published in Mexico in 1854, at page 516.

This convention expresses the judgment of Mexico as to what justice and interna-

tional law required from her in her dealings with subjects of the King of Spain; we ask only the same measure of justice for citizens of the United States, in a case absolutely parallel.

JOHN T. DOYLE,
Attorney and Counsel for the Prelates.

MENLO PARK, CAL., *October 2, 1897.*

Mr. Sherman to Mr. Clayton.

No. 331.]

DEPARTMENT OF STATE,
Washington, March 10, 1898.

SIR: Referring to your Nos. 96 of September 1 and 152 of October 21, 1897, in relation to the "Pious Fund of the Californias," I now inclose a copy of a letter from Mr. John T. Doyle, dated San Francisco, 10th December last, presenting arguments and observations favorable to his contention, in response to the statements of Mr. Mariscal's note of October 4, 1897, that the proceedings of the Joint Commission organized pursuant to the convention of July 4, 1868, can have no bearing or force upon any claim which the Catholic Church of California may set up for interest falling due since February 1, 1869. Mr. Doyle's presentation of his client's case is commendable for its clearness and logical soundness.

You report that Mr. Mariscal remands the claimants to their judicial remedies before seeking diplomatic intervention, which, for the present at least, he regards as premature. Still, it is believed Mr. Mariscal will accept in the spirit in which they are offered the views expressed by Mr. Doyle in his memorandum, copy of which you will take early opportunity to bring to the former's attention informally.

Respectfully, yours,

JOHN SHERMAN.

[Inclosure.]

Observations on the reply of His Excellency Don Ignacio Mariscal, minister of foreign affairs of the Mexican Republic, to the note of Hon. Powell Clayton, United States minister at Mexico, of September 1, 1897, relating to the claim of the Catholic Church of California against the Mexican Republic for arrears of interest on the Pious Fund of the Californias.

It will be seen that there is an obscurity in the second paragraph of the Mexican minister's note to Mr. Clayton, where he says that the convention of July 4 (1868) excluded claims which originated before the date on which it was signed, as well as claims not presented to said Commission, and adds: "Nor was it authorized to decide more than the claims for injuries caused, etc., during the period from the day on which the convention was signed to the date on which the exchange of the ratifications was effected." This I ascribe to some error in transcription, for I discover also an obvious omission of words in the fourth paragraph of the document. In the later place Señor Mariscal probably wrote "the twenty-one years included between the dates of the signature" of the treaty of Guadalupe Hidalgo and the "exchange of the ratifications of said convention" (of 1868), and the words above underlined have been casually omitted in transcribing.

Notwithstanding the obscurity created by these clerical misprisions (which I note, not for the purpose of criticism, but that I would not be supposed to omit due attention to any portion of his excellency's communication), I believe that I do no injustice to his argument in considering the substance of it to be contained in the fifth and sixth paragraphs (pp. 2 and 3 of his letter), viz, that—

"The debt or *res adjudicata* was extinguished" by the payment "of the sum awarded, and the claim of the church against the Mexican Government for install-

ments coming due after February 2, 1869, is not included among the claims for the settlement of which the convention of July 4, 1868, was celebrated; that it was not nor could it be within the jurisdiction of the joint commission created by said treaty, nor can the decision pronounced November 11, 1875 (restricted to the claim that it decided), be invoked as a sentence rendered, under the authority of *res adjudicata*, in order to decide a subsequent demand regarding the new interest arising from the so-called Pious Fund of the Californias."

And again, * * * that—

"If it is now alleged that the reasons on which the said decision was founded justify an analogous claim, though subsequent to the one decided by it, such argument lacks the force attributed to it. It is well understood that only the conclusion of a sentence passes into authority of *res adjudicata*. The considerations that served it as premises are subject to controversy in the future, are perfectly impugnable, and therefore do not constitute the legal truth."

These suggestions of Señor Mariscal proceed upon a misapprehension of the scope claimed for the doctrine of *res adjudicata* invoked by Mr. Powell Clayton in his communication to which the Mexican secretary replies. That doctrine briefly expressed in the civil-law maxim—"Res adjudicata pro veritate occipitur"—has been declared by eminent jurists to be a necessary concept of every jural society, and is accepted as axiomatic in every system of law which has ever prevailed in any civilized society. It has been so often invoked, defined, sustained, and commented upon by the highest judicial tribunals of England and America, and expressed in the language of the most eminent jurists of the world, that it would be presumptuous in me to state it in language of my own. I shall therefore only note what we claim to have been established as *res adjudicata* by the decision of the Mixed Commission of 1868, and, in support of the claim that such determination is conclusive on the points so noted, quote the language of some of the eminent men, judges, and text writers to whom I have alluded.

The claim of the Church of California submitted to and passed on by the Mixed Commission of 1868 was briefly this: That Mexico was then indebted to it, *ex contractu*, for twenty-one successive installments of interest on its share or proportion of the Pious Fund of the Californias, promised to be paid by the decree of October 24, 1842, which incorporated the properties of the said fund into the public treasury of the nation, ordered them sold for the capital represented by their income, capitalized at 6 per cent per annum, and promised thereafter to pay interest thereon at the rate named. Such was the claim put forward in our memorial, and in its support we submitted simultaneously a brief history of the Pious Fund, from its inception of 1697 down to its absorption into the public treasury by the decree of October 24, 1842. This brief history was compiled from authentic contemporary sources and from published laws and public documents of the Mexican Government. No denial of its truth was ever attempted; it was, in fact, so thoroughly supported by citations of contemporary Spanish and Mexican history and public documents of the highest authority as to be unimpugnable. Notwithstanding the absence of any formal pleading on the part of Mexico, we assumed that the whole claim was to be deemed denied by the defendant, as by a common-law plea of the general issue, and we submitted plenary proofs in support of it. The tribunal after full argument and deliberation decided in favor of the claimants, and in doing so had necessarily to determine the following questions, each one of which was necessarily involved in the case and without a determination of which in our favor we could not have prevailed in the controversy, viz:

I. Did the Mexican Republic take the Pious Fund into the public treasury, and was that taking accompanied by the promise to pay interest on the amount of its proceeds, as alleged by us?

[This question the tribunal resolved affirmatively; the response to it was found in the decree of October 24, 1842, published in the official compilation of Mexican laws and decrees made by B. J. Arrillaga.]

II. What was the amount of the proceeds so taken into the public treasury pursuant to the decree in question?

[To this the Mixed Commission answered as shown in the opinion of Mr. Commissioner Wadsworth, concurred in by the umpire. It was \$1,436,033.]

III. In what proportion should the interest on this capital at 6 per cent be divided between Upper and Lower California?

[On this question the tribunal, notwithstanding the great difference in our favor between them in area, population, and importance, determined that an equal division was just. The computation of the interest at the rate promised, its division into equal moieties, and the multiplication of the result by the number of years covered by the adjudication—mere mechanical processes—resulted in the sum of \$904,700.79, which was the amount of the award.]

IV. Were the archbishop of San Francisco and the bishop of Monterey (both being corporations, authorized by law to hold and possess the property of the church of California) the proper representatives of the Catholic Church of California in making the demand?

[This question, too, the Commission resolved affirmatively.]

In consequence, and only in consequence, of the determination of these questions in the manner above indicated, and as the logical conclusion from them, the tribunal pronounced its judgment that the Mexican Republic should pay to the prelates named the sum of \$904,700.79.

It is now claimed, as I understand, by Señor Mariscal, that while it is true that this adjudication became conclusive evidence that Mexico was, at the time of its rendition, indebted to the church in the amount of money awarded, it does not prove any one of the constituent facts from which alone that conclusion of indebtedness flowed, and that the taking of the Pious Fund into the treasury, its amount, the promise to pay interest on it, etc., are all open to controversy between the parties to-day just as they were before the adjudication was pronounced. In this contention the honorable secretary has unquestionably fallen into a serious error.

The principle of *res adjudicata* renders the adjudication in question conclusive evidence in any future contest, between the same parties (or between parties deriving under them), not only of the ultimate conclusion of indebtedness existing at that time, but of each of the constituent facts from which that conclusion resulted. In fact, it is apparent, on the least reflection, that such is the necessary logical result of its conclusiveness on the question of indebtedness. For indebtedness is not a primary fact, but is necessarily the result of other and antecedent facts. A man is indebted for money borrowed. Why? Only because he borrowed the money. The tribunal which adjudges him indebted must, of necessity, determine the cause of such indebtedness; i. e., the act of borrowing, and the amount borrowed; so that what decides the indebtedness, which is the consequence, necessarily determines also the fact of borrowing and the amount of the loan which constitutes the cause. Doubtless, as Señor Mariscal observes (p. 5) the claim of the church for installments maturing after October 24, 1869, "was not included among the claims for the settlement of which the convention of July 4, 1868, was celebrated;" it could not have been, for it did not then exist so as to be capable of presentation. But the facts on which it arises and depends did exist, and they were presented for judicial ascertainment, in the case then considered. They were necessarily involved in the determination of the claim that was presented, which could not have been decided without determining them one way or the other; and therefore their determination, once made, being a judicial determination of them, by a competent tribunal, is conclusive on both parties forever thereafter.

Mr. Clayton, then, did not claim that the Commission of 1868 decided that there was, in 1871, interest due and unpaid by Mexico accruing during the years between 1869 and 1897, for that precise question could not have been before the Commission. His claim was, and ours is, that the Commission referred to did ascertain and decide:

I. That Mexico in 1842 incorporated the Pious Fund into the public treasury, under a promise to pay interest on its amount at 6 per cent per annum, as expressed in the terms of the decree of October 24 of that year.

II. That the moiety of such annual interest corresponding to the share of Upper California amounted to \$43,080.99 per annum (being one-half of 6 per cent on \$1,436,033, the ascertained capital), and that at that time twenty-one annual installments remained unpaid. From these ascertained facts it proceeded to deduce its judgment, which was a matter of simple arithmetical computation. Inasmuch as these constituent facts could not possibly be true in 1871 without being true at all times thereafter, Mr. Clayton rightly claimed that a judicial decision which established them as true then necessarily determined them so forever. This is the very essence of the doctrine of *res adjudicata*, and is what Mr. Powell Clayton must be understood to claim in his note to which Señor Mariscal replies.

His claim, so understood, is supported by the authority of all text writers and numerous adjudged cases on the subject.

"The rule," says Mr. Burr W. Jones in his *Essay on the Law of Evidence in Civil Cases*, "is generally recognized among civilized nations that when a matter has been adjudicated and finally determined by a competent tribunal, the determination is conclusive between the parties and privies. Interest *Reipublicæ ut finis sit litium*." And Greenleaf, in his *Treatise on the Law of Evidence* (which I cite in preference to other works on the subject, because of its philosophic rather than technical character), says (Lewis's edition):

Section 522. "We proceed in the next place to consider the admissibility and effect of records as instruments of evidence. The rules of law upon this subject are founded upon these evident principles and axioms; that it is for the interest of the community

that a limit should be prescribed for litigation and that the same cause of action ought not to be brought twice to a final determination. Justice requires that every cause be once fairly and impartially tried; but the public tranquillity demands that having been once so tried, all litigation of that question and between these parties should be closed forever."

So Wells on *res adjudicata*, page 4, says:

Section 5. "The fundamental principle of the rule of *res adjudicata*, etc., is plainly that the decision of a court of competent jurisdiction is and ought to be a final and conclusive settlement of the questions involved in any particular controversy, as to the parties concerned therein, and as to any title claimed through or under those parties; so that if a fact has once been directly tried and determined by such court, the same parties can not properly be allowed again to contest the same matters in that court or any other; and also that a judgment on such questions or facts in legal form is perfect evidence of its own validity. And more especially if the court had peculiar and exclusive jurisdiction relative to such matters, its judgment should be binding upon the judgment of any other court, acting in the same matter; always provided that it has acted therein within the proper limits of its jurisdiction."

And at page 203 he continues:

Section 233. "As to installments, the rule has already been stated to be that where there are two or more promissory notes (or bonds) executed as a part of the same transaction, so that what affects one must affect the others in like manner, an adjudication upon one will determine that upon the other. And this applies to defenses," etc.

Section 234. "If a contract provides for payment by installments due at different times, the installments may of course be successively sued on as they become payable," etc.

In Robinson's Practice, Volume VII, at page 165, we read, applicable exactly to the present case, "Sometimes there may be from one act of the defendant successive or different causes of action, and for each of these causes a separate suit, as in 22 Car. II, 30, or Geo. III, 31; 29 Car. II, 30 or 55.

"A former judgment for the plaintiff in one of a series of actions for money due by installments, or other successive causes of action, may be evidence (and conclusive so far as it goes) of the rights of the parties in another of a series of suits on the principle that a judgment is final as to all points and questions actually litigated and determined by it. (*Love v. Waltz*, 7 Cal., 250; *Haskins v. Mayor of New York*, 11 Hun. 436.) Therefore, where in an action on one of a series of notes, given for the purchase price of land, the defendant set up a defense going to the whole of the original cause of action, such as an undisclosed incumbrance on the estate, consequent rescission of the contract, etc., and it is adjudged against him, such judgment will estop him from setting up the same facts in defense of a subsequent suit on another of the notes."

In harmony with this is the text of Black on Judgments and *Res Adjudicata*:

Section 500. "That the solemn deliberate sentence of the law pronounced by its appointed organs upon a disputed fact or state of facts should be regarded as a final and conclusive determination of the question litigated, and should forever set the controversy at rest, is a rule common to all civilized systems of jurisprudence; but it is more than a mere rule of law; it is more even than an important principle of public policy. It is not too much to say that this maxim is a fundamental concept in the organization of every jural society." * * *

So Freeman on the Law of Judgments, etc., says:

Section 249. "There is no doubt that a judgment or decree necessarily affirming the existence of any fact is conclusive upon the parties and their privies whenever the existence of that fact is again in issue between them, not only when the subject-matter is the same, but when the point comes incidentally in question in relation to a different matter in the same or in any other court, except on appeal, writ of error, or other proceeding provided for its revision. After judgment on the merits, the parties can not canvass the same question again in another action, although perhaps some objection or argument might have been urged upon the first trial which would have led to a different judgment." * * *

"An adjudication is final and conclusive not only as to the matter actually determined, but as to every other matter which the parties might have litigated, and have had decided, as incident to or essentially connected with the subject-matter of the litigation and every matter coming within the legitimate purview of the original action, both in respect to matters of claim and defense."

"To render a matter *res adjudicata* it is not essential that it should have been distinctly and specifically put in issue by the pleadings; it is sufficient that it be shown

to have been tried and settled by the former suit. When a matter is once adjudicated it is conclusively determined as between the same parties and their privies."

Black, cited supra in section 501, traces the doctrine through the Roman law, and in section 502, through the legal systems of modern Europe. Section 504 states the rules applicable to the question, the first of which is as follows: "A point which was actually and directly in issue in a former suit, and was there judicially passed on and determined by a domestic court of competent jurisdiction can not be again drawn in question in any future action between the same parties, or their privies, whether the causes of action in the two suits be identical or different."

I will not further multiply citations from text writers; they are unanimous on the question. It will be seen, too, that writers on the civil law lay down the same doctrine, and it is as expressed by Black in his treatises quoted above, a fundamental concept in the organization of every jural society, or society governed by laws.

(Vide Herman on the Law of Estoppel and Res Adjudicata, Vol. I, p. 85—92; Code Napoleon, sec. 1351; Domat's Civil Law, Vol. I, sec. 2011; Escriche, Dictionario de legislacion y jurisprudencia, in verb. "Cosa juzgada.")

The Supreme Court of the United States was quite recently called on to determine the application of the doctrine of res adjudicata in an action involving some 700,000 acres of valuable land. The magnitude of the interest involved, and the importance of the case led to the employment of counsel of great eminence, and the whole question was considered and discussed exhaustively. The decision is too recent to have found its way into the published reports, but the usual advance sheets are of course accessible to the officers of the State Department. The opinion reviews numerous adjudged cases, and concludes in entire harmony with the views I have endeavored to express above.

(Vide the Southern Pac. R. R. Co. v. The United States, decided October 18, 1897, pp. 17 to 24.)

It thus appears that Mr. Powell Clayton was entirely justified in claiming for the demand of the Catholic Church against the Mexican Republic the authority and conclusiveness of res adjudicata, not only as to the facts from which the claim arises, but also as to the amount thereof annually maturing.

Mr. Clayton to Mr. Sherman.

No. 409.]

LEGATION OF THE UNITED STATES,
Mexico, May 4, 1898.

SIR: Referring to your No. 331, of March 10 last, I have the honor to state that, in accordance with the instructions contained therein, I have brought to the attention of Minister Mariscal, in an informal way, the arguments and observations put forth by Mr. John T. Doyle in his memorandum, a copy of which was transmitted with your above-mentioned dispatch, in relation to the claim of the Roman Catholic Church of California, and bespeaking for the views of Mr. Doyle his kind consideration.

I have the honor to be, sir, your obedient servant,

POWELL CLAYTON.

Mr. Hay to Mr. Clayton.

No. 263.]

DEPARTMENT OF STATE,
Washington, December 4, 1899.

SIR: The Department has given careful consideration to your note of September 1, 1897, to the Mexican Government, a copy of which was inclosed with your No. 96 of that day's date, and to the Mexican Government's answer, transmitted with your No. 152, of October 21, 1897, in relation to the claim growing out of the "Pious Fund of the Californias."

The Department approves your action and regrets the inability of the Government of the United States to admit that diplomatic intervention is premature.

The claim presented is for interest accrued on the "Pious Fund" since February 1, 1869. It is based on the same facts on which a like claim for interest was presented to the Mixed Commission organized under the convention of July 4, 1868. The validity of that claim, and the liability of the Mexican Government to the claimants therefor, were adjudged by the umpire.

By the highest authorities, as well as by the very reason of the rule, the effect of a judgment extends not merely to its final and decisive sentence, but to every point at issue between the parties to the suit and which must necessarily have been decided. If its effect were confined, as urged in the Mexican note, to "the conclusion of a sentence or decision," the whole matter in issue might be the subject of a new litigation in a suit for a fresh recovery of the same debt. But to avoid effects so absurd the well-recognized doctrine is that all facts in issue and essential to support the judgment are deemed to be thereby forever established between the parties; they constitute the foundation of the judgment itself and are included in the *exceptio rei judicatae*. It is therefore necessary and allowable, in order to give efficacy to the rules of *res judicata*, to reason back from a judgment to the basis upon which it stands, upon the principle that where a conclusion is indisputable and could have been drawn only from certain premises, the premises are equally indisputable with the conclusion. Accordingly the Lord Chief Justice Kenyon, of England, held that a judgment is conclusive between the same parties upon the same matter directly in question in another court, and is equally conclusive upon the same matter between the same parties coming incidentally in question in another court for a different purpose.

The sequestration of the "Pious Fund" by the Mexican Government, and its acknowledgment of its obligation to pay 6 per cent interest per annum on the fund for the object of the charity are undisputed and indisputable facts. These facts and the liability of the Mexican Government to pay that interest in equitable proportions to the beneficiaries have all been solemnly adjudged. And notwithstanding the objection urged in the Mexican note that the doctrine of *res judicata* is not rigidly applicable to the case, it can not be doubted that upon principles of international justice and good faith facts from which liabilities inevitably spring, having once been fairly, fully, and judicially established between sovereign States, should be accepted as conclusive.

You will therefore continue to urge the claim diplomatically, requesting its payment. The former case was finally disposed of through diplomatic methods; and no reason is perceived why the same method should not be adopted in this. The accrued and unpaid interest of the claim should, by the decision of the case, be equitably apportioned among the beneficiaries. An international tribunal is alone competent to make such a decision at once final and conclusive upon both Governments and all parties. The decision of the former commission was of this character, and the Government of the United States, in view of the friendly relations existing between the two Governments, would be inclined to apply the principle of that decision in the adjustment of this claim.

You are at liberty, if requested, to furnish the Mexican minister a copy of this instruction.

I am, sir, etc.,

JOHN HAY.

Mr. Clayton to Mr. Hay.

EMBASSY OF THE UNITED STATES,
Mexico, February 9, 1900.

No. 532.]

SIR: I have the honor to inclose herewith copy of my note to the foreign office transmitting a copy of your No. 263, of December 4 last, relating to the claim growing out of the "Pious Fund of the Californias" and stating that after the minister has given consideration to the question as presented by the State Department, I shall be glad to be furnished with the views of the Mexican Government upon the same.

Up to this time no answer has been received.

I have the honor to be, sir, your obedient servant,

POWELL CLAYTON.

[Inclosure.]

Mr. Clayton to Mr. Mariscal.

EMBASSY OF THE UNITED STATES,
Mexico, December 19, 1899.

MR. MINISTER: Referring to our conversation yesterday, and in obedience to your request, I have the honor to inclose herewith a copy of my instruction, dated the 4th instant, relating to the claim growing out of the "Pious Fund of the Californias."

After your excellency has given consideration to the question, as presented by the State Department, I shall be glad to be furnished with the views of the Mexican Government upon the same.

I renew to your excellency the assurance of my high consideration.

POWELL CLAYTON.

Mr. Hay to Mr. Clayton.

No. 369.]

DEPARTMENT OF STATE,
Washington, June 7, 1900.

SIR: Referring to your dispatch No. 532, of February 9 last, you will bring again to the attention of the Mexican Government the claim known as "The Pious Fund of the Californias" against Mexico.

The Government of the United States regards this claim as undoubtedly just, its essential justice having been already established by one arbitral hearing and decision, having the proper effect of *res judicata*.

Merignhac, L'Arbitrage International, section 306, speaking of the arbitral sentence, says:

The sentence, duly given within the limits of the convention, decides the question between the parties in a definitive manner (Art. 25 of the regulation of the institute); it therefore has the authority of *chose jugée*, like judgments rendered in the last resort by the ordinary tribunals of a country.

I am, sir, etc.,

JOHN HAY.

Mr. McCreery to Mr. Hay.

No. 703.]

EMBASSY OF THE UNITED STATES,
Mexico, June 14, 1900.

SIR: I have the honor to inclose herewith a copy of my note to the foreign office, bringing again to the attention of the Mexican Government, as instructed in your No. 369 of the 7th instant, the claim known as "The Pious Fund of the Californias" against Mexico.

I have the honor to be, sir, your obedient servant,

FENTON R. MCCREERY.

[Inclosure.]

Mr. McCreery to Mr. Mariscal.

EMBASSY OF THE UNITED STATES,
Mexico, June 14, 1900.

MR. MINISTER: Referring to the ambassador's note of December 19, 1899, this embassy has the honor to bring again to the attention of your excellency's Government the claim known as "The Pious Fund of the Californias" against Mexico.

The Government of the United States regards this claim as undoubtedly just, its essential justice having been already established by one arbitral hearing and decision, having the proper effect of *res judicata*. Merignhac, *L'Arbitrage International*, section 306, speaking of the arbitral sentence, says:

"The sentence, duly given within the limits of the convention, decides the question between the parties in a definitive manner (art. 25 of the regulation of the Institute); it therefore has the authority of *chose jugée*, like judgments rendered in the last resort by the ordinary tribunals of a country."

I have the honor to renew to your excellency the assurance of my most distinguished consideration.

FENTON R. MCCREERY.

Mr. Clayton to Mr. Hay.

No. 848.]

EMBASSY OF THE UNITED STATES,
Mexico, December 14, 1900.

SIR: Referring to Department instructions Nos. 263 and 369, of December 4, 1899, and June 7, 1900, respectively, and to embassy dispatches Nos. 532 and 703, of February 9 and June 14, 1900, respectively, and to previous correspondence relating to the claim growing out of the "Pious Fund of the Californias" against Mexico, I have the honor to transmit, herewith, a copy and translation of a note from Minister Mariscal dated the 28th ultimo, from which it appears that he questions the jurisdiction of the arbitral tribunal to pronounce the decision upon which the Roman Catholic Church of California bases its claim, and hence denies that said decision is *res judicata*. He also takes the position that the rule of *res judicata* only applies to the decisory part of the decision, and not to the antecedents upon which it is based, and in support of this contention quotes from the author of *Principles of French Civil Law*, who, in turn, refers to a decision of the French court of cassation bearing out that view. Mr. Mariscal maintains that the rule of *res judicata* can not properly be raised in this case, but only in a new suit, for which the courts of Mexico are open; and that until the claimants have exhausted this remedy and

believe that they have been denied justice, their claim is not one for diplomatic intervention.

I do not venture to offer any arguments myself against Mr. Mariscal's contentions, but await such further instruction from the Department as it may see fit to give.

I have the honor to be, sir, your obedient servant,

POWELL CLAYTON.

[Inclosure.]

Mr. Mariscal to Mr. Clayton.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, November 28, 1900.

MR. AMBASSADOR: I have not replied to your excellency's note of December 19 last until now for the reason which I had the honor to give your excellency verbally. The said note was accompanied by a copy of the instructions which the honorable Secretary of State sent to your excellency in regard to the claim presented called Pious Fund of the Californias. Previously, on May 3, 1898, your excellency sent me, by private letter, the observations of Mr. John A. Doyle, attorney of the claimants, and, on June 14 of the present year, during your excellency's absence, Mr. Fenton R. McCreery, chargé d'affaires ad interim, wrote to me officially calling my attention to the matter and citing a writer on international arbitration. To all these papers, in favor of the claim of the California bishop, I will try to reply as briefly and precisely as I possibly can, with due regard for the clearness necessary.

Nevertheless, before examining the argument in favor of the claim, qualifying it as a proper matter for diplomatic correspondence, I ought to explain what has been and what is the position of the Mexican Government in this case. When it was argued before the Joint Commission established under the convention of July 4, 1868, the representatives of this Government held, in the first place, that said Commission was not competent to decide the claim presented by the bishop of California, and in the second, that the claim itself was not just, it having no solid foundation. This double conviction of the Mexican Government was not changed by the arguments of claimants and those upon which the umpire based his decision against Mexico. With all this, the Government submitted to the decision and paid the award made against it in full, notwithstanding that it might have found juridical reason for considering that the case was not precisely one of *res judicata*, as I propose to hereinafter demonstrate. Nor did it appeal to the high equity of your excellency's Government as it did, without prejudice to the payment of the awards made, in the cases of La Abra and Benjamin Weil, because it could not prove, as it did in them, that there had been fraud in obtaining the decision, but error only in the decision made by the umpire of the Mixed Commission.

But now that the parties interested insist that the decision of a tribunal incompetent in the case and erroneous in its conclusions, after having been executed in the sum called for and to its full extent, by virtue of the convention of 1868, shall apply to a further amount of interest, said to have become due subsequently, and that the same be collected when there is neither decision nor convention which obliges us to pay it; now that this new claim, emanating from the first, it may be, but distinct from it, is presented, we exercise our right in refusing to admit it. And when we see that the Government of the United States of America unfortunately supports it, we can do no less than say that diplomatic intervention is not admissible in this new claim of the bishop of California. The reason for this may be inferred from the foregoing, and it is, as I will show, that it is not a question of the fulfillment of an international convention or the execution of a decision based upon the same, in which diplomatic intervention would be admissible, but of a new claim made after the international convention which might have been invoked had completely fulfilled its purposes, had ceased forever and had become a matter of history.

The new claim of the bishops in regard to further interests accrued after the date fixed by the convention for the cases to be decided by the Joint Commission, should be presented by them, or by their representatives, directly to the Mexican Government, and if the latter should refuse, as it will have to refuse, to acknowledge such indebtedness, they must then present their claim before the supreme court of justice of the union in this city, the sole tribunal which has jurisdiction of a case of this

nature. But to commence at once by submitting it to diplomatic correspondence, there being no question of the fulfillment of a treaty and without even appealing to, much less exhausting, the ordinary recourses afforded by the laws of Mexico, appears to us to be inadmissible. Wherefore I will not discuss the intrinsic justness or unjustness of the claim, but will limit myself to demonstrate that it is not now a question of fulfilling a convention or an arbitral decision pronounced in conformity with it, the *res judicata* can not be invoked here; it is a question of a very different thing arising afterwards and therefore not included either in the decision or in the international obligation which established the arbitration limited to certain and determined reclamations.

It is a truth, admitted by all jurists, that a decision rendered by an incompetent judge, or by one who has exceeded his jurisdiction, does not carry the force of *res judicata*. From among them I will quote Wells on *Res Judicata*, because this is an authority quoted by Mr. Doyle, the attorney of the claimants: "Section 5. The fundamental principle of the rule of *res judicata*, etc., * * * is plainly that the decision of the court of competent jurisdiction is and ought to be a final and conclusive settlement of the question involved in any particular controversy * * * always provided that it has acted therein within the proper limits of its jurisdiction."

Now, then, Sir Edward Thornton did not act within these limits, because the convention of July 4, 1868, which established the jurisdiction of the Joint Commission and, consequently, that of its umpire, prescribed in article 2: "It is agreed that no claim arising out of a transaction of a date prior to the 2d of February, 1848, shall be admissible under this convention," and the claim of the bishops arose out of transactions which occurred at the latest in 1842, the year in which was issued the decree acknowledging the said indebtedness, or a very little later, when, the interest not having been paid, the parties in interest considered that the first damages of which they complain has been caused. The argument that these damages were continued during the years subsequent because of the continuance of the nonpayment of the interest is destroyed by the consideration that the treaty of Guadalupe Hidalgo, in article 14, exempts Mexico from all claims against the Government which might have originated prior to the date of the said treaty. It can not be understood, therefore, how a debt of the Mexican Government, dead to the United States, or to her citizens, for this reason (and others which I will mention presently) could have been born anew later, nor that an extinguished principal could have continued to earn interest for those who were to become citizens of your excellency's country.

Another reason is the following: In 1848 and under the treaty of Guadalupe the Mexican church, held by the claimants to be the original owner of the Pious Fund, or a part of the said church, residing in Alta California, ceased to hold the life given to it by the laws of Mexico, the persons who composed it remaining subject to the jurisdiction of the United States of America, of which the legislation does not recognize personality in associations of that class if they have not been incorporated under certain conditions. Such incorporation was not had by the church of California until 1850; then a legal body was created under that name and with rights and duties distinct from those held by that portion of the Mexican church which had been established in it. Why, then, should this new corporation, exclusively a creation of the law, inherit the rights and shares of the Mexican church? To say, as the attorney of the claimants said, in discussing this matter, that the church existed of itself in 1848 and that it continued to exist for the State is to recognize the supremacy of the canon over the civil law, a thing which is not admitted either in California or in any other part of the United States. But in order that the new legal creation of your excellency's country should have the right to appropriate that which belonged, as it is said, to the Mexican ecclesiastical body it was necessary that it should be a true continuation of the other or its heir for some legal reason of which I am not aware.

To prove that the Mexican church of California (which formed a part of the whole church of Mexico) did not cease to exist, but simply changed its nationality in 1849, it is alleged that, according to the treaty of Guadalupe, it elected to become of American nationality and so became because of not having declared, within one year after the treaty, that it desired to preserve its Mexican citizenship. But if it had no personality whatsoever under the new laws which governed its members, if it did not legally exist, how could it make such election? And if it had such personality, why was it incorporated in 1850?

These reflections and others in the matter would carry me very far if I wished to continue them, but such is not my intention, but simply, as I have already said, to say in brief terms that, it being easy to demonstrate the incompetency of the joint commission and its umpire to decide a claim based on transactions prior to those which the convention admitted, and also upon supposed damages to parties who were not American citizens at the time when it might be imagined that they suffered them

(in 1842), we were in our right to deny the authority of *res judicata* to the decision of the umpire who condemned Mexico to pay a heavy sum to the bishops of California. And, notwithstanding, because of other considerations of a higher nature, we did not act in that manner, but paid the sum in which, without jurisdiction and unjustly in every sense, we had been condemned.

To-day the situation is different, and it can not be considered even *prima facie* (as then) that it is a question of complying with a decision by virtue of an international agreement; the decision with which we agreed to comply has been executed and we make no claim against it. Now, in asking for the payment of new interest, upon which the umpire did not and could not make any decision, as he neither did nor could with respect to the principal, it is claimed that his decision constituted a perpetual charge of forty-three thousand and odd dollars upon the treasury of Mexico in favor of the bishop of California. In view of this exorbitant claim, we now begin by denying the authority of the decision pronounced without jurisdiction, as we can do, without legal impropriety or lack of dignity, the said decision having been complied with in that which at first sight, at least, appeared to be in conformity with the treaty.

What I have said above serves to explain the conduct of the Mexican Government, and to show that Sir Edward Thornton having exceeded his jurisdiction, his decision has not the force and consideration of *res judicata*, and not having it, the fulfillment of this decision can not be discussed, as out of courtesy we complied with it before in that which it clearly provided. Neither before, and much less now, can it be said that it is a question of carrying out the convention to which the decision should be subject, in which case diplomatic intervention might be admitted.

Other reasons besides the incompetency of jurisdiction exist to prove that the present claim of the bishops is not the simple fulfillment of the *res judicata*, and this leads me finally to examine the arguments, first, that of the Department of State, and next, that of Mr. John A. Doyle. The honorable chief of said Department, in his instructions approving your excellency's course in supporting the claim, expresses himself as follows: "By the highest authorities, as well as upon the very reason of the rule, the effect of a judgment extends not merely to its final and decisive sentence, but to every point at issue between the parties to the suit, and which must necessarily have been decided." In support of this he quotes a decision of Lord Chief Justice Kenyon, of England, which, in order to avoid repetition, I will consider later.

I have to thank Mr. John A. Doyle for the courtesy and good faith with which he recognizes the fact that in two passages of my note to your excellency of October 4, 1897, words were omitted by the copyist. Such was the fact, and there was even some serious confusion of the wording, for which cause, in the passage where it says that the convention gave the Joint Commission power to decide only "claims for damages caused, etc., during the period included between the day on which the convention was signed (when it ought to have said the treaty of Guadalupe) and the day on which the exchange of ratifications was made," when it ought to have said "of the ratification of the convention signed in 1868." It is so expressed in the same note at the end of the preceding paragraph. In the paragraph following it is clear that it should read "the twenty-one years included between the dates of the treaty of Guadalupe and the exchange of the ratifications of the said convention."

Let us examine the arguments and precedents cited by Mr. Hay, Secretary of State of your excellency's government, and Mr. Doyle, the attorney of the bishops who make the claim. They propose to show, by the authority of different authors, that in a decision the *res judicata* is not only the decisory part or final conclusion in the case which was sub judice, but also the constitutive facts from which the conclusion results. At the same time they recite the facts which, in their opinion, were proved, and which constituted the antecedents necessary for the conclusion at the end of the decision of Sir Edward Thornton; and it appearing from them in substance that Mexico acknowledged an indebtedness to the so-called pious fund of California of a certain sum at 6 per cent per annum, for which she was ordered to pay the amount of interest accrued to February 2, 1869, they believe that there should be collected from this government as execution of the decision of the umpire and by diplomatic correspondence the interest accrued during the following twenty-one years.

There is in this (permit me to say, with the greatest respect for those who allege it) a very grave error which I will endeavor to show later on, confining myself for the present to some brief remarks on that which really constitutes the *res judicata*.

That *res judicata pro veritate accipitur* is a principle admitted in all legislation and belonging to the Roman law, certainly no one will deny. Nor is it denied that a tribunal or judge established by international arbitration gives to its decisions "pronounced within the limits of its jurisdiction" (in the language of the authority cited by Mr. McCreery) the force of *res judicata*; but to give in practice the same force,

as that directly expressed in the decision to close the litigation, to the considerations or premises not precisely expressed as points decided by the judge, but simply referred to by him in the bases of his decision, or assumed as antecedents necessary for the party in interest who interprets the decision, is a very different thing and can not be considered in the same way.

It would not be strange that the common-law jurists, cited by Mr. Doyle, should give greater practical importance to the considerations of a decision than the jurists of the civil or Roman law, because the principles which serve as a guide for the decision of other cases are usually found in the said considerations or bases. Nevertheless, these same jurists in giving, in a certain way, the force of *res judicata* to these reasons or bases will not claim that in all future cases they shall be admitted as absolutely indisputable truths. The proof of it is that there can be "overruled cases." Above all, these juriconsults can not claim, and it would not be admitted in any jurisprudence, that that which serves as a basis for one judicial decision shall be held, in another distinct case, as a truth so firm and so authoritative as to render another trial unnecessary when the supposed debtor refuses to recognize it; they can not claim that it be treated as if it were a simple execution of the decision of the preceding case.

This is the point in the present discussion, and simply in order that the reason I had for saying that *res judicata* is only that which is found to be determined in the decisory part of a decision may be known, I will quote some passages from the illustrious Belgian professor, A. Laurent, found in his *Principles of French Civil Law*, in which he defines *res judicata*, at the beginning of Volume XX, with the remark that, like the generality of authors, Laurent speaks only of the plea *rei judicate* and not of the suit to execute judgment, which has a more limited scope. "The court of Douai," says Laurent, "has applied this principle (that legal presumptions should be restricted) to the *res judicata*. Because of its nature," he says, "the plea of *res judicata* is essentially restrictive, that is to say, it should be applied only in cases explicitly prescribed by law, and there is no possible doubt as to its existence."

* * * "That which sometimes misleads," he continues, "the litigants, and which ought not to mislead their lawyers, is that one of the former has the same interest in the two suits, whence he infers that the first decision should prevent the introduction of the second suit. The interest may be identical, but if the object of the two suits be different there is no longer *res judicata*." (No. 50, *ibid.*)

"It is a principle that only the decisory part of the decision has the authority of *res judicata*. The reasons expressed by the judge decide nothing (in the case); *res judicata*, consequently, cannot result from them." * * *

"It matters little if the reasons express an opinion relating to a controverted point; if the decisory part does not determine it by admitting or rejecting the opinion pronounced in the considerations, there is no *res judicata*." * * *

"The court of cassation has decided that the *res judicata* must be taken from the decisory part and not from the reasons." (Decision January 9, 1878. Dalloz, *Chose Jugée*, No. 22, p. 218.)

"We will cite only," continues Laurent, "the last decision, as the jurisprudence is unanimous." (No. 29, *ibid.*) "The creditor sues his debtor for interest of a principal sum; the judge condemns the debtor to pay. Is there *res judicata* in respect to the principal? It is supposed that the decisory part of the decision fixes the amount of the principal, and it has been decided that a decision in these terms does not give the force of *res judicata* with respect to the principal itself." (Decision August 25, 1829. Dalloz, *Chose Jugée*, No. 24.)

"It may be objected that the judge, in ordering the payment of the interest, decides by implication that the principal is owing, as without principal there can be no interest. The question is to know whether there is *res judicata*; well, then, the judge has decided nothing in respect to the principal. This question has not been argued before him; it is, therefore, impossible for him to have decided and for the *res judicata* to exist." (No. 32, *ibid.*)

It would hardly be possible to find an authority more directly applicable to the case than Laurent and the French court of cassation, which I have just quoted. And in our case the umpire of the joint commission did not only not decide on the principal, but that he could not do so. If, then, there is no principal legally recognized by a decision, there can be no interest on the same, except when (with reason or without) a decision may have expressly so declared, in the manner in which it was done by Sir Edward Thornton; and the interest now demanded is as far from being *res judicata* as it is from being the principal supposed to belong to the Pious Fund.

If I should desire to add new authorities in this matter, I would quote another terminant decision to the effect that the decisory part of the decision only is the *res judicata*. I would cite another decision pronounced by the French court of Poitiers,

published by Dalloz in his *Repertoire de Jurisprudence*, article "Judgment," No. 324; but we have already seen that this is a matter of unanimous jurisprudence among the jurists of the civil or Roman law.

The truth is that the question in the matter of *res judicata* might be put aside for the present and, deciding it to be premature, take it up at the proper time; that is to say, when the claimants bring a judicial action against the Mexican Government. Because, in effect, what do the authorities cited by Mr. Hay and Mr. Doyle say? None of them shows that because a principle or a fact is considered to be determined in a decision, when it has been executed in what it directly ordered, and it is desired to apply the said principle or fact to another later claim, that a new litigation is not necessary. They do not hold that the new debt is a consequent of the execution of a final decision. None of them says any such thing; they say, rather, quite the contrary. This is easily shown by an examination of the principal citations in question. The one cited by the Secretary of State is as follows: "Accordingly, the lord chief justice (Kenyon) of England held that a judgment is conclusive between the same parties upon the same matter directly in question in another court, and as equally conclusive upon the same matter between the same parties coming incidentally in question in another court for a different purpose."

Mr. Burr W. Jones and Mr. Greenleaf simply say that the final decision of a competent court constitutes the *res judicata* and that this is conclusive between the parties and before any tribunal, a doctrine which no one disputes.

Mr. Wells says almost the same, adding the words: "And more especially if the court had peculiar and exclusive jurisdiction relative to such matters, its judgment should be binding upon the judgment of any other court acting in the same matter." This supposes that another tribunal has cognizance of the same matter. But he is clearer when he adds: "Section 234. If a contract provides for payment by installments due at different times, the installments may of course be successively tried on as they become due." Of course the installments must be tried judicially and successively, as they become due, and the same applies to interest, if necessary, provided that the supposed debtor may not be willing to pay.

The doctrine of Robertson, in the passage cited by Mr. Doyle, is the same, as follows: "A former judgment for the plaintiff is one of a series of actions, or other successive causes of actions may be evidence (and conclusive so far as it goes) of the rights of the parties in another of a series of suits." He then cites a judicial decision on this matter; and referring to the case of several drafts accepted for the same cause, holds that if the debtor defended the cause of action and the decision was against him, he can not set up the same facts "in defense of a subsequent suit on another of the notes."

Enough has been set forth to show that the citations made do not favor the course which Mr. Doyle's clients have taken in applying to the Government to procure the payment of a debt which we do not acknowledge, and which, for this reason, requires another litigation to the end that if the decision be against us we may have a reason for paying it.

Your excellency's Government, which because of its many and weighty duties may not yet have had opportunity to carefully study this question, has doubtless believed that this is a case, very simple, of carrying a decision into execution, of asking for the fulfillment of a treaty. Otherwise it would not have taken the course which the creditor ought to take—that of applying to this Government and presenting the interest account in order that if it were not paid to sue the said Government, or say the Mexican nation in the supreme federal court of the same, which, fortunately for the claimants, can be done in this country without the need of previously obtaining the consent of the Congress, which I understand is necessary in the United States of America.

And that it is not now a question of the fulfillment of the convention of 1868 is so incontrovertible that Mr. Doyle himself admits it in his "Observations." "Doubtless," he says, "as Mr. Mariscal observes (p. 5), the claim of installments maturing after February 8, 1869, is not included among the claims for the settlement of which the convention of July 4, 1868, was celebrated, and could not have been, for it did not then exist so as to be capable of presentation."

If it is not a question of the fulfillment of that convention, which was fully carried out, any new claim, even when resting on the bases of one of those provided for by the treaty, or in a decision which invoked the same, any other later claim is subject to the usual process of all collections from the Government, and after the claimants exhaust the recourses allowed by the laws of the country, if it is believed that there has been a denial of justice or a notorious injustice, there will be room for diplomatic action.

It must not be believed that this objection to discuss the claim of the bishops of

California on diplomatic grounds at the present time is because of prejudice, either political or of any other nature. It arises solely from a sentiment of duty on the part of this Government, from its firm and serene conviction that it should not grant so unjust a privilege to its pretended creditor with prejudice, perhaps, to justice and to the national interests. Because a diplomatic discussion is not suited to the ventilation of questions of a judicial nature, in which testimony must be presented and arguments made which are not precisely of international policy, but of a very different order. Otherwise it would give me great pleasure to continue to discuss this question with your excellency, of whose upright and friendly spirit I have had so pleasing an experience, and I would never doubt the justice of your excellency's Government if it were possible for it to carefully examine the question. But to consent to an irregularity such as that proposed by the claiming bishops in their course of exacting interest of a principal which does not exist, and this without taking the trouble to apply directly to their supposed debtor, and to proceed, if necessary, before the competent tribunal, is a thing to which the Government of the Republic can not lend itself without failing in its most sacred duties.

In order not to slight your excellency's remarks and those of your Government and the arguments of Mr. Doyle, which your excellency was pleased to send me, and also to show the impropriety of diplomatic intervention in this case, I have set out some reasons in the present note touching, perhaps hastily, the principal matter of the Pious Fund of the Californias, as it was at one time called. From what I have set forth it appears that the representatives of the Mexican Government never recognized the competency of the joint commission to receive and decide the claims of the California bishops, because of its not being of those submitted to that tribunal by virtue of the convention of July 4, 1868; and that such incompetency existed when the umpire signed his decision against Mexico. I have remarked that the incompetency of a judge, or excess in the exercise of his jurisdiction, deprives the decision in which he committed the excess of the quality of *res judicata*. I have mentioned that, notwithstanding the conviction that the decision of the umpire had this defect, the Government of Mexico had complied with it without objection, but that it could not extend the same deference to the claim for the new interest because its payment, not being included in the decisory part of the umpire's decision, we do not consider as *res judicata*, even supposing that the judge had been competent in the case. Upon this point I have cited some authorities who hold that *res judicata* is only that which is found to be decided in the decisory part of a decision, not the facts or principles upon which it is based.

Finally, I have put aside that question, and I have demonstrated, if I am not mistaken, beyond question that the said authors cited in favor of the claimants held that a new claim for new interest, after decision for the first had been executed, requires, if the debtor does not consent to pay, new proceedings and a new trial, in which there may be set up as a basis, more or less conclusive, that which was determined in the decision. Not proposing now to comply with any decision, nor being, therefore, under the necessity of carrying the convention into effect, as the attorney of the claimants admits, diplomatic intervention appears to be premature, and the parties in interest should make use of their rights in the way I have indicated above.

I renew, etc.,

IGNO. MARISCAL.

Mr. Hay to Mr. Clayton.

No. 543.]

DEPARTMENT OF STATE,
Washington, July 18, 1901.

SIR: The Department has maturely considered Mr. Mariscal's note of November 28, 1900, inclosed in your No. 848, dated December 14 ultimo, in regard to the claim against Mexico growing out of the "Pious Fund of the Californias."

The arguments contained in that note may be summed up as follows:

First. That the Commission under the convention of July 4, 1868, was without jurisdiction to pass on the former claim.

Second. That therefore the present claim is not, as a consequence of the former decision, *res judicata*.

Third. That the claim is not just.

Fourth. That the immediate remedy of the claimant is before the supreme federal court of Mexico, with ultimate recourse to the diplomatic forum in the event of "a denial of justice or a notorious injustice."

It is true, as stated by Mr. Mariscal, that "the treaty of Guadalupe-Hidalgo, by article 14, exempts Mexico from all claims against the Government which might have originated prior to the date of the treaty." There is in the argument, however, a latent fallacy. The treaty was retrospective in this effect, not prospective. It did not exempt Mexico from any claim which might arise in future in favor of American citizens against Mexico. Nor did it release the Mexican Government from the claims of its own citizens against it. Consequently, whatever claim existed in favor of the Catholic Church of the Californias, either on account of the principal or the already accrued interest of the "Pious fund," remained unaffected by the treaty, although the bishops of Upper California could not claim diplomatically in the capacity of citizens of the United States either the principal or the interest accrued prior to February 2, 1848; but the evidence and the facts established on the trial before the commission created under the treaty of July 4, 1868, demonstrate the perfect equity of the claim for the installments of interest falling due annually after the treaty of Guadalupe-Hidalgo to the claimants in their capacity of American citizens. Hence the jurisdiction and hence the decision of the umpire. The treaty of cession of Upper California could not impair private right beyond the express stipulations of the treaty, which in no manner attempted to affect the right or the remedy of these claimants for injuries suffered after the celebration of the treaty.

The first and second points developed in the minister's note are therefore manifestly unsound and untenable.

A careful reading of the evidence submitted by the opposing parties before the Mixed Claims Commission formed under the convention of July 4, 1868, discloses no essential conflict with respect to the decisive facts of the case and upon which the award of the umpire was based. While the parties had conflicting theories of the interpretation of those facts, the Government of the United States remains firmly convinced of the soundness of the view adopted by the umpire. All the facts essential to the defense of said cause are presumed, on the principles of good faith, to have been adduced by the Mexican Government, and the case is excepted from the ordinary rule of resort to the courts of first instance in order to establish the facts and apply thereto the pertinent principles of law. Even if resort were to be had to the Mexican court in the first instance, an adverse decision to the claimants could not, the facts being already settled and the principles of law not being doubtful, alter the opinion of the Government of the United States, and the beneficiaries of the fund are justly entitled to the payment of their aliquot proportion of installments as they annually accrue under the perpetual obligation of the Mexican Government. There is, therefore, really nothing to submit to the local court for adjudication.

It is argued by Mr. Mariscal that the Mexican church, or the part of said church residing in Upper California, ceased in 1848 to hold the life given to it by the laws of Mexico, the persons who composed it becoming subject to the jurisdiction of the United States, and that they were incorporated anew in 1850 in California with rights and

duties distinct from those held by that portion of the Mexican church which had been established in it. "Why, then," it is asked, "should this new corporation, exclusively a creation of the law, inherit the rights and shares of the Mexican church?"

The obvious and incontrovertible answer is that while the Mexican Government became a trustee of the principal fund for the benefit of the ecclesiastical corporation, the latter was itself a trustee for its beneficiaries, the object of the bounty of the founders of the charity. Even supposing the dissolution or civil death of the corporation, that does not affect or impair the rights of the beneficiaries. A new trustee may, and in such case will, be created to effectuate the purpose of the trust; and it is not disputed that the California corporation is the legal representative of the beneficiaries and is clothed with the power and charged with the duty of the faithful administration of the trust. The very premises on which Mr. Mariscal's argument is based lead logically to the inevitable conclusion that the enjoyment of the fund should be shared by all the beneficiaries, and that it should not be diverted to a portion of them, depending on the accident of nationality. The equity of all the beneficiaries is the basis of their common inheritance.

Even though it were admitted that the trust lapsed on the making of the treaty, it was only ad interim until the creation of a trustee capable to execute the trust of the beneficiaries.

For reasons already given, the Government of the United States remains of the unalterable conviction of the essential justice of the claim. The position assumed by the Mexican Government, in Mr. Mariscal's note, is that the claim is unjust. This position effectually disposes of the question of intervention, since the only reason of a reference to the local tribunals is to establish the justice or injustice of the claim, which has thus been already prejudged, constituting a denial of justice in advance, and rendering nugatory the only reason of the reference. For these reasons, and for those advanced by this Government in its previous instructions, which it is unnecessary to repeat here, all these features of the case relieve it from the operation of the ordinary rule and preclude from requiring such recourse by the claimant.

While the Government of the United States, in the light of the evidence adduced before the Commission, and of the decision of the umpire, could not be reasonably expected to, and is in fact unable to, yield its conviction of the essential justice of the claim, it is persuaded by the careful consideration of the arguments presented by the Mexican Government that that Government remains of the opposite conviction.

In view of the relations of friendship existing between the two Republics, which were never more cordial and harmonious than at the present moment, and which it is the sincere and mutual desire of the two Governments to foster and strengthen, the matter now in controversy is eminently suitable for determination by an arbitral tribunal, to be agreed on by the two Governments. You will therefore, in the exercise of your discretion, either suggest or bring about the suggestion of this mode of adjustment. If an arbitration is accepted, it will be on the understanding that all the evidence, proceedings, record, and decision of the former case shall be laid before the new tribunal, which shall be empowered and required to decide on the questions:

1. Is this claim, as a consequence of the former decision, within the governing principle of *res judicata*?

2. If not, is this claim just?
and to render such further judgments or award as may be meet and proper under all the circumstances of the case.

The agreement for submission to arbitration should also stipulate that either Government, on its own motion or on the motion of counsel for claimant, shall produce any further evidence within its possession or control which may be seasonably called for, and it should give to the tribunal the power to adopt such procedure as may be necessary to obtain all the ends of justice.

You are also authorized, in the exercise of your discretion, to suggest or bring about an offer to settle the matter by a compromise, once for all, of the entire claim, and under the sanction of the Department, which would wish to confer with the claimants in the course of the negotiations.

I inclose herewith copies of briefs of Mr. Doyle and of Messrs. Ralston & Siddons, which you are authorized to furnish to Mr. Mariscal.

I am, sir, etc.,

JOHN HAY.

[Inclosure 1.]

Ralston & Siddons to Mr. Hay.

Observations upon letter of Señor Mariscal, secretary of state of Mexico, to the Hon. Powell Clayton, ambassador of the United States to Mexico, relative to the claim of the Pious Fund of the Californias.

WASHINGTON, D. C., February 21, 1901.

SIR: We have read with attention the letter from Señor Mariscal, secretary of state of Mexico, addressed to the Hon. Powell Clayton, ambassador of the United States, and relating to what is known as "The Pious Fund claim." We beg leave to submit herewith some observations in reply to the contentions of the honorable Mexican secretary of state.

We believe the positions taken by Mexico, as evidenced by the letter in question, may be properly stated as follows:

1. That the decision of the Commission of 1869 was void in that it exceeded its jurisdiction, and therefore that such decision could not be regarded as *res judicata*. Such excess of jurisdiction exists because—

(a) The convention under which it acted provided that "It is agreed that no claim arising out of a transaction of a date prior to the 2d of February, 1848, shall be admissible under this convention," the claims of the bishops being of a prior date.

(b) There was no proper succession in interest between the Mexican Church (held by the claimants to be the original beneficiary of the Pious Fund) and the bishops of California, incorporated under the laws of the State of California.

2. That the decision of the arbitrator is only to be regarded as *res judicata* in its decisory part—that is, in its requirement of the payment of the particular interest referred to in it—and not *res judicata* upon the question of the amount of installments maturing annually thereafter.

We shall endeavor in the course of this letter to meet the foregoing contentions and the various implications flowing from them, but as a matter of convenience have preferred to somewhat change the order of the argument; first discussing the nature of the claim, then the considerations which warrant us in believing that it is to be regarded as *res judicata* upon the basis of the finding of the umpire in the former case, and concluding with a demonstration that the Commission and umpire had jurisdiction over the questions determined by them.

It sufficiently appears from the literature of the case that there was formerly in existence in Mexico a fund invested in various properties, real and personal, and known as the Pious Fund of the Californias; the purpose of which was to secure the conversion of the Indians and the support of the church in the Californias; that in the year 1842 the Mexican Government, being in possession of these properties as trustee for the purposes of the fund, determined for the sake of economy in administration to sell the same for a fixed price and incorporate the proceeds in the national

treasury, which as sovereign she had the right to do. On the sum so produced she engaged thereafter to pay interest at 6 per cent per annum in perpetuity.

The bishop of California was recognized as the proper recipient of these installments of interest. The date of the decree in question being October 24, 1842, the annual installments of interest are deemed to mature on that day. This interest was found to amount to \$86,000 per year. No dispute has ever been raised as to the right of the Mexican Government to administer the property in question and charge itself, as a trustee, with the payment of a definite sum. No demand has ever been made for the repayment of the principal sum. The bishops of California and all other parties in interest have treated their claim against the Mexican Government as being a claim for an annuity, the amount of which annuity had been fixed by the Mexican Government at a sum equal to 6 per cent upon the total capitalization. Mexico by her acts in 1842 recognized the definite character of the claim against her, acknowledging a liability, not for the principal, but for a certain annual charge. After having herself stamped this character upon the claim of the Pious Fund, Mexico can not now say that the claim is to the principal and not to an annuity, and a claim for the principal if such existed, being barred by treaty stipulation, no claim for the annuity can exist. Mexico must continue the trust relation which she has herself assumed.

The difference now insisted upon is more than verbal, it is substantial, and is to be borne in mind when it is suggested to us, as it has been by the Mexican secretary of state, that we have lost our claim to the principal because such claim was not presented under the treaty of 1848, the fact being that at no time under the Mexican decrees could a claim for the principal have been entertained.

It should be borne in mind that we never have had or made any claim to the principal. From its origin it has been in the hands of trustees; first the Jesuits; then the Spanish Crown; then the Government of Mexico; then in the bishop under the law of 1836; then from February 8, 1842, again in the Mexican Republic. All of these changes were accomplished by law—the act of the sovereign.

We next insist that the umpire, having decided that 21 installments of this annuity were payable in 1869, has of necessity decided that a perpetual obligation exists to continue the payment of such annuity, such obligation only to be answered by proof of payment or of a new state of facts arising, from which might be inferred a release of all claim; neither of which conditions exist. To this his excellency says that the only decisory part of the decision is to be regarded as *res judicata*, and he contends that the decisory part of the decision of the umpire extended simply to the finding of certain unpaid installments in 1869 and not to the finding of an original obligation to pay an annuity. We dissent from this position, both as to the facts and as to the law.

In order to determine the decisory part, as he terms it, of the decision, we have to consider what was under examination by the court and, having in view such examination, what were the findings of the court.

An inspection of the record of the Commission shows that the existence of the original fund was inquired into by the court and that in its inquiry it received the assistance of both the petitioners and the defendant Government. It is not possible for us, within the limits to which we are obliged to confine ourselves, to use as illustrations all the incidents afforded by the record, and we are furthermore embarrassed by the fact that we have not before us the argument of Señor Aspiroz, then representing the Mexican Government.

The opinion of the American commissioner is devoted to an examination as to what the Pious Fund was, and he declares that the Mexican Government, when it sold the properties and investments of the fund under the decree of October 24, 1842, held the proceeds as a trustee according to the decree of February 8, 1842, "to fulfill the purposes proposed by the donor in the civilization and conversion of the savages of the Californias." And the American commissioner, on page 5 of his opinion, determines the total of the fund to be \$1,436,033, and upon this basis decides that the petitioners shall receive the sum of \$904,700.79.

The Mexican commissioner in his opinion takes quite a different view of the matter. He devotes much time to an investigation into the character of the Pious Fund, seeking to prove that it was in itself civil and not ecclesiastical, and declaring that—

"When Mexico and the United States liquidated, so to say, their accounts in 1848, binding themselves not to seek in the past for any cause of complaint or reclamation, the Pious Fund of California was already incorporated into the national revenues of the Republic, and the Government of Mexico had only allotted certain subsidies to the ecclesiastical functionaries who served it as auxiliaries in that part of the confederacy. This situation the claimants now desire to alter and to oblige Mexico to pay the perpetual tribute of a rent to certain American corporations."

Evidently Señor de Zamacona entertained quite a different idea of the scope of the probable decision of the Commission from that now entertained by the Mexican secretary of state, considering, as he did, that the very purpose of the contention before him was, if successful, to establish the right of the petitioners to what he terms "the perpetual tribute of a rent."

When in turn the umpire passed upon the questions at issue, he examined the history of the fund and investigated as to its amount, remarking that "there is no doubt that the Mexican Government must have in its possession all the accounts and documents relative to the sale of the real property belonging to the Pious Fund and the proceeds thereof; yet these have not been produced; and the only inference that can be drawn from silence upon this subject is that the amount of the proceeds actually received into the treasury was at least not less than it is claimed to be."

We may therefore fairly believe that the parties in interest and the arbitrators alike considered that it was the duty of the commission to determine the question of the existence of the Pious Fund, its amount, and whether the claimants were entitled to receive an amount equal to 6 per cent upon such fund; and we are justified in believing that the decisory part, as it is termed, of the findings embraced the following points:

1. That there was a Pious Fund, the capitalized value of which was \$1,436,033.

2. That the Mexican Government was under an obligation to pay an annuity, based upon the taking into the treasury of such fund, to the bishops engaged in religious work in the Californias.

3. That a fair proportionate share thereof to be paid to the bishops of Upper California was one-half, and that in 1869 payments for twenty-one years were due.

But, says the Mexican secretary of state, the common law and the civil law approach the question of *res judicata* from different standpoints, and according to the civil law a finding that interest is due and unpaid is not an adjudication that the principal is a valid and subsisting obligation, and he quotes Laurent as follows:

"The creditor sues his debtor for interest of the principal sum; the judge condemns the debtor to pay. Is there *res judicata* in respect to the principal? It is supposed that the decisory part of the decision fixed the amount of the principal, and it has been decided that a decision in these terms does not give the force of *res judicata* with respect to the principal itself." (Decision August 25, 1829, Dalloz, Chose Jugée.)

This citation from Laurent loses all of its supposed force when we find, as we do, on examination that the authority mentioned by Dalloz was simply that of a case in which judgment for compound interest had been rendered by default, for Dalloz says:

"L'autorité de la chose jugée ne s'attache point aux simples motifs ou énonciations d'un jugement, relatives à des faits ou à des questions qui n'étaient point spécialement soumis à l'examen du juge, alors même que ces énonciations se trouvent dans le dispositif du jugement: *tantum judicatum quantum litigatum*. Ainsi, le jugement par défaut, qui accueille une demande tendant uniquement à faire produire des intérêts aux intérêts d'un capital, n'a pas l'effet de la chose jugée, quant à la quotité du capital, quoique ce capital soit exprimé dans le jugement (Req., 25 août 1829)."

We can readily believe that under similar circumstances in this country a judgment by default would not be recognized as determinative that the principal was due or as to its amount; the obvious reason being that no discussion or consideration was given of or to these questions—something vastly different from the conditions prevailing in the Pious Fund case, where all of the arbitrators particularly examined into the subject of the character and amount of the original claim.

The honorable Mexican secretary of state might have added to his citations from Laurent, for in the discussion of the general subject contained in paragraph 32, from which he makes the citation now under consideration, M. Laurent says:

"Un jugement accorde à une personne des aliments en qualité d'enfant. A-t-il l'autorité de chose jugée sur la question de filiation? Si la question a été débattue entre les parties, l'affirmative n'est point douteuse."

The aptness of this quotation to the question under consideration is obvious. The subject-matter debated before the commission, repeating ourselves, was the existence, character, and amount of the primary fund, and therefore upon those points the decision of the commission is to be regarded as *res judicata*, coming within the reason of the rule, as stated by M. Laurent.

While we wish to avoid the temptation to unduly multiply appeals to the civil law, yet in view of the citations contained in the letter of the honorable Mexican secretary of state, we may be excused for making further reference to Dalloz, covering the exact point now under consideration.

We find that when a sum is payable by installments in quarters, a decision regard-

ing the payment of the first quarter (a plea of nullity as to the whole obligation being presented) constitutes *res judicata* in any subsequent suit for the remaining quarters. We cite from section 112, Dalloz Jurisprudence Générale Title-Chose Jugée.

"Il a été jugé en ce sens que, lorsque le souscripteur d'une obligation exigible par quart a été condamné à payer le premier quart par arrêt qui a rejeté ses moyens de nullité contre l'obligation, il y a lieu d'opposer la chose jugée par cet arrêt aux mêmes moyens de nullité par lui proposés contre la demande des trois autres quarts (Req. 20 dec. 1830); en cas pareil, c'est toujours l'exécution du contrat qui est réclamée et cette raison a paru péremptoire à la cour."

Similarly, where there has been a dispute relative to a single year of arrearages of an annual payment, and the discussion and decision have had relation to the foundation of the right, the plea of *res judicata* can be used in a subsequent action having relation to other arrearages. We quote from section 113:

"Conformément à cette doctrine, il a été décidé que le jugement intervenu dans une contestation relative à une année seulement des arrérages d'une rente s'applique de plein droit aux arrérages des années subséquentes, lorsque la discussion et la décision ont porté sur le fond du droit; dès lors, si la même réclamation s'élève relativement à une année postérieure, elle peut être repoussée par l'exception de la chose jugée. (Toulouse, 24 dec. 1842, aff. St. Leonard, v. Appel civil, no. 201.)"

If one could ask a case more directly in point than those already furnished by Dalloz, it is to be found in section 124, the case of an annuity such as we claim is our demand against the Mexican Government. We quote from the section and the note to the section giving the case itself:

"En matière de rente viagère, où le capital est éteint, le jugement rendu sur la totalité des arrérages de la rente a été déclaré avoir l'autorité de la chose jugée sur l'existence même de cette rente. (Req. 27 avril, 1807.)"

"La Cour: Considérant, sur le premier moyen pris de la fausse application des lois sur l'autorité de la chose jugée, en ce que l'arrêt du 7 pluv. an 10 n'aurait dû être envisagé que comme un arrêt provisoire: Que cet arrêt était bien définitif et dans ses termes et dans son objet: Qu'il termine la contestation qui était née des exécutions faites pour le paiement des arrérages, échus jusqu'alors de la rente viagère de Bouret, et qu'il applique définitivement le montant de ces arrérages à la dame Delambre, en vertu du transport qui lui en avait été fait: Qu'il est intervenu sur la défense au fond de la partie de Becquey-Baupre (la dame de Guémenée), laquelle opposait alternativement et la novation et la réduction de la rente; que l'arrêt lui réserve même l'action en réduction à 21,000 fr., ce qui confirme de plus en plus sa disposition absolue sur le surplus, puisque la réserve eût été inutile si l'arrêt n'eût été que provisoire: Qu'enfin, en matière de rente viagère où le capital est éteint, avoir statué sur le paiement de la totalité des arrérages, c'est avoir reconnu et jugé l'existence de la rente d'une manière absolue et définitive;—Et que si l'on a détaché de la contestation le chef de conclusions relatif au titre nouvel, ce ne peut être que parce que les vingt-neuf années n'étaient pas encore écoulées depuis que la rente vigère avait été créée; et qu'agissant par voie d'exécution de titres émanés de la dame de Guémenée elle-même, ce chef de demande était inutile relativement à la contestation qui s'agissait:—Qu'ainsi l'arrêt du 7 pluv. an 10 étant véritablement définitif, l'autorité de la chose jugée a nécessairement dû lui être attribuée:—Rejette (Du 27 avril 1807, C. C., sect. MM. Muraire, 1er pr.—Dunoyer, r).

From the foregoing we believe that we have absolutely shown that the decision of the civil law upon the question of *res judicata* is precisely that of the common law as shown by the citations contained in the observations heretofore submitted by Mr. John T. Doyle.

Summing up the foregoing discussion upon the question of *res judicata*, we are brought to the conclusion that the decision of the commission of 1869 is absolutely conclusive upon the question of the obligation of the Mexican Government to pay to the Catholic bishops of California the amounts provided for by its decrees of 1842, leaving open only as the subject of controversy the question whether arrearages accruing since 1869 have been paid, and whether by some subsequent settlement the entire claim against the Government has been extinguished. Inasmuch as neither of these suggestions has been made by the Mexican Government, we can fairly regard the argument as conclusive, and consider that the Mexican Government is under an absolute obligation to pay the amount now sought.

We shall next consider whether the Commission had jurisdiction over the subject-matter in 1869, together with the incidental question as to whether the bishops of California were proper parties plaintiff.

We feel that we could, with propriety, be relieved from all consideration of these questions, because they were raised and argued before the commission in 1869, and, inasmuch as the finding was had in favor of the petitioners, the Commission must

have reached a conclusion adverse to the present contentions of the Mexican Government.

Reference to the pleadings filed before the American and Mexican commission on April 24, 1871, shows that Hon. Caleb Cushing, counsel for the Mexican Republic, moved to dismiss the claim on the following grounds:

1. Because the act of incorporation of the petitioners as corporations sole did not authorize them to claim property beyond the limits of the State of California.
2. Because the petitioners show no legal interest in the title to the Pious Fund in controversy.
3. Because the petitioners had a legal remedy in the Mexican courts, which they were bound to pursue and exhaust before coming here.
4. Because the injuries complained of were done before February, 1848, and this Commission has no jurisdiction of the claim.

In the course of his brief, Mr. Cushing said:

"The petitioners now ask for the interest accruing since 1848. This is not permissible, because this interest is only an incident of the principal, the subject of claim in 1848. The principal claim being barred by nonpresentation under treaty of 1848, the interest now sought, which flows from that principal, died with the death of the principal."

The error in the position then taken by the counsel for the Mexican Government, and now taken by the honorable Mexican secretary of state lies, as it seems to us, in the fact that the claim of the Catholic bishops of California was to an annuity, no part of which annuity was payable to any citizen of the United States at the time of the treaty of 1848. In 1869 there was a claim for some twenty-one years unpaid annuity, and this claim was passed upon favorably by the Commission. It is true that article 5 of the convention of 1868 stipulated that the parties hereto should "consider the result of the proceedings of this Commission as a full, perfect, and final settlement of every claim upon either Government arising out of any transaction of a date prior to the exchange of the ratifications of the present convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before the said Commission, shall from and after the conclusion of the proceedings of the said Commission be considered and treated as finally settled, barred, and thenceforth inadmissible."

This language manifestly applied to claims which had accrued at the time of the formation of the Commission, and such a claim was presented to it by our clients. Since then there has accrued a claim for thirty-one years of annuity, not presented, and which could not have been presented, because it arose subsequently to the date of such Commission. At the time of the convention of 1869 the claim now under consideration was for something thereafter to arise—not then in existence. The fact, therefore, that a non-existent claim was not presented before its birth to the Commission of 1869, constitutes no argument against its presentation at this moment.

Nor can we admit greater force to the suggestion that the Catholic bishops of California are not proper petitioners for relief. It seems to be admitted that under the Mexican law the corporate capacity of the Catholic Church was recognized; hence its legal position was in no wise affected by the transfer of sovereignty. The civil corporations of Mexico, operating within the jurisdiction of California, would have been freely recognized after the ratification of the treaty of peace, and the ecclesiastical corporations no less so, even though there were in the United States no union of state and church. In other words, the civil and ecclesiastical institutions of the country remained unimpaired because of the change of sovereignty, and the fact that for reasons satisfactory to itself the Roman Catholic Church in California chose to become reincorporated under the laws of the State of California is immaterial, and was so properly recognized in the decision of the umpire in the former case, for he said:

"The first question to be considered is the citizenship of the claimants. On this point the umpire is of the opinion that the Roman Catholic Church of Upper California became a corporation of citizens of the United States from the 30th of May, 1848, the day of the exchange of ratifications of the treaty of Guadalupe Hidalgo. By the eighth article of that treaty it was agreed that those Mexicans residing in the territories ceded by Mexico to the United States who wished to retain the title and rights of Mexican citizens should be under the obligation to make their election within one year from the date of the exchange of the ratification of the treaty, and that those who should remain in the said territories after the expiration of that year, without having declared their intention to retain the character of Mexicans, should be considered to have elected to become citizens of the United States. It has not been shown that the Roman Catholic Church in Upper California has declared any intention of retaining its Mexican citizenship, and it can be concluded

that it had elected to assume the citizenship of the United States as soon as it was possible for it to do so, which, in the opinion of the umpire, was when Upper California was actually incorporated into the United States on the exchange of the ratifications of the treaty of Guadalupe Hidalgo."

Subsequently he recognizes the claimants as the direct successors of the Right Rev. Francisco Garcia Diego, bishop of California.

We believe that we have met successfully all of the contentions contained in the letter of the honorable secretary of state of Mexico, of date November 28, 1900; in fact, every single suggestion now made by him, except that relating to the doctrine of *res judicata*, was passed upon by the Commission of 1869 adversely to the contentions of Mexico.

In view of the clear and manifest right of our clients to the relief for which they seek, and in view of the further fact that, as citizens of the United States, they can not be expected to appeal to the courts of Mexico in the case of a demand of the nature of the one now under consideration, we respectfully urge upon your Department the advisability of insistent demand upon Mexico for the settlement of this claim.

We have the honor to be, very respectfully, your obedient servants,

JACKSON H. RALSTON,
FREDERICK L. SIDDONS,

Of Counsel for the Roman Catholic Bishops of California.

[Inclosure 2.]

M. Doyle to Mr. Hay.

Observations on the letter of His Excellency Don Ignacio Mariscal, to Hon. Powell Clayton, United States ambassador to Mexico, dated December 14, 1900.

SIR: I beg to submit to you the following observations on the letter addressed to Hon. Powell Clayton, under date of December 14, 1900, by Don Ignacio Mariscal, secretary of state of the Mexican Republic, in reference to the claims of the prelates of the Catholic Church of California against Mexico for arrears of interest on the Pious Fund of California.

Mr. Mariscal's argument appears to be reducible to three points, which the distinguished author develops and urges in various forms. He contends:

I. That the present claim is not one for diplomatic intervention, but must be presented to and tried before the courts of Mexico, which he says are open to the claimants for that purpose.

II. Conceding frankly, as he does, the universal acceptance of the principle "*res judicata pro veritate accipitur*" and its application to the decisions of tribunals created for international arbitration, he claims that the award of the Mixed Commission created by the convention of July 4, 1868, is not conclusive in the present case as to the amount of or Mexico's liability for installments accruing after October, 1868, for two reasons, viz:

(a) Because, in deciding the case submitted to the Mixed Commission of 1868, that tribunal exceeded its jurisdiction, inasmuch as the claim put forward was not one of the class agreed to be submitted by the convention in question.

(b) Because the establishment of the amount of interest annually accruing in the case and payable under the decree of October 24, 1842, is not any portion of what he terms the decisory part of the award, and that hence the principle of "*res judicata, etc.*," does not apply to it.

III. Because the Catholic Church of California of to-day is not the legal successor of the Catholic Church which existed here under the Mexican Government, and derives no title from the latter.

These three points embrace, I believe, the whole of Mr. Mariscal's contention, although with his known versatility they are put forward and discussed in different forms and aspects. Instead, therefore, of following the honorable secretary through his argument in detail, which would lead to prolonged discussion, I shall confine myself to answering the three points in question.

1. As to the suggestion that this claim is not properly the subject of diplomatic intervention by the United States, but must be submitted to the courts of Mexico, it seems to me not to be my part to answer. The United States have made the claim the subject of diplomatic representations on behalf of their citizens to Mexico, as they have of other moneyed claims in numerous instances since that Republic

achieved its independence from Spain. More than one convention for the ascertainment and adjudication of such claims has been agreed on between the two Governments, and these arbitral courts have made numerous decisions. More than once Mexican publicists have put forward the plea now urged by Mr. Mariscal that the Mexican courts were open and should be resorted to by the claimants. The doctrine, however, has never been accepted by the United States, and probably never will be. Its acceptance would in fact make Mexico (and any other State that chose to pass similar laws) the final judge of its duties to citizens and subjects of other powers, and thus in effect withdraw it from the family of civilized nations and all the obligations of international law.

2. Mr. Mariscal contends that in its judgment, pronounced in 1875, the Mixed Commission created by the convention of 1868 exceeded its jurisdiction, because the claim of the prelates of the Catholic Church for the installments of interest on the Pious Fund accrued after February 2, 1848, did not come within the class of cases which by the convention of 1868 it was agreed to submit to arbitration.

(a) In considering this point I have to express my thanks to Mr. Mariscal for his candid admission in paragraph 17 of his letter that the principle "*Res judicata pro veritate accipitur*" is one "admitted in all legislation," and that "a tribunal established for international arbitration gives to its decisions pronounced within the limits of its jurisdiction the force of *res judicata*." In return I accept unhesitatingly the converse doctrine claimed by him, viz, that the decision to have the force of *res judicata* must be within the jurisdiction of the tribunal pronouncing it. These reciprocal admissions will shorten the discussion of the present case by reducing it to the two inquiries: (1) What was the claim of the prelates of the Church of California presented to and passed on by the Mixed Commission of 1868, and was it within the jurisdiction of that tribunal? and (2) What did the Commission of 1868 decide about it?

1. The claim as stated on the very first page of the memorial of the claimants presented to the Mixed Commission was that "the Republic of Mexico was liable to the Roman Catholic Church of the State of California in a large sum of money, exceeding, according to the best information they could obtain, seventeen hundred thousand dollars in gold coin of the United States, for the portion belonging to the said Church of California, of the interest which has accrued since the second day of February, 1848, on the capital of the Pious Fund of the Californias, which was incorporated into the national treasury of the Republic of Mexico by and in pursuance of the decree of the Provincial President of said Republic dated October 24, 1842, and on which capital the said Republic of Mexico, by the same decree, undertook and promised to pay interest at the rate of 6 per centum per annum thenceforth." It was one that English and American lawyers would call a common-law action of *assumpsit*, founded on an express promise. The memorial after stating the claim exactly as above quoted, proceeds to set forth the historical matter relative to the case, already well known and unnecessary to repeat here. Whether a claim by a beneficiary against his trustee thus arising *ex contractu* where the promise and assumption of duty preceded the 2d of February, 1848, but the breach of duty complained of occurred after that date, came within the purview of the convention and thus became cognizable by the commission, is the question which Mr. Mariscal undertakes to reopen at this late day. It depends, of course, on the proper construction of the text of the convention as defining the intent and meaning of the contracting parties.

Such a question the tribunal had necessarily to pass on in every case presented to it by either side, for in all of them the first inquiry necessarily was, "Is this one of the cases we are appointed to decide? If not, we must dismiss it without further examination." I apply the word "reopen" to Mr. Mariscal's argument advisedly, because reference to the proceedings of the commission will show that the objection now raised by him was urged and argued before that tribunal, first by the Hon. Caleb Cushing in his motion to dismiss the claim, filed April 2, 1871 (point 4, p. 7), and again by D. Manuel Aspiroz in his elaborate argument on the final hearing (paragraph 149 et seq.). It was answered in my printed argument on January 2, 1872 (point 4, pp. 29 to 39), and my reply to D. Manuel Aspiroz, dated January 1, 1875 (point 10, p. 25), as well as in the argument of Messrs. Phillips and Wilson, of January 1, 1872 (pp. 8 to 11). Printed copies of these papers, with the portions here referred to marked by a black line down the side of the page, are herewith presented, except the very able and learned argument of Don Manuel Aspiroz, which not having been printed I am unable to so furnish. It is, however, accessible on the files of the Department of State.

The question having thus been raised and thoroughly discussed I can not consent by now rearguing it here, to admit that it is open to discussion. The commission

decided it in our favor and the money award followed necessarily, for the only question of fact open to controversy was the amount of the fund incorporated into the national treasury under the decree of October 24, 1842. The authentic evidence of this being all in the hands of Mexico, and by her withheld from the commission, our recovery was necessarily limited to the items we were able to make proof of and was undoubtedly much less than it would have been had we had access to the evidence.

That the Mexican Government, while urging the objection just referred to, was prepared for a decision adverse to its contention is clear from the conduct of its officers. They knew the magnitude of the claim (\$1,700,000), and that if deemed to come within the purview of the convention they could scarce hope to avoid a heavy award against them. If, therefore, they could with truth have said, "We did not, in making this convention, intend to include claims of this character," they should, and doubtless would, have taken a course similar to that adopted by Great Britain in the case of the arbitration of Alabama claims. That history is well known.

After it was seen that the case of the United States, as laid before the arbitral tribunal, included demands for indirect or consequential damages, the British Government made known that it did not regard such claim as embraced within the submission, and that if included by its language, such was not its intention in ratifying the treaty. It proposed a supplemental convention to settle this point before proceeding further with the arbitration, and in presenting its case to the arbitral tribunal at Geneva, accompanied the act with an express reservation of its rights in this respect, of which such presentation was not to be deemed a waiver. It asked an adjournment of many months to give time to conclude the pending negotiation with the United States for an explanatory convention. This difference of opinion as to the jurisdiction of the commission threatened to break up the whole treaty and possibly lead to most deplorable consequences. In this juncture the arbitral court, by a happy inspiration, announced to the parties that the indirect claim in question did not in their opinion constitute, on principles of international law, sufficient foundation for an award of compensation in damages between nations.

Upon this announcement and proper entry of it in the record of the proceedings of the tribunal, the claim was dropped and the arbitration went on to a happy conclusion. Had Great Britain, instead of this course, argued before the Geneva tribunal against the allowance of such consequential damages as not included in the submission, she would have been universally considered as having taken the chances of an adverse decision, and if such had been made could never have honorably refused to pay the award. Mexico was in precisely the same predicament in the case of the Pious Fund of California. She deliberately argued and submitted the question whether the claim came within the terms of the convention before the arbitral tribunal created by it. The decision^a was adverse to her, and the enlightened men who guided her counsels felt that she had no course honorably open to her but to comply with the decision. This act must, I think, be deemed by all impartial minds a distinct admission of the authority of the Commission to decide. In accepting the award Mexico necessarily accepted it with all its consequences.

It is true that her distinguished secretary of state, seeing at once that an award of the twenty-one annual installments accrued between 1848 and 1868 necessarily involved a determination that an equal sum would become due annually thereafter, sought to avoid this corollary by a species of protest filed in the State Department to the effect that "while the final award in the case only referred to interest accrued at a fixed period, said claim should be considered as finally settled in toto, and any other fresh claim in regard to the capital of said fund or its interest accrued or to accrue as forever inadmissible." But your predecessor then in office, Hon. Hamilton Fish, most properly replied to him "declining to entertain the consideration of any question which contemplates any violation of or departure from the provision of the convention as to the final and binding nature of the awards, or to pass upon or by silence to be considered as acquiescing in any attempt to determine the effect of any particular award."

(b) Mr. Mariscal is of opinion that the amount of the annual interest promised by the decree of October 24, 1842, though distinctly stated in the decision of the Com-

^a The decision as to the jurisdiction of the Commission seems to have been unanimous; at least, I do not find any dissent on that question in the opinion of Mr. De Zamacona, the Mexican commissioner. One or more precisely similar claims were also allowed by the Commission, as I learn. The correspondence subsequent to the award I have summarized from Moore's *International Arbitrations* (Vol. II, pp. 1330 and 1351). Although acting as the attorney in fact of the claimants and the counsel in the case, the Secretary did not deem the matter of sufficient importance to communicate it to me.

mission of 1868 as \$43,080.99 (the half of \$86,161.99), and made the basis of its award, has not by that decision become *res judicata*, but remains yet to be ascertained over again every time a new demand for any further installments is made, basing this singular opinion on the French practice of formulating the decisions of the courts into the "considerants" and the "dispositif," of which only the latter is by their law deemed decided, and quoting dicta of Laurent to that effect. But these expressions evidently refer to the peculiar forms used in rendering judgments under the French law,^a and hence have no application to the judgments of tribunals not following such forms of procedure and a fortiori not to the determinations of international tribunals which proceed according to forms and modes of practice of their own.

It is not, of course, disputed that the conclusive effect of *res judicata* extends only to those facts necessarily involved in the judgment, and that it only concludes parties to the action of proceeding and those claiming in privity with them. As to what was actually decided by the Commission of 1868 in relation to the amount of the claim for the interest on the capital of the Pious Fund of the Californias, it is easily ascertained from the opinions of the Hon. W. H. Wadsworth and Sir Edward Thornton, which constituted the judgment in the case. They are in print, and copies are furnished herewith, with the passages marked as before on pages 4 and 5 of the former and page 6 of the latter.

3. That the Catholic Church of California to-day is not the legal successor of that church as it existed under Mexican rule and derives no title from the latter.

This objection was also urged before the Commission of 1868 and answered by us so conclusively that I was not prepared to see it again put forward by Mr. Mariscal. If admitted, it would destroy the identity of the cities of San Francisco, San Jose, Santa Cruz, and Los Angeles, with the Mexican pueblos, to which they succeed respectively and in virtue of which succession they enjoy large and valuable properties. Such destructive effect of a change of sovereignty has never been recognized under any system of jurisprudence. Strasburgh, transferred by France to Germany, and Nice, transferred by Italy to France, are notable examples to the contrary, and the opposite rule to that claimed here has been universally received by publicists. But I will not again go over the ground traversed in the previous argument. This whole question was argued before and passed on by the Commission of 1868. (See argument of D. Manuel Aspiroz, paragraphs 124 to 129. My reply thereto, dated January 1, 1875, Point VIII, page 22 et seq., and argument before the umpire, page 26, herewith presented, marked as before noted, but in red ink. Opinion of Mr. Commissioner Wadsworth, on page 3 at foot, and of the umpire, on page 1 at foot.)

I would close these observations here, but a proper respect for the opinions of so distinguished a person as Mr. Mariscal seems to call for some notice of the French authorities which he has cited. They all go to the extent and application of the doctrine of *res judicata*. I have, in a memorandum, submitted to the Secretary of State, and by him communicated to the Mexican Government, presented what I confidently believe to be the correct view of the law of all civilized societies on that subject, supported by numerous authorities. To repeat what was there urged would be idle, and I could scarce hope to add anything new and material to it. I shall therefore content myself with emphasizing the instruction to be derived from the case of the S. P. R. R. Company *v.* The United States. In my former paper that case was necessarily referred to as in manuscript; but it has since been reported and may now be found in 168 U. S. Reports, page 1. It is recalled specially because of the magnitude of the interests involved. The fact that the United States Government was arrayed on the one side and one of the great corporations of the country on the other, as well as the high character and position of the tribunal, all afford a guaranty that no material consideration applicable to it was overlooked or lost sight of.

It was a contest as to the title of some 600,000 acres of valuable land in the great valley of California, the title of which depended upon the question whether certain maps, filed in the office of the Secretary of the Interior, were preliminary maps of the general route of the road, or maps of definite location. It was shown that the same question had been already presented and decided between the parties, in a case involving a small portion of the same tract, and the maps in question were then determined to be maps of definite location. The court therefore held that the question became *res judicata* by that determination and decided accordingly. The character of the maps was deemed distinctly a question of fact, and the evidence was examined; the fact that they were filed by the company and accepted by the Government as maps of definite location was held to be conclusively established by the former adjudication. I feel that the authority of the Supreme Court of the

^aCode de Procédure Civil, Art. 141, and notes.

United States may be confidently relied on to outweigh the opinion of any text writer, however respectable, as to the limits to which the principle extends, even if they should be found to differ.

Rightly understood, however, I find no conflict between the dicta of Professor Laurent and Mr. Dalloz, quoted by Mr. Mariscal, and the determinations of our common-law tribunals. There is indeed a lack of precision of expression in the text of each of these continental writers which leaves them open to misunderstanding, but that must not be allowed to mislead us. For example, the illustration derived from the decision of August 25, 1829, cited from Laurent in paragraph 18 of Mr. Mariscal's letter, had better be read in the original French than in the English version of the letter, which has itself undergone translation from the Spanish. I will take the liberty of going back to that original, and in doing so must observe that Mr. Mariscal has, in my judgment, failed to grasp the true significance of the text. The case put is a judgment for interest on money, wherein the sum due as interest is determined, and the amount of the capital, from which it accrued, is mentioned. The creditor thereupon sued for the principal, and sought to make his judgment for the interest evidence that it was due, claiming even that it was *res judicata*. From this proposition the court dissented, saying, No! The claim you now make was not involved in the determination of the former action. Observing this, the writer says: "On peut objecter que le juge, en allouant les intérêts, décide implicitement que le capital est dû; puisqu'il ne peut y avoir d'intérêts sans capital. Sans doute! mais la question est de savoir s'il y a chose jugée? Or le juge n'a rien décidé, quant au capital. Cette question n'a pas été agitée devant lui; il est donc impossible qu'il l'ait décidée. Partant il n'y a pas de chose jugée." Here the words "sans doute" are not intended to affirm that the judge in awarding the interest has by implication decided that the principal is due, for that he plainly has not, and it is just what the writer means to deny; he has merely determined its amount. The words "sans doute" apply only to the second member of the sentence, viz: "Il ne peut y avoir d'intérêts sans capital." But from the fact that a capital bearing interest exists it does not follow that such capital is due and demandable, in presenti; it may not become due for years to come. Read with this gloss in mind, the text becomes plain and in entire conformity with the doctrine of the common-law courts.

Again, as to the somewhat obscure passage quoted from Dalloz (1852, 1, 291), I understand that in that case the purchaser at an auction set up in his action sundry credits, which he claimed, against the price at which the property was knocked down to him. The judgment established the amount of these credits and named the amount of his bid from which they were to be deducted. Later on—probably when payment came to be made—he set up a claim that a reduction of 5,050 francs from his bid had been conceded to him. The allowance of this was opposed on the ground that the amount due in the purchase price had become *res judicata*. The *cour de cassation* decided that there was no adjudication as to that amount or the sum due on it, but only as to the validity and amounts of the offsets to be allowed against it. The only matter put in issue or decided in the case in question was the validity and amount of the particular credits and offsets claimed by the purchaser and denied by the other party, which must have been disclosed by the pleadings. As to any other matters going to enhance or diminish the sum due in consequence of occurrences after the property was knocked down, such as payments on account or the abatement of price by the agreement alleged, they were wholly outside the scope of the action, not the subject of contention in it, and of course not decided in it.

What is remarkable about these citations, and many others from like sources that I have examined, is the great looseness of expression and lack of accuracy of thought indulged by the authors. Take, for instance, the comment of Laurent on this case of interest. He says: "La question est de savoir s'il y a chose jugée?" Now, if there is a judgment on the merits, there must be a *res judicata*, or, as they call it, a chose jugée. A judgment on the merits without something adjudged is inconceivable. What the writer means is, "the question is whether the point now under discussion was included in that decision?" But that is very far from what he says. The fact is that the usage of over four centuries of reporting cases arising under the law of England and of the States and colonies that have sprung from her loins, and their use as precedents for like cases arising thereafter, has led to an accuracy and precision in the employment of legal language and phraseology in the definition and limitation of rights and duties to which continental writers are strangers, and has made English eminently the language of jurisprudence. This accounts for the contrast between the unsatisfactory looseness of expression used in continental law treatises and the extreme accuracy of American and English ones.

In concluding these observations, I trust I may be pardoned for calling attention to the long period during which this claim has been pending and to the fact that so

far it has been answered only by dilatory pleas from Mexico. The former embarrassed condition of Mexican finance sufficiently accounts for these in the past; but the Republic having, under the able guidance of its present Executive, surmounted its difficulties and recovered a sound financial position, is now in condition to treat the case on its merits. I think it would be difficult to imagine one more eminently just or more strongly appealing to the national pride of Mexico for payment than this of the Pious Fund of California. It was built up entirely by the private benefactions of individuals, and sacredly devoted to a philanthropic and religious object by the piety and benevolence of its founders. The public, whether under the Spanish Crown or under the various governments which have swayed the destinies of the Mexican nation since the "Grito de Independencia" of 1810, under the patriot priest Hidalgo, never contributed "a dime to it.

Most of the donations which went to make it up were proved before the Mixed Commission by public histories and records of the highest authenticity, most of them over a century old—as Venegas's *Noticia de Californias*, etc., Madrid, 1757; Clavigero's *Storia de California*, Venice, 1789; Baecker's *Nachrichten von der Amerikaner halbinsel Californien*, Manheim, 1772; *Noticias de la provincia de California*, en tres cartas, etc., Valencia, 1794; *Historia de la Compañia de Jesus en Nueva España*, etc., Mexico, 1842; *Documentos para la Historia de Mexico*, cuarta serie, Mexico, 1857; *De Mofras's Exploration du Territoire de l'Oregon*, etc., par ordre du Roi, Paris, 1844; foundation deed of the Marquis of Villapiente and his wife, dated June, 1735, certified officially by the notary having custody thereof in Mexico in pursuance of a judgment requiring him to do so, in which the M. R. archbishop of San Francisco was plaintiff and the Mexican Government intervened as a defendant. It is simply impossible that there could be error, concealment, or falsehood about it. I doubt if there was ever a claim brought before a court supported by such a body of authentic historical evidence as it was.

It was decided to be justly due, and the amount of it established by the award of an international tribunal composed of eminent publicists of high character, and the amount fixed, with extreme leniency to the debtors, prompted, in the language of the umpire, by consideration for the "troubles and difficulties to which Mexico and her Government have been subject for several years."

It interests a very large number of citizens in this State, Nevada, Utah, Oregon, Washington, Idaho, and Montana, for all those Territories are deemed by the prelates representing the claim entitled to share in the benefits of the fund, because embraced within the benevolent intentions of the founders, which were coextensive with the claims of the Spanish monarchs to temporal dominion. These extended up the west coast as far north as known and indefinitely inland.

At the time when the United States, from a mere regard to the right and justice (irrespective of law), are refunding to Mexico a very large sum, which they were by fraud and perjury mislead into collecting from her by judicial process, it can scarcely be deemed a gracious act, or one in harmony with the same spirit, for that Government to procrastinate and put off so just a claim as this by dilatory and technical exceptions not touching the real merits. Doubtless the world has changed since this obligation was assumed by Mexico in 1842, and 6 per cent per annum has become a heavy rate of interest to pay, but instead of piling up by delay a mountain of debt which, "creep time ne'er so slow," will one day be paid—for in the end justice will be done, and the church which has weathered the storms of nineteen centuries and "held on its rank unshaken of motion" since the Cæsars reigned in Rome may surely be counted on to endure as long as any existing political government—how much more gracious and creditable would it be to propose an amicable reduction of the rate of interest to a more modern standard, accompanied with punctual future payments, or, if preferred, an extinguishment of future claims by voluntary payment of the capital? If your mediation between the parties were the means of bringing about such a result, you might justly claim the gratitude and become the benefactor of both.

I am, sir, very respectfully, your obedient servant,

JOHN T. DOYLE.

W. T. SHERMAN DOYLE, *of Counsel.*

MENLO PARK, CAL., *February 22, 1901.*

^aI do not mean to assert that the Crown never aided the missions; it may have done so to some limited extent, though I am not aware of the fact. What I assert is that the Pious Fund, which was incorporated into the public treasury of Mexico by the decree of October 24, 1842, never received from the Government a single maravedi; on the contrary, the monarchs often borrowed money from it.

[Inclosure 3.]

OBSERVATIONS OF MR. JOHN T. DOYLE UPON THE EFFECT OF THE TREATY OF 1868.

The suggestion that our demand for interest on the Pious Fund from and after the year 1869 is barred or released by the terms of the convention of July 4, 1868, must be based on either—

1. The concluding lines of Article II, which provide that no claim arising out of a transaction of a date prior to the 2d day of February, 1848, shall be admissible under this convention; or

2. The provision of Article V, whereby the parties agree to consider the result of the proceedings of the Commission as a full and final settlement of every claim upon either Government arising out of any transaction of a date prior to the exchange of the ratification of the present convention. Whether presented to the arbitral court or not, such claims shall from and after the conclusion of the proceedings of the Joint Commission be treated as settled, and thereafter inadmissible.

Article I of the convention provides that "all claims of United States citizens against the Mexican Republic arising from injuries to persons or property by Mexican authorities * * * (and vice versa) * * * which may have been presented to either Government for its interposition with the other since February 2, 1848, and which yet remain unsettled, shall be referred to two commissioners," etc. The claim for the interest on the Pious Fund accrued since February 2, 1848, was distinctly one of these. It was presented to the United States Government for its interposition with Mexico on or just about the 22d of July, 1859, and was therefore referred to the Joint Commission by the express words of the convention. It would be a singular construction of the instrument that would by one section refer the claim to the Commission, and by another forbid its consideration by it.

There had been a prior commission to hear and determine United States claims against Mexico, acting under the convention of 1839 and 1843. Many claims had been decided by it, but it had not completed its duties when it expired by limitation. Eighteen claims remained undecided on which the commissioners had differed and the umpire had not acted, and there were seven more on which the commissioners had not acted when their time expired. A promise was then exchanged (convention of 1843, Article VI) and such was agreed upon by the plenipotentiary, but it failed to obtain ratification by the Senate. The two Republics were drifting into a war, which broke out on the 8th of May, 1846, and was brought to a close by a treaty of Guadalupe Hidalgo, February 2, 1848. In that treaty provision was made for the adjudication of not only the old claims against Mexico which remained undecided by the old commission, but for any new claims of United States citizens against Mexico which had arisen since, and the United States undertook to pay Mexico \$15,000,000 for the territory she ceded to us, and to pay such claims to the extent of \$3,250,000, for the ascertainment of which a commission was afterwards appointed. Mexico was released and discharged from all such claims. In the treaty of Guadalupe Hidalgo therefore settlement and release went hand in hand. Claims were released for the settlement of which provision was made, and none others were released. A gratuitous release was never proposed by either party, nor contemplated by either. Hence when Mr. Cushing put forward this objection in his motion to dismiss he felt logically constrained to couple it with a claim that our demand had arisen before February 2, 1848, and might have been presented to the Commission created by Congress to audit such claims. In reply to this contention I said, "The test proposed is undoubted the true one and I accept it." If the claim could have been presented to the American Commission, created under the treaty of Guadalupe Hidalgo, it is not cognizable here, but is e converso also true that if it was not presentable to that Commission it is within the jurisdiction of this. That it comes within the latter category will appear from the historical facts which preceded the treaty of Guadalupe Hidalgo, the objects contemplated by it, and from its language.

See my argument January 2, 1872, page 29.

That the release of Mexico and the assumption of payment were correlative engagements was not, so far as I know, disputed by the counsel for Mexico. No special stress was laid on the words "growing out of a transaction" in the end of Section II for the obvious reason that the definition of claims cognizable under the convention were carefully expressed in Article I of the convention and specially devoted to the subject, and it would be against all rules of reasonable interpretation to change the limitation there provided by a construction of the words in Article III, which would have the effect of releasing a claim against Mexico for the examination and adjudication of which no provision was made.

What construction then, may be asked, do you place on the words "arising out of a transaction of a date prior to the 2d of February, 1848?" I answer, they were intended

to be equivalent to "arising out of a cause of action accruing at a date prior to the 2d of February, 1848." They are simply used in the sense in which, if treating of claims against individuals, we would employ the term, "the cause of action accrued before the date named." The words "cause of action," not being strictly applicable to claims against an independent state or sovereign, which in general can not be sued, the other phrase was employed in this article, as well as in the succeeding article (V), to express the same idea. It is true that Mexico, as we learn from the letter of Mr. Mariscal and from the argument of Don Manuel Aspiros, does in certain cases permit herself to be impleaded and sued in her own courts; but the United States does not, and a phrase equally adapted to both the contracting parties was naturally sought. All the above is, of course, on the assumption that I am addressing one who considers our claim to arise out of Mexico's promise to pay us interest on the capital of the Pious Fund, which bears date October 24, 1842, but it is not the undertaking or assumption of duty (the date of which is wholly immaterial), but the breach of that duty, that furnishes ground of complaint, or, in common-law language, gives rise to the cause of action. The maxim "Causa proxima spectatur" applies.

The two powers having by the convention of 1868 agreed to consider the result of the proceedings of that Commission a full and final settlement of every claim upon either Government arising out of any transactions prior to the date of the exchange of its ratification (February 1, 1869), the last-named date became the limit of the installments recoverable by us before that tribunal. Accordingly, we were awarded 21 installments, 1848-1868, both inclusive. That being the limit of the authority of the Commission to adjudge was also the limit of what the United States released. Surely it is not suggested that by Article V claims that could not be presented to the Commission were to be cut off by its awards. That would be, I think, a flight even beyond Mr. Mariscal.

JOHN T. DOYLE.

MENLO PARK, March 4, 1901.

Mr. Clayton to Mr. Hay.

No. 1052.] EMBASSY OF THE UNITED STATES OF AMERICA,
Mexico, August 21, 1901.

SIR: I have the honor to acknowledge the receipt of Department's instruction No. 543, of the 18th ultimo, and the inclosures therein referred to.

After carefully studying said instruction, and the documents in the case, I have to-day addressed a note to Mr. Mariscal, copy inclosed, transmitting to him a copy of each of the following documents:

First. The pamphlet containing the brief of Messrs. Ralston & Sidons, dated February 21, 1901.

Second. The pamphlet containing the brief of Hon. John T. Doyle, dated February 22, 1901.

Third. The typewritten brief of the Hon. John T. Doyle, dated March 4, 1901.

I have invited the minister's early consideration of the aforesaid documents, and have requested him that after such study of the same as he may be pleased to give, to inform me of the final conclusion of the Mexican Government concerning the question at issue.

In framing my note to Mr. Mariscal I was in doubt as to whether I should inform him of our Government's unalterable conviction of the essential justice of the claim and the reasons therefor, as stated in my instruction, but finally concluded to adopt the course above reported, and to await the minister's reply. Should the Mexican Government adhere to the position it has heretofore taken, as I anticipate it will, my present idea is to then conduct the negotiations verbally, first informing him of the attitude of the Government of the United States, and suggesting that in view of the two Governments being so far

apart that we direct our efforts for the discovery of a way for a just and friendly settlement of the controversy.

I have the honor to be, sir, your obedient servant,

POWELL CLAYTON.

[Inclosure.]

Mr. Clayton to Mr. Mariscal.

EMBASSY OF THE UNITED STATES,
Mexico, August 21, 1901.

MR. MINISTER: Referring your excellency to my note, dated December 19, 1899, and your excellency's reply to the same of November 28, 1900, and to previous correspondence, all relating to the claim against Mexico growing out of the "Pious Fund of the Californias," I have the honor to transmit herewith the following documents:^a First, a pamphlet containing the brief of Messrs. Ralston & Siddons, dated February 21, 1901; second, a pamphlet containing the brief of Hon. John T. Doyle, dated February 22, 1901; third, a typewritten brief of the Hon. John T. Doyle, dated March 4, 1901, to which I respectfully invite your excellency's early consideration.

After such study as your excellency may be pleased to give to these documents, I respectfully request that I may be informed of the final conclusion of the Mexican Government concerning the question at issue.

I have the honor to renew to your excellency the assurance of my high consideration.

POWELL CLAYTON.

Mr. Clayton to Mr. Hay.

No. 1176.] EMBASSY OF THE UNITED STATES OF AMERICA,
Mexico, November 6, 1901.

SIR: On the 17th ultimo, at an interview with Minister Mariscal upon other business, before departing I casually called his attention to the claim against Mexico growing out of the Pious fund of the Californias and asked him if he had read the documents transmitted to him with my note of August 21 last (inclosure in dispatch 1052 of the same date). In reply he said: "To tell the truth, I have not, but will do so within the next two weeks." I remarked that I hoped after he had studied the arguments contained in said documents his Government would change its views in relation to this claim, but that in case it should still adhere to the position already taken, then in my judgment the matter would have reached a stage which would require our best efforts for a solution of the question fair and honorable to both Governments. He replied that the international congress of American States which was about to convene in Mexico would perhaps create a tribunal to which this question might be submitted. I did not deem it wise to pursue that branch of the subject further at that time nor to say anything about the question of compromise. I expressed the desire that he would read the documents at his earliest convenience and inform me of the conclusions of his Government, which he promised to do. It is my purpose at our next interview to again refer to the matter, as I am inclined to believe that on account of the meeting of the Pan-American conference, which doubtless has

^aPrinted ante.

absorbed much of his time, he has not yet read said documents. As soon as he has done so and I have knowledge of that fact I shall take up the negotiation on the line of my instruction.

I have the honor to be, sir, your obedient servant,

POWELL CLAYTON.

Mr. Clayton to Mr. Hay.

No. 1181.] EMBASSY OF THE UNITED STATES OF AMERICA,
Mexico, November 13, 1901.

SIR: Referring to my No. 1176 of the 6th instant, concerning the claim against Mexico growing out of the Pious fund of the Californias, I have the honor to report that on the 8th instant I called upon Minister Mariscal upon other business, and before leaving adverted again to the subject and asked whether he had yet read the documents transmitted to him with my note of August 21 last (inclosure 1, dispatch 1052). He replied that he regretted to say he had not yet found time to read said documents, but would do so very soon. He then proceeded to discuss the question, reiterating the position already taken by him that the claim was one which should be first submitted to the Mexican courts. I replied that my Government contended that the case had already been finally adjudged, hence there was nothing to so submit. He remarked that in case of irreconcilable disagreement the matter might be submitted to an arbitral tribunal, and again spoke of the prospect of the international conference providing for such a tribunal. He said, however, that the jurisdiction of such a tribunal would probably only cover future cases. I replied that I presumed if such a tribunal should be created and both parties were willing to submit the case to it there would be no objection, or the two Governments might select a board of arbitration in the usual manner. He replied that if the case should be submitted to arbitration the first question to be decided would be as to whether the Thornton award came under the principle of *res judicata*, and if that question should be decided in the negative the whole question would then have to be reopened. I suggested that there were three ways of peaceably settling the question—first, by the Mexican Government paying the claim; second, by mutual concessions in the way of a compromise, and third, by arbitration. As Mr. Mariscal made no reply regarding the question of compromise, I again requested an early answer as to the attitude of his Government after he had studied the documents above referred to, and turned the conversation to other subjects.

I judge from the conversation reported in my aforesaid dispatch No. 1176 and the one reported above that we shall be able to arrive at an understanding, in conformity with the views of the Department, to submit the matter to arbitration. I suppose it is the desire of the Department, in case Mr. Mariscal and I should arrive at a verbal agreement in conformity with my instructions, that I report that fact and the terms of such agreement to it in order that it may determine as to the form and manner of its consummation.

I have the honor to be, sir, your obedient servant,

POWELL CLAYTON.

Mr. Hay to Mr. Clayton.

No. 605.]

DEPARTMENT OF STATE,
Washington, November 21, 1901.

SIR: I have to acknowledge the receipt of your dispatch No. 1181 of the 13th ultimo, reporting a conversation that you had on the 8th ultimo with Mr. Mariscal in relation to the claim of the Roman Catholic Church of California against Mexico growing out of the Pious fund of the Californias.

Your action in the matter is approved by the Department.

The stipulations or terms of the arbitration agreement, as well as the name or names of the arbitrator or arbitrators to be appointed, should be submitted to the Department for approval in advance.

The Department notes with pleasure the reported conversation with Mr. Mariscal and that his suggestions to you are in line with the wish expressed in the Department's previous instruction.

I am, sir, etc.,

JOHN HAY.

Mr. Clayton to Mr. Hay.

No. 1215.] EMBASSY OF THE UNITED STATES OF AMERICA,
Mexico, December 16, 1901.

SIR: I have the honor to report that on the 2d instant in an interview with Minister Mariscal, I adverted to the controversy between the two Governments growing out of the claim of the Roman Catholic Church of California, known as the "Pious Fund," and the manner of settling said controversy. After some discussion it was agreed that the matter should be submitted to arbitration. Mr. Mariscal suggested that the question could be submitted either to The Hague Tribunal or to a tribunal created by the International Conference of American States now in session at this capital, should one be created, and I suggested that in case neither should be acceptable to both parties, the two Governments might agree upon a special board or tribunal for the purpose, to which he assented. In view of the nonexistence of the second tribunal referred to, we finally agreed to leave the selection of the tribunal open to future consideration.

On the following day, in order that there might be no misunderstanding between us as to the questions and evidence to be submitted to such tribunal when selected or created, I addressed a note to Mr. Mariscal, copy inclosed, stating my understanding of the results of our conversation of the previous day and embodying in it the exact language of your instruction No. 543, of July 18, 1901. I have the honor to inclose a copy and translation of the minister's reply, dated the 6th instant, from which it will be observed that my understanding of said conversation, as expressed in my note, is accepted by him as "exact."

I await the further instruction of the Department regarding the question of the arbitral tribunal, and after receiving the same I shall endeavor to come to a definite understanding with the minister upon that subject, as well as to the form of the agreement, which, when agreed upon, I will promptly submit to the Department for approval.

I have the honor to be, sir, your obedient servant,

POWELL CLAYTON.

[Inclosure 1.]

*Mr. Clayton to Mr. Mariscal.*EMBASSY OF THE UNITED STATES,
Mexico, December 3, 1901.

MR. MINISTER: Referring to our conversation of yesterday concerning the manner of settlement of the controversy between our two Governments growing out of the claim of the Roman Catholic Church of California, in order that there may be no misunderstanding, I desire to say that I accepted your excellency's proposition that the claim should be settled by arbitration, with the understanding that all the evidence, proceedings, record, and decision in the former case shall be laid before the new tribunal, which shall be empowered and required to decide on the questions:

1. Is this claim, as a consequence of the former decision, within the governing principle of *res adjudicata*?

2. If not, is this claim just?

and to render such further judgment or award as may be meet and proper under all the circumstances of the case.

The agreement for submission to arbitration should also stipulate that either Government, on its own motion or on the motion of counsel for claimant, shall produce any further evidence within its possession or control which may be seasonably called for, and the agreement should give to the tribunal the power to adopt such procedure as may be necessary to attain all the ends of justice.

My understanding of our conversation also is that the question as to the formation and composition of the contemplated tribunal shall be left open for future consideration.

I respectfully request, at your excellency's early convenience, that I may be informed whether the foregoing is in accordance with your excellency's understanding.

I have the honor to renew to your excellency the assurance of my high consideration.

POWELL CLAYTON.

[Inclosure 2.]

*Mr. Mariscal to Mr. Clayton.*DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, December 6, 1901.

MR. AMBASSADOR: I had the honor to receive the note, dated yesterday, in which, referring to our conversation on the day before, relating to the controversy between the two Governments in the matter of the claim of the Roman Catholic Church of California, and to the end that there may be no misunderstanding, your excellency is pleased to accept my proposition that the matter be settled by arbitration, with the understanding that the evidence, proceedings, antecedents, and decision in the former case be placed at the disposition of the new tribunal, which shall be empowered to decide and which ought to decide the following questions:

1. Is this claim, as a consequence of the former decision, governed by the principle of *res judicata*?

2. And if not, is this claim just?

and to render such further judgment or award as may be meet and proper under all the circumstances of the case.

Your excellency adds that in the agreement to submit the matter to arbitration it should be stipulated that either Government, on its own motion or on the motion of counsel for claimant, shall produce any evidence in its possession or control which may be seasonably called for, and that the agreement should give to the tribunal power to adopt such procedure as may be necessary to attain the ends of justice.

Your excellency also understands that the question of the form and composition of the proposed tribunal shall be left open for future consideration.

It gives me pleasure to say to your excellency that the understanding expressed in your excellency's esteemed note is exact.

I renew, etc.,

IGNO. MARISCAL.

Mr. Hay to Mr. Clayton.

No. 635.]

DEPARTMENT OF STATE,
Washington, January 23, 1902.

SIR: I inclose herewith for your information a copy of a letter from the counsel of the claimants in the claim of the Roman Catholic Church of California against Mexico, growing out of the "Pious Fund" of the Californias, in which they express their willingness to submit the claim to arbitration.^a

The letter of Messrs. Ralston & Siddons has the approval of the Department.

You will say to Mr. Mariscal that the Government of the United States would be pleased to have the case submitted to arbitration under Article XXXII of The Hague Convention. If this proposition is accepted by Mexico, the bases of the arbitration agreement having already been settled, the Department will then proceed to select arbitrators on its part; and Mexico having done the same, it will then be in order to prepare for signature the agreement of arbitration.

I am, sir, your obedient servant,

JOHN HAY.

Mr. Hill to Mr. Clayton.

No. 664.]

DEPARTMENT OF STATE,
Washington, March 13, 1902.

SIR: Referring to the claim known as the "Pious Fund," the President feels that it would especially redound to the credit of the United States and of Mexico if the two North American Republics might be the first States to submit to The Hague Tribunal for determination by it of an international controversy.

The Department has no doubt that President Diaz would share in the pleasure which all Americans would feel in the high example thus set by two of the leading republics of this hemisphere.

You will, in the exercise of your discretion, bring the matter to the attention of the Mexican Government, in order that, if the suggestion is favorably received, one of the principal advantages of the arbitration may not be lost by a possible prior reference of some other case to that tribunal.

I am, sir, your obedient servant,

DAVID J. HILL,
Acting Secretary.

Mr. Clayton to Mr. Hay.

No. 1311.] EMBASSY OF THE UNITED STATES OF AMERICA,
Mexico, March 27, 1902.

SIR: Referring to Department's instructions Nos. 635 and 664, of January 23 and March 13, 1902, respectively, concerning the proposed arbitration between the United States and Mexico of the claim known as the "Pious Fund of the Californias."

^a Not printed.

Immediately upon receipt of the first-named instruction, I addressed a note to Minister Mariscal, under date of January 29 last (copy inclosed), informing his excellency of the desire of my Government to have the case submitted to arbitration under article 32 of The Hague Convention. A day or two afterwards I called upon him, and in our conversation referred to the subject. He replied that the proposition was acceptable, and that he would communicate with me in writing to that effect in a very short time.

Mindful of the desirability of early action, I have, since that time, frequently called the minister's attention to the matter, receiving a reply each time that it would be attended to in a few days.

Upon receipt of the Department's last-mentioned instruction, I again called upon the minister, but upon being informed by Under-Secretary Algara that he would not be in his office that day, I returned to the embassy and addressed a communication to Mr. Algara (copy inclosed), requesting that it be handed to the minister, and expressing the views of the Department as to the desirability of the United States and Mexico being the first States to submit a contention to The Hague Tribunal.

The long-looked-for reply of the foreign office came yesterday, under date of the 24th instant (copy and translation inclosed), from which it will be seen that the proposition of the United States Government has been accepted by the Mexican Government and that the proper instruction has been sent to Ambassador Aspiroz in the premises.

I have the honor to be, sir, your obedient servant,

POWELL CLAYTON.

[Inclosure 1.]

Mr. Clayton to Mr. Mariscal.

EMBASSY OF THE UNITED STATES,
Mexico, January 29, 1902.

MR. MINISTER: Referring to the agreement heretofore reached by your excellency and myself for the submission to arbitration of the claims of the Roman Catholic Church of California against Mexico, growing out of the "Pious Fund of the Californias," I now have the honor to inform your excellency that I am directed by the Department of State to say that the Government of the United States would be pleased to have the case submitted to arbitration under Article XXXII of The Hague Convention. If this proposition is accepted by Mexico, the bases of the arbitration agreement having already been settled, the Department will then proceed to select arbitrators on its part; and Mexico having done the same, it will then be in order to prepare for signature the agreement of arbitration.

Awaiting your excellency's reply as to whether the foregoing proposition is acceptable to the Mexican Government, I have the honor to renew the assurance of my high consideration.

POWELL CLAYTON.

[Inclosure 2.]

Mr. Clayton to Mr. Algara.

EMBASSY OF THE UNITED STATES,
Mexico, March 20, 1902.

DEAR MR. ALGARA: Please hand to Mr. Mariscal for his information the following extract from the instruction from the State Department which I showed you to-day. "Referring to the claim known as the 'Pious Fund,' the President feels that it would especially redound to the credit of the United States and of Mexico if the two

North American Republics might be the first States to submit to The Hague Tribunal for determination by it of an international controversy. The Department has no doubt that President Diaz would share in the pleasure which all Americans would feel in the high example thus set by two of the leading republics of this hemisphere." * * *

If this suggestion is favorably received by the Mexican Government the advantage of the United States and Mexico being the first of the American republics to resort to The Hague Tribunal for the settlement of controversies may be lost by delay.

Very respectfully, yours,

POWELL CLAYTON.

[Inclosure 3.]

Mr. Mariscal to Mr. Clayton.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, March 24, 1902.

MR. AMBASSADOR: I have received the note of January 29 last in which your excellency was pleased to say that the Governments of Mexico and the United States having agreed to submit the claim of the Roman Catholic Church of California against the Government of Mexico to the Permanent Court of Arbitration of The Hague, the Government of the United States desires that the appointments and the formation of the tribunal of arbitration be made under article 32 of The Hague Convention of 1899.

In reply I have the honor to say to your excellency that I fully agree to the proposition of the Government of the United States, but as article 31, chapter 3, title 4, of the resolutions of The Hague Convention, relating to international arbitration, requires that the powers that appeal to it shall sign, before all, an agreement (compromis) in which they shall specify the object of the litigation, the extent of the powers of the arbitrators, and all else necessary for the pronouncement of the arbitral decision, proper instructions have been transmitted on this date to the Mexican ambassador to the United States of America, Mr. Manuel de Azpiroz, in order that he may at once sign the said agreement with the State Department, which having been done, the former may be begun to be carried into effect to the end that at the proper time, the proceedings in the case having been had, the tribunal may pronounce the decision which will put an end to the controversy which is the subject of this note.

I renew, etc.

IGNO. MARISCAL.

Mr. de Azpiroz to Mr. Hay.

[Translation.]

No. 261.]

EMBASSY OF MEXICO,
Washington, May 10, 1902.

MOST EXCELLENT SIR: I had the honor, in the early days of April last, orally to advise you that I had received instructions of my Government to come to an agreement with you respecting the conditions and wording of the usual protocol for the submission to the decision of the Permanent Court of Arbitration of The Hague of the claim of the Roman Catholic Church of Upper California against Mexico, for the proceeds of one-half of the so-called Pious Fund of the Californias which are alleged to be due since the 2d of February, 1869. You were pleased to tell me that you would invite me to a conference that would be held on your receiving from the solicitor of your Department the draft of convention which he had been instructed to prepare.

I received last evening a telegram in which the secretary of foreign relations of my Government urges me to endeavor to perfect the said protocol in time for its being laid before the Mexican Senate for its

approval during the present session, which will come to an end on the last day of this month.

I hasten to bring these latest instructions to your knowledge for such action as you may be pleased to take.

I have the honor to renew to you, etc.,

M. DE AZPIROZ.

Mr. Hay to Mr. de Azpiroz.

DEPARTMENT OF STATE,
Washington, May 20, 1902.

EXCELLENCY: Answering your excellency's note of the 10th instant, I submit herewith, by the hand of Mr. Ralston, attorney for the claimant in the case of the Pious Fund, the draft of a protocol for the submission of said claim to arbitration. The time is so short that Mr. Ralston has consented to deliver this to you in person and to arrange with you the terms of the protocol, in order that the same may be promptly settled and transmitted to Mexico in time for action by the Mexican Congress. The basis of this protocol is the project submitted by the delegates of Mexico to the recent Pan-American Conference, with some slight changes in which it appeared to the Department that the project might not work successfully. The Department is hopeful that this project may prove on experiment to be a practical and successful solution of the general problem of Pan-American arbitration.

I have the honor to be, with the highest consideration, your excellency's most obedient servant,

JOHN HAY.

Protocol.

PROTOCOL OF AN AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF MEXICO FOR THE ADJUSTMENT OF CERTAIN CONTENTIONS ARISING UNDER WHAT IS KNOWN AS "THE PIOUS FUND OF THE CALIFORNIAS."

Whereas, under and by virtue of the provisions of a convention entered into between the high contracting parties above named, of date July 4, 1868, and subsequent conventions supplementary thereto, there was submitted to the Mixed Commission provided for by said convention a certain claim advanced by and on behalf of the prelates of the Roman Catholic Church of California against the Republic of Mexico for an annual interest upon a certain fund known as "The Pious Fund of the Californias," which interest was said to have accrued between February 2, 1848, the date of the signature of the treaty of Guadalupe Hidalgo, and February 1, 1869, the date of the exchange of the ratifications of said convention above referred to; and

Whereas said Mixed Commission, after considering said claim, the same being designated as No. 493 upon its docket, and entitled Thaddeus Amat, Roman Catholic Bishop of Monterey, a corporation sole, and Joseph S. Alemany, Roman Catholic Bishop of San Francisco, a corporation sole, against the Republic of Mexico, adjudged the same adversely to the Republic of Mexico and in favor of said claimants, and made an award thereon of nine hundred and four thousand seven hundred and 99/100 (904,700.99) dollars; the same as expressed in the findings of said court, being for twenty-one years' interest of the annual amount of forty-three thousand and eighty and 99/100 (43,080.99) dollars upon seven hundred and eighteen thousand and sixteen and 50/100 (718,016.50) dollars, said award being in Mexican gold dollars, and the said amount of nine hundred and four thousand seven hundred and 99/100 (904,700.99) dollars having been fully paid and discharged in accordance with the terms of said convention; and

Whereas the United States of America on behalf of said Roman Catholic bishops above named and their successors in title and interest have since such award claimed from Mexico further instalments of said interest, and have insisted that the said claim was conclusively established and its amount fixed as against Mexico and in favor of said original claimants and their successors in title and interest under the said first-mentioned convention of 1868 by force of the said award as *res judicata*; and have further contended that apart from such former award their claim against Mexico was just, both of which propositions are controverted and denied by the Republic of Mexico, and the high contracting parties hereto, animated by a strong desire that the dispute so arising may be amicably, satisfactorily, and justly settled, have agreed to submit said controversy to the determination of arbitrators, who shall, unless otherwise herein expressed, be controlled by the provisions of the international convention for the pacific settlement of international disputes, commonly known as The "Hague Convention," and which arbitration shall have power to determine—

1. If said claim, as a consequence of the former decision, is within the governing principle of *res judicata*; and,

2. If not, whether the same be just.

And to render such judgment or award as may be meet and proper under all the circumstances of the case.

It is therefore agreed by and between the United States of America, through their representative, John Hay, Secretary of State of the United States of America, and the Republic of Mexico through its representative, Manuel de Azpiroz, ambassador extraordinary and plenipotentiary to the United States of America for the Republic of Mexico, as follows:

I.

That the said contentions be referred to the special tribunal hereinafter provided for examination, determination, and award.

II.

The special tribunal shall consist of one arbitrator to be named as the nominee of the United States of America, and one arbitrator as the nominee of the Republic of Mexico, which arbitrators shall be authorised to select an umpire in conformity with the provisions of The Hague Convention, who shall preside over their deliberations. None of those so named shall be natives or citizens of the high contracting parties. The arbitrators to be named hereunder shall be signified by each of the respective high contracting parties to the other within sixty days after the date of this protocol. In the event of disagreement in the judgment reached an appeal may be taken by the unsuccessful party within thirty days after it shall have received the notification of the passing of such judgment. Such appeal will lie to a board of five arbitrators, two to be appointed as the nominees of each of the parties hereto, and this board shall be presided over by an umpire to be appointed in the manner provided for by the provisions of The Hague Convention, and none of such court shall be natives or citizens of the high contracting parties. Such nominees shall assemble at The Hague within sixty days after the unsuccessful Government shall have notified the other high contracting party of its intention to appeal, and they shall conclude their labors within sixty days after their session shall begin. Judgment may be rendered by a majority of said appellate court.

All vacancies occurring among those named in either court because of death, retirement, or disability from any cause, before a decision shall be reached, shall be filled in accordance with the method of appointment of the members affected, as provided by The Hague Convention, and if occurring after either of the respective courts shall have assembled, will authorise, in the judgment of the court, an extension of time for hearing or judgment, as the case may be, not exceeding thirty days.

III.

All pleadings, testimony, proofs, arguments of counsel and findings of awards of commissioners or umpire, filed before or arrived at by the Mixed Commission above referred to, are to be placed in evidence before the court hereinbefore provided for, together with all correspondence between the two countries relating to the subject-matter involved in this arbitration; originals or copies thereof duly certified by the departments of state of the high contracting parties being presented to said new tribunal. Where printed books are referred to in evidence by either party, the party offering the same shall specify volume, edition, and page of the portion desired

to be read, and shall furnish the court in print the extracts relied upon; their accuracy being attested by affidavit. If the original work is not already on file as a portion of the record of the former Mixed Commission, the book itself shall be placed at the disposal of the opposite party by deposit with the Secretary of State, or with the Mexican ambassador in Washington, as the case may be, thirty days before the meeting of the tribunal herein provided for.

IV.

Either party may demand from the other the discovery of any fact or of any document deemed to be or to contain material evidence for the party asking it; the document desired to be described with sufficient accuracy for identification, and the demanded discovery shall be made by delivering a statement of the fact or by depositing a copy of such document (certified by its lawful custodian, if it be a public document, and verified as such by the possessor, if a private one), and the opposite party shall be given the opportunity to examine the original in the city of Washington at the Department of State, or at the office of the Mexican ambassador, as the case may be. If notice of the desired discovery be given too late to be answered ten days before the tribunal herein provided for shall sit, then the answer desired thereto shall be filed as speedily as possible with the court herein provided for.

V.

Any oral testimony additional to that in the record of the former arbitration may be taken by either party before any judge, or clerk of court of record, or any notary public, in the manner and with the precautions and conditions prescribed for that purpose in the rules of the joint commission of the United States of America and the Republic of Mexico, as ordered and adopted by that tribunal August 10, 1869, and so far as the same may be applicable. The testimony, when reduced to writing, signed by the witness, and authenticated by the officer before whom the same is taken, shall be sealed up, addressed to the court constituted hereby, and deposited so sealed up with the Secretary of State of the United States, to be delivered to the court herein provided for when the same shall convene.

VI.

Within sixty days from the date hereof the United States of America, through their agent or counsel, shall prepare and furnish to the Secretary of State aforesaid a memorial in print of the origin and amount of their claim, accompanied by references to printed books and to such portions of the proofs or parts of the record of the former arbitration as they rely on in support of their claim, delivering copies of the same to the embassy of the Republic of Mexico in Washington for the use of the agent or counsel of Mexico.

VII.

Within thirty days after the delivery thereof to the Mexican embassy the agent or counsel for the Republic of Mexico shall file and deliver to the Secretary of State of the United States of America in the same manner and with like references a statement of its allegations and grounds of opposition to said claim.

VIII.

The provisions of Paragraphs VI and VII shall not operate to prevent the agents or counsel for the parties hereto from relying at the hearing or submission upon any documentary or other evidence which may have become open to their investigation and examination at a period subsequent to the times provided for service of memorial and answer.

IX.

The first meeting of the arbitral court hereinbefore provided for shall take place on September 1, 1902, in the quarters provided for such purpose by the International Bureau at The Hague, constituted by virtue of The Hague convention, hereinbefore referred to, at which time and place, or at such other times or places as the court may determine to sit, explanations and arguments shall be heard or presented as the court may determine, and the case be submitted. The submission of all arguments, statements of fact, and documents shall be concluded within

thirty days after the time provided for the meeting of the court (unless the court shall order an extension of thirty days) and its decision and award announced within thirty days after such conclusion, and certified copies thereof delivered to the agents or counsel of the respective parties and forwarded to the Secretary of State of the United States and the Mexican ambassador at Washington, as well as filed with the Netherland minister for foreign affairs.

X.

Should the decision and award of either tribunal be against the Republic of Mexico, the findings shall state the amount and in what currency the same shall be payable; and in the further event that the former award shall not be treated as affording an established judicial basis upon which the tribunals hereby constituted, or either of them, can rest their determination, then such tribunals, or either of them, shall find for the claimants for such amount as under the evidence may be just. They may award interest upon arrearages, if any, found to be due, if under all the circumstances an award for interest shall appear just and equitable. Such final award, if any, shall be paid to the Secretary of State of the United States of America within eight months from the date of its making.

XI.

The agents and counsel for the respective parties may stipulate for the admission of any facts, and such stipulation, duly signed, shall be accepted as proof thereof.

XII.

The award ultimately given hereunder shall be final and conclusive as to the matters presented for consideration.

Done in duplicate in English and Spanish at Washington, this — day of May, A. D. 1902.

**SETTLEMENT OF CLAIM OF MICHAEL BROWN v. MEXICO ON
ACCOUNT OF ILLEGAL EVICTION AND IMPRISONMENT.**

Mr. Clayton to Mr. Hay.

No. 1038.]

EMBASSY OF THE UNITED STATES,
Mexico, August 8, 1901.

SIR: I have the honor to transmit herewith a copy of a communication from M. Brown, an American citizen, dated the 30th ultimo, complaining of illegal eviction from a house occupied by him in this city, under lease, and of illegal imprisonment on account of his refusal to obey the order of the governor of the Federal district to vacate said property.

I also have the honor to inclose a copy and translation of a memorandum handed me by Mr. Brown, briefly setting forth a history of the proceedings. * * *

After carefully examining the aforesaid papers and having become satisfied of the justness of Mr. Brown's complaint, I brought the matter to Mr. Mariscal's attention yesterday, unofficially, leaving with him a copy of the aforesaid memorandum, which he read in my presence and remarked that he already had some knowledge of the case. He expressed the opinion that Mr. Brown was entitled to damages, but did not commit himself as to Brown's right to indemnity on account of his false imprisonment.

At Mr. Mariscal's request I to-day furnished him with the name of Mr. Brown's attorney. I remarked that I brought the matter to his attention unofficially because I believed he would see to it that justice

was done to Mr. Brown who, having received a favorable judgment from the supreme court of the nation, complains that he is unable to receive the fruits thereof. Mr. Mariscal expressed his appreciation of my course and promised to give the matter attention as soon as he could confer with Mr. Brown's attorney.

I am of the opinion that the matter will be satisfactorily adjusted without recourse to diplomatic intervention.

I have, etc.,

POWELL CLAYTON.

[Inclosure 1.]

Mr. Brown to Mr. Clayton.

MEXICO, July 30, 1901.

DEAR SIR: The undersigned, a citizen of the United States of America, residing in the City of Mexico, feeling himself aggrieved and injured by the action of the Federal governor of this district and the first correctional judge of the Republic of Mexico, as shown in the copies attached hereto, places himself within the protection of the United States Government in the person of its honored ambassador, and respectfully petitions your excellency to use your good offices in obtaining from the Mexican Government a rectification of the grievance which your petitioner believes he has suffered.

Yours, respectfully,

M. BROWN.

[Inclosure 2.]

Statement of Mr. Brown's case.

Mr. Michael Brown, a citizen of the United States of America, resident of this city, entered into a contract with Mrs. Paulina Diffonti to lease the house No. 9 Gante street, in which to establish a shop for dyeing and cleaning clothes, the duration of the said lease to be two years from November, 1899, obligatory on both the contracting parties.

While Mr. Brown was in the peaceful enjoyment of his lease Mrs. Diffonti conceived the idea to add another story to the house, in order to obtain more rent therefrom. With this object in view, she proposed to Mr. Brown to rescind the contract, offering to indemnify him therefor; and as Mr. Brown declined to accept the proposal, Mrs. Diffonti applied to the governor of the district to compel Mr. M. Brown to vacate the house, alleging that it was in a ruinous condition and liable to fall down at any time.

The governor of the district admitted the petition of Mrs. Diffonti, and notified Mr. Brown to proceed immediately to vacate the house, and did not desist from this resolution although Mr. Brown several times begged that the house be examined, as was proper in the case, alleging that then it would be found that it was not in a ruinous condition and that the allegations of Mrs. Diffonti were a mere pretext to recover the house. The governor carried his hostility to Mr. Brown so far as to commit him to the first correctional judge on the charge of disobedience.

Mr. Brown appealed for a stay of proceedings and protection against the order of the governor of the district, which was designed to deprive him of the house No. 9 Gante street, and against the acts of the first correctional judge, who had deprived him of his liberty by committing him to prison and holding him there during three days.

The appeal for stay of proceedings being sustained, the second district court and the supreme court granted to Mr. Brown the protection of the justice of the union against the acts of the governor of the district and of the first correctional judge.

The decree of the supreme court granting protection to Mr. Brown from the acts of the governor of the district has not yet been complied with, because Mrs. Paulina Diffonti refuses to return the house as it was when Mr. Brown was deprived thereof, thus setting the said decree at defiance, as the legal effect of the said decree is to restore things to the condition in which they were previously.

From the preceding simple statement it is seen that Mr. Michael Brown holds the right—

First. To the fulfillment of the decree of the supreme court, which orders the restitution to him of the possession of the house No. 9 Gante street, of which he was illegally dispossessed by the governor of the district.

Second. To indemnity for the damages and losses suffered and still being suffered from the aforesaid acts.

Third. To indemnity for the damages and losses caused by the illegal imprisonment he was made to suffer by the governor of the district and by the judge of the first correctional court.

Mr. Clayton to Mr. Hay.

No. 1434.]

EMBASSY OF THE UNITED STATES,
Mexico, June 19, 1902.

SIR: Referring to my dispatch No. 1038 of August 8, 1901, relating to the illegal eviction and imprisonment of M. Brown, an American citizen residing in the City of Mexico, it affords me great pleasure to report that, through the good offices of Minister Mariscal, Mr. Brown's claim has been fully settled by the payment to him of \$10,000 in cash, the amount demanded by him on account of said illegal eviction and imprisonment and other damages sustained by him.

I inclose herewith a copy of Mr. Brown's letter of the 18th instant, informing me of said settlement; also a copy of my unofficial note to Minister Mariscal thanking him for his good offices in the premises.

I have, etc.,

POWELL CLAYTON.

[Inclosure 1.]

Mr. Brown to Mr. Clayton.

CITY OF MEXICO, *June 18, 1902.*

DEAR SIR: I have the honor to inform you that on the 16th instant the governor of the Federal district made a satisfactory settlement with me of my claim against the Federal district government and Mrs. Diffonti by paying me \$10,000 in cash, which is in full for all claims against said government and Mrs. Diffonti.

I desire at the same time to express to you my appreciation of your good offices in assisting to bring about this very satisfactory settlement of my claim. Many thousand thanks to you for the same.

I am, etc.,

M. BROWN.

[Inclosure 2.]

Mr. Clayton to Mr. Mariscal.

Unofficial.]

EMBASSY OF THE UNITED STATES,
Mexico, June 19, 1902.

DEAR MR. MARISCAL: I am informed by Mr. M. Brown that on the 16th instant the governor of the Federal district made a satisfactory settlement of his claim against the Federal district government and Mrs. Diffonti by paying him \$10,000 in cash, which, he informs me, is in full of all claims against the said government and Mrs. Diffonti.

Please accept my sincere thanks, Mr. Mariscal, for your kind interest in this case, which undoubtedly brought about a satisfactory solution of a matter which otherwise might have involved a diplomatic question between the two Governments.

I am, etc.,

POWELL CLAYTON.

Mr. Hill to Mr. Clayton.

No. 730.]

DEPARTMENT OF STATE,
Washington, June 28, 1902.

SIR: I have to acknowledge the receipt of your No. 1434 of the 19th instant, reporting that the claim of Mr. M. Brown on account of his illegal eviction and imprisonment in the City of Mexico has been settled by the payment to him of \$10,000.

The Department is gratified at the satisfactory adjustment of the claim.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

**ENFORCED ENLISTMENT IN AND DISCHARGE FROM MEXICAN
ARMY OF FRANCISCO CUERO, AN AMERICAN INDIAN.**

Mr. Hay to Mr. Clayton.

No. 613.]

DEPARTMENT OF STATE,
Washington, December 7, 1901.

SIR: I inclose herewith for your information a copy of a letter from the Secretary of the Interior, and of a dispatch from the United States consul at Ensenada, in relation to the enforced enlistment in the Mexican army of Francisco Cuero, an Indian from the Campo Indian Reservation, in California.

You will use your good offices to prevail on the Mexican Government to discharge Cuero from further military service, if upon a further investigation of his case the facts elicited will justify such action.

I am, etc.,

JOHN HAY.

[Inclosure 1.]

Mr. Hitchcock to Mr. Hay.

DEPARTMENT OF THE INTERIOR,
Washington, November 27, 1901.

SIR: I have the honor to acknowledge the receipt of your communication of the 7th instant, and accompanying copy of a dispatch from the consul at Ensenada, Mexico, in regard to the enforced enlistment in the Mexican army of an Indian from the Campo Indian Reservation, in California.

In response thereto I transmit herewith a copy of a report of the 25th instant, from the Commissioner of Indian Affairs, recommending, in view of the statement made that Francisco Cuero is an American Indian, that the ambassador to Mexico be requested to use his good offices in prevailing on the Mexican authorities to discharge Cuero from further military service if upon a further investigation of his case the facts elicited will justify such action.

The Commissioner's recommendation meets with my approval.

Very respectfully,

E. A. HITCHCOCK, *Secretary.*

[Subinclosure.]

Mr. Jones to Mr. Hitchcock.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, November 25, 1901.

SIR: I have the honor to acknowledge the receipt, by Department reference for consideration, of a communication dated November 7, 1901, from the Secretary of

State, inclosing for your information a copy of a dispatch from the United States consul at Ensenada, Mexico, in regard to the enforced enlistment in the Mexican army of an Indian named Francisco Cuero, from the Campo Reservation, Cal.

The consul states that Cuero is in the barracks at Ensenada as a volunteer in the Mexican army; that he is an American, as shown by testimony of the people living at Campo, and that he belongs to that reservation; that he was arrested about a year and a half ago by the Mexican authorities and charged with smuggling two sacks of flour, and was detained for a while without trial and liberated; that his story is that immediately after his liberation he was compelled by threats and fear of harm to enlist for five years in the military service of Mexico; that he did not understand Spanish and was not exactly aware of what he was doing, and hence became a soldier against his inclination. Cuero's age is stated by the consul to be about 20 years.

The facts as stated by the consul coincide with those of the case of Frank Serra, or Cuero, with regard to which this office communicated with the Department on July 19, 1900. It was alleged that Serra had been impressed into the Mexican army, and at the solicitation of William Collier, esq., special attorney for the Mission Indians of California, this office brought the matter to the attention of the Department, with the recommendation that the papers in the case be referred to the Secretary of State with the request that the attention of the Mexican authorities be invited to it, and asked to take the necessary steps to have the soldier discharged.

By Department reference, this office received a communication dated September 26, 1900, from the Acting Secretary of State, inclosing a copy of a dispatch from the ambassador to Mexico, wherein it was stated that there was no soldier named Frank Serra in the military company of the northern district of Lower California, at Ensenada, but that one Francisco Cuero, or Cueros, appeared to be the individual about whom inquiry was made by Special Attorney Collier; that Cuero was said to be the son of the captain of the Manzanita band of Indians of San Diego County, Cal.; that he was arrested for smuggling and enlisted voluntarily in the Mexican military service. It was further stated by the ambassador that Cuero has always lived with his mother at Los Piscachos and other villages in said district of Lower California.

In view of the ambassador's statement this office took no further action in Cuero's case. From the consul's dispatch it would seem not unlikely that there is some truth in the Indian's story regarding his alleged forced enlistment, and under such circumstances it would appear appropriate to again broach the matter to the Mexican authorities.

It is recommended that the Secretary of State be requested to instruct the ambassador to Mexico to use his good offices in prevailing on said authorities to discharge Cuero from further service if upon a further investigation of his case the facts elicited will justify such action.

The communication from the Secretary of State is herewith returned with a copy of this report.

Very respectfully, etc.,

W. A. JONES, *Commissioner.*

[Inclosure 2.]

Mr. Bailey to the Department of State.

CONSULATE OF THE UNITED STATES,
Ensenada, October 9, 1901.

SIR: I have the honor to transmit herewith facts and information pertaining to a certain Francisco Cuero, an Indian belonging to the Campo (California) Indian Reservation, who is here in barracks as volunteer in Mexican army. The facts are that said Francisco Cuero is an American by testimony of people living at Campo, and that he belongs to that reservation. He was arrested about a year and a half ago by Mexican authorities, charged with smuggling two sacks of flour. He was kept a while without trial and liberated. His story is that almost immediately he was induced by threats and through fear to volunteer for five years' service in the Mexican army; that he did not understand Spanish and was not aware of the exact import of what he was doing, and hence is a soldier against his inclination. He is about 20 years of age.

I respectfully submit for your instructions.

I have, etc.,

EVERETT E. BAILEY, *United States Consul.*

Mr. Clayton to Mr. Hay.

No. 1237.]

EMBASSY OF THE UNITED STATES,
Mexico, January 16, 1902.

SIR: I have the honor to acknowledge the receipt of the Department's No. 613, of the 7th ultimo, inclosing a copy of a letter from the Secretary of the Interior, and of a dispatch from the United States consul at Ensenada, in relation to the enforced enlistment in the Mexican army of Francisco Cuero, an Indian from the Campo Indian Reservation in California.

Following your instruction above mentioned, I addressed a note to the foreign office, copy inclosed, suggesting that Cuero be discharged from the Mexican army.

I also inclose copy and translation of Mr. Mariscal's reply stating that the department of war had been requested to discharge Cuero, if possible, and copy and translation of a further note stating that his discharge had been ordered.

I have, etc.,

POWELL CLAYTON.

[Inclosure 1.]

Mr. Clayton to Mr. Mariscal.

EMBASSY OF THE UNITED STATES,
Mexico, December 24, 1901.

MR. MINISTER: Referring to our conversation of Saturday last relating to the enlistment into the Mexican army of the Indian, Francisco Cuero, and to the report of the jefe politico of the northern district of Lower California, a copy of which was transmitted to this embassy in your excellency's note of the 31st of August last; from the facts before me, including those contained in said report, it appears that the said Cuero is the son of the chief of an Indian tribe located at the Campo Indian Reservation in California. It also appears that when he enlisted into the Mexican army he was not a Mexican citizen, nor was he of that legal age which authorized him to manage his own affairs; and although, strictly speaking, he is not an American citizen, he is a domestic subject of the United States.

Without referring to the question of involuntary enlistment, I repeat the suggestion I made to your excellency during the aforesaid conversation, and which seemed to receive your excellency's favorable consideration, that perhaps the best way to dispose of the question would be for your excellency's Government to kindly discharge from the army the soldier, Francisco Cuero.

I renew, etc.,

POWELL CLAYTON.

[Inclosure 2.—Translation.]

Mr. Mariscal to Mr. Clayton.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, January 3, 1902.

MR. AMBASSADOR; I have had the honor to receive the note of December 24 last in which your excellency is pleased to ask that the soldier, Francisco Cuero, be discharged from the Mexican army because of his being the son of a chief of an Indian tribe residing in California and not a Mexican citizen.

In reply I have the pleasure to say to your excellency that on this date I have requested the department of war to accede to the wishes expressed by the embassy unless there should be some particular circumstance which may not permit it.

I renew, etc.,

IGNO. MARISCAL.

[Inclosure 3.]

*Mr. Mariscal to Mr. Clayton.*DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, January 10, 1902.

MR. AMBASSADOR: Referring to my note of the 3d instant, I have the honor to inform your excellency that the department of war, in official communication of the 7th instant, advises me that it has ordered that the soldier, Francisco Cuero, be immediately discharged from the company fija norte of Lower California.

I renew, etc.,

IGNO. MARISCAL.

CONSULAR IMMUNITIES—EXEMPTION OF CONSULS, UNDER MOST FAVORED NATION CLAUSE, FROM PAYMENT OF PERSONAL TAXES.

Mr. de Azpiroz to Mr. Hay.

No. 244.]

EMBASSY OF MEXICO,
Washington, D. C., January 24, 1902.

MOST EXCELLENT SIR: In August, 1901, Mr. A. H. d'Alemberte, tax collector of Escambia County, State of Florida, gave notice to Dr. Don Abraham Díaz, consul of Mexico at Pensacola, that he would have to pay poll and other taxes on his personal property for his private use for the year 1900.

The consul applied to this embassy and reported that such taxes had never been demanded of foreign consular officers in that county; that he knew positively that the vice-consuls of England and Norway, and the former's predecessor who had lived there many years, were exempt therefrom, and that he (the informant) being a Mexican citizen and consul missus, not engaged in manufacture or commerce, considered himself exempt from personal taxation, in the same manner as are those of this country in Mexico placed under similar circumstances.

Upon examining the question I replied to Dr. Díaz that he could claim exemption from personal taxation and taxes on his personal property, and exhibit to the tax collector the exequatur by which His Excellency the President of the United States authorized him to discharge his consular duties, drawing especial attention to the clause by which he was accorded the rights and privileges enjoyed by the consular officers of the most favored nations, among whom I mentioned to him those of Austria-Hungary, Belgium, Italy, Roumania, and Servia. These officers, by virtue of the treaties existing between their respective countries and the United States of America, enjoy the privilege of not paying personal taxes, direct or indirect, Federal, State, or municipal, when they are citizens of the States by which they were appointed and do not engage in manufacturing or trading business. As Dr. Díaz possessed all these qualifications, I advised him to bring forward all the said points, and, if the tax collector should nevertheless insist upon his demand, to pay the taxes under protest and report to me.

Under date of the 3d instant the consul again reported to me that he had followed my instructions, and that upon being a second time requested to pay, after his reclamation had been rejected on the ground that there was no existing treaty between the United States and Mexico

to support it, he paid under protest the sum to which the two personal taxes amounted.

While laying the matter before you, together with the grounds for the opinion I gave to the consul of Mexico at Pensacola, I deem it expedient to supplement them with the following remarks:

The lack of a consular convention between Mexico and the United States, similar to those which concede favors to the consular officers of Austria, Belgium, Italy, and other States, affords no valid argument in support of the denial to the Mexican consul at Pensacola of the treatment accorded to the said officers, for the latter being the most favored, the rights and privileges that they enjoy are to be extended to him by virtue of his exequatur, which grants them to him. If it were otherwise, the concession would be without practical effect. It is absolute and for that reason is not open to the interpretation that it is subject to the condition of the existence of a treaty, unless there be the unwarrantable intent to nullify the concession.

But even though it should obtain, this interpretation ought not to come from an official of the State of Florida, but solely from the Chief Magistrate who issued the exequatur, under the exclusive powers conferred upon him by the laws of the Union to authorize the foreign consular officers to discharge their duties.

On the other hand, all consuls, vice-consuls, and public consular agents, subjects of their respective governments, sent and salaried by them, and who do not, in the Mexican Republic, engage, directly or indirectly, in any kind of industrial or commercial pursuit, are exempt from all taxes and assessments. So does prescribe the Mexican act that lays down the law in regard to commercial agents residing in the Territory of the nation, and the consuls of the United States in Mexico receive its benefit without the guaranty of an international treaty. Now, then, reciprocity in this respect is the rule that governs the conduct of your Excellency's Government, according to the declaration made in 1851 by President Fillmore in his second annual message, as follows:

What is due to our own public functionaries residing in foreign nations is exactly the measure of what is due to the functionaries of other governments residing here.

It is, therefore, indisputable that the Mexican consular agents residing in any of the districts of the United States have a right to claim the exemption from personal taxation granted by the law of my country, without there being required a special convention between the two Republics, and even though there should have been omitted from the exequatur of the commissions by which those officers are accredited the clause conferring upon them the rights and privileges of similar agents of the most favored nations.

This treatment the Mexican consul at Pensacola has asked of the tax collector of Escambia County, and it has been denied to him.

On submitting the point in dispute between the two functionaries to your enlightened examination, I am confident that you will decide in the sense dictated by justice and in the manner befitting the friendly relations happily existing between our two Republics.

I have, etc.,

M. DE AZPIROZ.

Mr. Hay to Mr. de Azpiroz.

No. 222.]

DEPARTMENT OF STATE,
Washington, February 28, 1902.

EXCELLENCY: Referring to your note No. 244, of the 24th ultimo, in relation to the poll and other personal taxes collected by the tax collectors of Escambia County, Fla., from the Mexican consul at Pensacola, Fla., I have the honor to inform you that the Department is in receipt of a letter from the governor of Florida, dated the 18th instant, in which he says that the consul will be exempted from the payment of such taxes, and that the comptroller of the state has been requested to refund to the consul the amount of such taxes for the year 1900, upon the presentation of receipts therefor.

Accept, etc.,

JOHN HAY.

**PASSAGE THROUGH UNITED STATES OF REMAINS OF LATE
MEXICAN MINISTER TO AUSTRIA-HUNGARY.**

Mr. Hill to Mr. de Azpiroz.

DEPARTMENT OF STATE,
Washington, February 6, 1902.

EXCELLENCY: I have the honor to advise you that upon a request made by the minister of the United States at Vienna, in a dispatch^a dated the 18th ultimo, the collector of customs at Galveston, Tex., has been directed to facilitate the landing and delivery of the remains of Don José de Teresa y Miranda, late minister of Mexico to Austria-Hungary, on their arrival at that port by the steamship *Rieslau* on or about the 10th instant.

The collector of customs at New York has also been instructed to extend the usual courtesies to Madame de Teresa on her arrival there by the steamship *Kronprinz Wilhelm*, on or about the 21st instant, accompanied by her family, and to admit her baggage to free entry without examination.

Accept, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. de Azpiroz to Mr. Hay.

[Translation.]

No. 249.]

EMBASSY OF MEXICO,
Washington, February 7, 1902.

YOUR EXCELLENCY: I have learned from your Department's note of yesterday that at the request of his excellency the minister of the United States at Vienna orders were issued to the collector of maritime customs at Galveston, Tex., to facilitate the landing and delivery of the mortal remains of Señor Don José de Teresa y Miranda, who was minister of Mexico in Austria-Hungary, brought by the steamer *Rieslau*, whose arrival at said port is expected toward the 10th of the present month; and that the collector of maritime customs at New

York has instructions to await with customary courtesy the señora, the widow of Teresa y Miranda, who, accompanied by her family, will disembark at the latter of said ports about the 21st of the present month, and to permit the free entry, without examination, of the señora's baggage on board of the steamer *Kronprinz Wilhelm*.

In the name of my Government I have the honor to give your excellency most earnest thanks for these friendly concessions, requesting you to have the goodness to transmit them to the United States minister at Vienna for his assiduity in promoting them.

I communicate to my Government the contents of the mentioned note, and renew, etc.

M. DE AZPIROZ.

ARREST AND IMPRISONMENT OF AMERICAN CITIZENS, RAILWAY EMPLOYEES, IN MEXICO—DETAILED REPORTS IN CASE OF NATHANIEL F. BONSALE.

Mr. Clayton to Mr. Hay.

No. 1274.]

EMBASSY OF THE UNITED STATES,
Mexico, February 21, 1902.

SIR: I have the honor to acknowledge the receipt of your No. 540,^a of July 16, 1901, instructing me to continue to remonstrate on all proper occasions against the delay in discharging or bringing to trial Americans charged with responsibility for railway accidents, and to lose no opportunity to impress upon Mr. Mariscal the proposition that the preventive and remedial objects of Mexican legislation in respect to railway accidents would be no less well—and perhaps better—sub-served by following the general rule of law in that regard in other countries.

I inclose copies of the following correspondence:

A letter expressing to me the thanks of the El Paso Chamber of Commerce for my action and prompt report relative to the imprisonment of American railway employees in Mexico; my reply; a further letter from the secretary of the chamber, forwarding a newspaper article stating that 130 railway men were in jail in Jalapa, Orizaba, Veracruz, and Oaxaca; a letter to the consul at Veracruz and to the consular agent at Oaxaca, transmitting this newspaper article and asking them to make a careful and conclusive investigation as to how many, if any, Americans are confined in jail in their districts on account of railroad accidents growing out of the movement of railroad trains in Mexico; the replies of both, stating that no American is imprisoned in either district for reasons above mentioned; a communication from Division 69, Order of Railway Conductors, asking a report from me regarding the imprisonment of American railway men in Mexico; my reply thereto; my letter to the consular agent at Guaymas, requesting him to procure from the manager of the Sonora Railway Company a supplemental statement showing the date and cause of arrest of each of the 17 employees whom he reported as having been arrested and imprisoned during the past year (see inclosure in my No. 998^b), how long each was detained, and the final disposition of each case; the con-

^a See Foreign Relations, 1901, p. 410.

^b See Foreign Relations, 1901, p. 408.

sular agent's reply, transmitting the supplemental report which gives the eventual disposition of the 17 cases of arrest of employees, of whom Mr. Bonsall, hereafter mentioned, was one, referred to in your letter ^a of July 16, 1901, to the El Paso Chamber of Commerce; the complaint of Nathaniel F. Bonsall of unreasonable delay in the trial of his case; my note presenting this complaint to the foreign office; Mr. Mariscal's reply, forwarding the report of the third circuit judge, showing that the case is being conducted in accordance with law. This is the only case that has come to my attention since the date of my No. 998, June 27, 1901, which would indicate an improvement in the situation.

On November 8 last, in an interview, I spoke with Mr. Mariscal regarding changes in Mexican legislation relating to railway accidents. He said that if I would take occasion to study existing laws on the subject he would take pleasure in listening to any suggestions I might have to make. This led me to investigate the laws upon the subject.

I also inclose the following: A copy of a communication from J. L. Starr Hunt furnishing information as to the laws of Mexico relating to railway accidents and indemnification for loss and injury resulting therefrom; translations of the reference made to the civil and penal codes of the federal district; the railroad law ^b and the commercial code, ^b both in English.

In view of the existing laws and the fact that they do provide for the civil responsibility of railroad companies, I ask to be instructed as to whether I shall pursue the subject of changes in legislation any further.

I have, etc.,

POWELL CLAYTON.

[Inclosure 1.]

Mr. Russell, secretary of the El Paso Chamber of Commerce, to Mr. Clayton.

EL PASO, TEX., July 25, 1901.

SIR: I have the honor to inclose herewith copy of the El Paso Daily Herald, containing correspondence between the Hon. John Hay, Secretary of State, and the El Paso Chamber of Commerce, relative to the imprisonment of American railway employees in Mexico. I am instructed by the board of directors of the El Paso Chamber of Commerce to express to you the thanks of the organization for your action and report in this matter.

We beg to extend to you, as to Secretary Hay, the proffer of our hearty cooperation in any capacity in which this organization can assist you in your efforts to protect American citizens against unjust imprisonment.

I have, etc.,

ERNEST E. RUSSELL, *Secretary.*

[Inclosure 2.]

Mr. Clayton to Mr. Russell.

EMBASSY OF THE UNITED STATES,
Mexico, July 29, 1901.

SIR: I have to acknowledge the receipt of your communication of the 25th instant and its inclosure, and to express my appreciation of the thanks of the board of directors of the El Paso Chamber of Commerce.

^a See Foreign Relations, 1901, p. 411.

^b Not printed.

My report was based upon the best information I could obtain, and I shall be glad, if any errors are made plain to me, to correct the same, or to receive any additional information that may be sent me through any reliable source. I understand an article has been lately published concerning the Hay correspondence in relation to the matter. If you will kindly send me a copy of same you will oblige.

Very respectfully, yours,

POWELL CLAYTON.

[Inclosure 3.]

Mr. Russell to Mr. Clayton.

EL PASO, TEX., August 13, 1901.

SIR: I have the honor to acknowledge receipt of your letter of July 29, relating to the Hay correspondence in regard to the imprisonment of American railway employees in Mexico, and requesting us to send you "the article lately published concerning the Hay correspondence." I have searched the files of the El Paso dailies, but am not sure that I know to what article you especially refer. However, I am sending you herewith copies of the El Paso Herald of July 24 and 26. Possibly one of these papers may contain the article you desire. I regret the tone in which some of the articles are written.

The people of El Paso and the railway employees interested appreciate the spirit in which you have prosecuted your search for information and the efforts which you have made. The chamber of commerce will esteem it a privilege to be permitted to cooperate with you in every possible way.

Thanking you for the cordial expressions, etc.,

ERNEST E. RUSSELL, *Secretary.*

[Subinclosure.]

Extract from the El Paso Herald dated July 26, 1901.

Ambassador Clayton could learn more about the men in jail if he would only send some one to Jalapa, Orizaba, Veracruz, and Oaxaca. There are 130 men in jail in these four places, and some of them have been there for two years. The records in some of the cases have been lost, and I know of several men there who have repeatedly asked for trial and been refused.

[Inclosure 4.]

Mr. Clayton to Mr. Canada, United States consul at Veracruz.^a

EMBASSY OF THE UNITED STATES,
Mexico, August 20, 1901.

SIR: I inclose herein a copy of an article that appeared in the El Paso Herald, of El Paso, Tex., under date of the 26th ultimo, which relates to the great number of Americans said to be imprisoned at Jalapa, Orizaba, Veracruz, and Oaxaca.

I shall thank you to make a careful and conclusive investigation as to how many, if any, Americans are confined in jail at Orizaba, Jalapa, and Veracruz, on account of railroad accidents growing out of the movement of railroad trains in Mexico; and if you find any persons so confined, to give me full particulars of each case, including the charges, date of arrest, whether trial has been had; and, if so, when begun; if and when convicted, and the nature of the sentence.

Yours, very truly,

POWELL CLAYTON.

^aIdentical communication sent to Charles H. Arthur, United States consular agent at Oaxaca, with reference to Americans imprisoned at that place.

[Inclosure 5.]

*Mr. Canada to Mr. Clayton.*CONSULATE OF THE UNITED STATES,
Veracruz, August 29, 1901.

SIR: Referring to yours of August 20, I have to report that I have examined the jails and talked with the officials in Orizaba and Veracruz and wrote to Jalapa and that there is no American in prison in Orizaba, Jalapa, or Veracruz "on account of railroad accidents growing out of the movement of railroad trains," nor any other cause in Orizaba or Jalapa. In Veracruz Ned Burr is in jail awaiting the action of the circuit court in Mexico City, to whom his case was appealed by his lawyer. He was sentenced by the lower court to a term of twenty years. There is also another colored man by the name of Charles Golden, charged with larceny, and his trial is now in progress. He can not furnish proof that he is an American except that he talks English.

* * * * *

I am, etc.,

WM. W. CANADA, *United States Consul.*

[Inclosure 6.]

*Mr. Arthur, United States consular agent at Oaxaca, to Mr. Clayton.*UNITED STATES CONSULAR AGENCY,
Oaxaca, September 7, 1901.

SIR: I have made a careful investigation in regard to the Americans reported to be confined in jail in this city "on account of railroad accidents growing out of the movement of trains in the Republic of Mexico."

I find absolutely none. About three years ago an engineer had charge of a train and became so intoxicated that the conductor, who was in about the same condition, undertook to run the engine and wrecked the train and killed one man. Both conductor and engineer were confined for about six months.

Since this accident no arrests have been made, but to my personal knowledge several brakemen have been killed by moving trains.

Respectfully,

CHAS. H. ARTHUR,
United States Consular Agent.

[Inclosure 7.]

*Mr. Green, of the Order of Railway Conductors, to Mr. Clayton.*EL PASO, TEX., *August 4, 1901.*

MY DEAR SIR: At a regular meeting of Division 69, Order of Railway Conductors, held in El Paso, Tex., August 3, 1901, I was appointed to ascertain, as far as possible, the number of railroad men (American citizens) now in prison in the Republic of Mexico. We desire to make this report as full as possible, and also *correct*, so that no railroad company or citizen of the Republic of Mexico can gainsay it. This report, when complete, will be forwarded to our Secretary of State in Washington, and one to our ambassador to the Republic of Mexico in the City of Mexico.

We desire you to forward to me at your earliest opportunity a report of any case of imprisonment you may know of, whether the case has been disposed of or not, whether it occurred this year or at any previous time. Please be careful and give *facts*, not hearsay.

Please give name or names of persons arrested, stating occupation, cause and date of arrest, where imprisoned, date of trial, date of parol or date of bond given, and the amount of bond. Give findings of the court and date of release or discharge. State what action the railroad company took in the case. Was American consul notified? If so, what action did he take? Do you know of any American citizen now in prison in Mexico on account of being arrested while in the discharge of his duties? If so, give cause, and also secure a statement from him, if possible, no matter what his occupation, whether a conductor, engineer, fireman, brakeman, yardmaster, or agent.

Please comply with the above or hand same to some railroad man who will, and greatly oblige Division 69, Order of Railway Conductors.

Please take this up as soon as possible and write me fully.

Yours, respectfully,

W. B. GREEN,
M. P. F., Division 69, Order of Railway Conductors.

[Inclosure 8.]

Mr. Clayton to Mr. Green.

EMBASSY OF THE UNITED STATES,
Mexico, August 26, 1901.

DEAR SIR: I have to acknowledge the receipt of your communication of the 4th instant, which, I take it, is a circular letter which you are sending out in various directions with a view to obtaining the information referred to, and that you did not send it to me with a view of my furnishing you the information asked. As I keep the Government at Washington advised of all the information I possess upon the question referred to, it would be useless for me to send information to you for the purpose of enabling you to send it back to me and to the Government at Washington.

Of course you have seen that portion of my report which was published in the El Paso Herald of July 24 last. Since that report was made there has been no complaint received at this embassy of the arrest and imprisonment of any railroad man. If you receive any information of any case which you think requires my attention, I shall be glad to be advised; or if you hear of any case where railroad men have been arrested and not permitted to communicate with this embassy, I should be glad to be advised of all the facts, as no such case has up to the present time come to my knowledge.

Very respectfully, yours,

POWELL CLAYTON.

[Inclosure 9.]

Mr. Clayton to Mr. Crocker, United States consular agent at Guaymas.

EMBASSY OF THE UNITED STATES,
Mexico, August 2, 1901.

DEAR SIR: In addition to the information contained in the statement of the Sonora Railway Company, transmitted by you to this embassy in your letter of June 19, 1901, in compliance with my request of the 30th of May last, I shall thank you to request Mr. Naugle, the manager of the above-named railway company, to have the kindness to furnish me with a supplemental statement which, together with that already furnished, will be similar to that furnished me by other railway companies, showing the date and cause of arrest of each of the 17 employees whom he reported as having been arrested and imprisoned during the past year, how long each man was detained, and the final disposition of the case.

Yours, very truly,

POWELL CLAYTON.

[Inclosure 10.]

Mr. Crocker to Mr. Clayton.

UNITED STATES CONSULAR AGENCY,
Guaymas, September 26, 1901.

SIR: I have the honor to transmit herewith statement furnished by the Sonora Railway covering request contained in your letter of August 2.

Respectfully,

FRANK M. CROCKER,
United States Consular Agent.

[Subinclosure.]

Mr. Naugle, assistant general manager of the Sonora Railway Company, to Mr. Crocker.

GUAYMAS, September 25, 1901.

DEAR SIR: In reply to your letter of the 9th ultimo, answer to which has been delayed on account of press of other matters, I beg to give you below a supplementary statement concerning employees of this road who have been imprisoned on account of railway accidents during the year ending June 1, 1901.

Conductor N. F. Bonsall, American, arrested September 7, 1900; imprisoned thirty-seven days. Cause, one Antonio Palomina, Mexican, a trespasser, jumped from train in motion, run over and killed, Magdalena, September 7, 1900. Released under \$6,000 bond. Case still pending.

Engineer C. E. Shanahan, American, arrested September 8, 1900; imprisoned two days. Cause, allowing his engine to run over to the American side at Nogales, account air not holding brakes, while conductor Bonsall was on train under arrest as above. Bonsall returned to Mexican side later on during the same day, upon which Shanahan was released the next day.

Yardmaster F. Corrales, Switchman E. Ruiz, Switchman F. Ruiz, Fireman J. Rodriguez, and Engineer A. Vojorquez, all Mexicans, arrested October 29, 1900; imprisoned one hour. Cause, a boy, Jose Boneo, stealing ride, jumped from train in motion, run over and killed, Guaymas yard, October 29, 1900. Declared innocent and released.

Engineer F. Gordon, American, arrested November 3, 1900; imprisoned twelve days. Cause, running over a deaf trespasser, Jesus Rodriguez, walking on track in Hermosillo yard, November 3, 1900. Released under \$1,000 bond. Case still pending.

Brakeman P. Ramirez, Mexican, arrested November 9, 1900; imprisoned eighteen days. Cause, an American brakeman, John R. Pearson, killed while coupling cars in Hermosillo yard November 8, 1900. Released on account lack of merits to proceed against him.

Fireman A. Martinez, Mexican, arrested November 9, 1900; imprisoned sixteen days. Cause, same accident as last above. Released account lack of merits to proceed against him.

Engineer J. Ritz, American, and Fireman F. Viney, unknown, arrested November 22, 1900; imprisoned two days. Cause, one Jose Aldama found dead on track near Batuecas morning of November 12, 1900. Released account lack of merits to proceed against them.

Conductor G. E. Langworthy and Engineer C. W. Smith, both Americans, arrested November 17, 1900; imprisoned six days. Cause, an unknown American tramp found dead on track near Guaymas morning of November 17, 1900. Released under \$1,000 bond for both. Case still pending.

Engineer J. Jefferson, American, arrested November 20, 1900, imprisoned four days. Cause, two Yaqui Indians found dead on track near Hermosillo morning of November 19, 1900. Declared innocent and released.

Conductor W. C. Budge, American, arrested November 20, 1900, imprisoned one day. Same cause as last above. Declared innocent and released.

Brakeman J. M. Rochin, Mexican, arrested November 19, 1900, imprisoned three days. Same cause as last two above. Declared innocent and released.

Referring to the case of Conductor Bonsall, the man killed, Antonio Palomina, boarded passenger train No. 1 at Magdalena for the purpose of buying some fruit from the news agent, jumped from the train while in motion, fell under the wheels and died from injuries received. Although the company and its employees were in no way to blame, Conductor Bonsall was arrested, thrown into jail, and charged with willful murder. The man killed had no right whatever on the company's premises and lost his life through his own acts. The company surgeon at Magdalena, Dr. Padilla, is also mayor of the town, and was called immediately after the accident. The man's left leg was badly mangled and, perhaps, if the surgeon had operated on him at once, his life might have been saved. Our company surgeon at Nogales, Dr. Chenoweth, an American, happened to be at Magdalena at the time and suggested to Dr. Padilla the importance of operating immediately, but with no effect. The local judge, before whom the case was tried, was strongly prejudiced against foreigners, ignorant of railroad operations, and influenced in favor of friends of the deceased, thereby being so partial as to make it appear that Conductor Bonsall pushed the man off the train and committed willful murder. During the thirty-seven days' time that Conductor Bonsall was in jail, every possible effort was made by our attorney-general, Judge Robinson, and myself to secure his release under bond. When Conductor Bonsall was first arrested he was thrown into a jail with drunken Indians and

criminals. We finally secured separate quarters for him in the yard of the jail by paying three special watchmen \$1 per day each to guard him. This judge has since been removed by the governor without any solicitation on our part, as it was such a flagrant case of incompetency, etc. Conductor Bonsall has been declared innocent in the Federal district court at Nogales and the case is now up for revision in the supreme circuit court at Mexico City.

Yours, truly,

J. A. NAUGLE, *Assistant General Manager.*

[Inclosure 11.]

Mr. Bonsall to Mr. Clayton.

MEXICO CITY, D. F., *October 29, 1901.*

DEAR SIR: I have been employed as a passenger conductor by the Sonora Railway Company for the past four years. On the morning of September 7, 1900, at about 1.15 o'clock, as my train was pulling out of Magdalena, a man, whom I afterwards learned had boarded the train while standing at station to buy some fruit from news-boy, remained aboard until train pulled out and jumped off and fell under the wheels and had one leg crushed.

I knew nothing of the accident, as I was busy working my train at the time. I was notified by telegraph at next station. On my arrival at Guaymas I took street car to go to the company lawyer to consult him about the accident. When I left the car two policemen lined up, one on each side of me, and marched me a distance of one-half mile or more through the streets of Guaymas to jail, refusing me permission to see the attorney. I was kept in jail until about 4 p. m.

It was the intention of the Mexican authorities to send me direct to Magdalena, but through the protestations of our general manager I was allowed to run my train to Nogales, under the surveillance of one guard, with instructions from the prefecto of Guaymas to report to the Federal judge at Nogales on the morning of my arrival. When I arrived at Magdalena, the chief of police, with quite a number of his men, were at the station and wanted to take me to jail. There was a great crowd of men there also, and their actions frightened me, as I did not know what they would do to me. After the chief of police and my guard consulted together he decided to allow me to resume my trip to Nogales. About 40 miles south of Nogales the pipe on engine leading from air pump to air drum broke, so we could not use the air brakes and had to use hand brakes. We got along very well until we reached the summit, it being up grade. From there to Nogales we have a 2 per-cent grade. It was impossible to control the train with hand brakes, consequently we ran across the line some distance into the United States before we got the train stopped. I went home and got my breakfast and at about 11 a. m. I went across the line into Mexico and reported to the Federal judge. He was very angry. Said I had ignored his authority and defied his Government by crossing the line into the United States. While I was in no way responsible, as it was purely accidental, he sent me to jail and kept me there until the train went south at 10 o'clock p. m., then sent me back to Magdalena under two guards. I arrived there about 1.15 a. m., September 9, and was taken to jail and locked in a dungeon, without any bedding whatever, and spent the night on a cold brick floor as best I could. After remaining in the dungeon three days I was taken before the judge of the first instance between two soldiers with guns and fixed bayonets. The judge asked me if I knew what I was accused of. I told him I did not. He said I was accused of pushing a man off train while in motion, and that the man had died of injuries received. I told him that I was not guilty of the charge, that I did not touch the man in any way. I was then told to sign this statement and was then sent to jail.

I will state here that I did not know the man who was hurt and had never seen him that I know of. I was taken before the judge three or four times afterwards to hear the testimony of witnesses for the prosecution, but was denied the privilege of having my lawyer in court to hear their testimony. I was kept in the dungeon six days, until our general manager made arrangements to pay a special guard day and night that I might be allowed the privilege of the jail yard.

I was released from prison on October 12, on a cash bond of \$6,000, which was furnished by railroad company. For the succeeding seven months I was compelled to report to the federal judge in Nogales, Sonora, Mexico, once each week, until I had my final hearing, when the federal judge told me I was a free man; he had no evidence to convict me. He rendered his decision declaring me innocent about April

25, 1901, and forwarded same through the regular channel to the supreme circuit court at the City of Mexico, where it has been pending ever since.

I therefore respectfully request your good offices with the Mexican Government to see that I have speedy and full justice done me, and that I am fully vindicated of the charges pending against me. I am 61 years old and have served half of my life in the capacity of railway conductor. This is the first and only time I have ever been accused of mistreating anyone on my train.

Very respectfully,

NATHANIEL F. BONSTALL.

[Inclosure 12.]

Mr. Clayton to Mr. Mariscal.

EMBASSY OF THE UNITED STATES,
Mexico, October 31, 1901.

Mr. MINISTER: I have the honor to transmit herewith a copy of a communication from Mr. Nathaniel F. Bonsall, addressed to me, requesting my good offices with the Mexican Government to secure for him speedy and full justice.

It will be observed from said communication that over a year ago he was arrested in Guaymas and confined in jail under the charge of homicide; that although released on bail he was, for the succeeding seven months, compelled to report once a week to the federal judge at Nogales, and since the 25th of April last the case has been pending under revision before the circuit court of the City of Mexico.

I respectfully solicit the good offices of your excellency for the expedition of this case.

I have, etc.,

POWELL CLAYTON.

[Inclosure 13.—Translation.]

Mr. Mariscal to Mr. Clayton.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, November 13, 1901.

Mr. AMBASSADOR. I have the honor to transmit herewith to your excellency a copy of a report made to this department by the third circuit court in regard to the condition of the cause against Nathaniel Bonsall for the crime of homicide, and I beg to call your excellency's attention to the latter part of the report.

I renew, etc.,

IGNO MARISCAL.

[Subinclosure.—Translation.]

Report of the third circuit court on case of Nathaniel Bonsall.

The attorney-general of the Republic, in official communication of the 8th instant, was pleased to send me a copy of the note addressed to him by your department on the 4th instant, relating to the complaint made by the American, Nathaniel Bonsall, to the ambassador of the United States, to the end that the court under my charge might report as to the condition of the action against the said Bonsall for the crime of homicide.

In reply to the said communication and with reference to the note of your department, I have the honor to inclose a copy of the report made by the clerk of this court, which is literally as follows:

"Licentiate Ismael Elizondo, clerk of the third circuit court, in compliance with the foregoing order on the margin, has the honor to report as follows:

"That on September 7, 1900, criminal action was brought against the American, Nathaniel Bonsall, conductor of the Sonora Railway, in the district court of Sonora, as presumably guilty of homicide through negligence. That the same case having been duly tried, the judge in the same, on April 25 last, pronounced final sentence acquitting the said Bonsall of all responsibility. That said decision having been appealed by the agent of the public ministry attached to the district court of Sonora, and the appeal having been admitted, the case was forwarded to this court, by which it was received on May 13 last, and on the day following an order was issued,

requiring the accused, Bonsall, to appoint an attorney, resident in this capital, for his defense, to represent him in second instance, or to say whether he would empower this court to appoint him an official defender, and to that end the proper communication was forwarded to the district court. That on June 14, following, a communication was received by which Bonsall appointed Licentiate Miguel S. Macedo, who accepted the appointment and protested that he would faithfully perform his duty as his defender. The case having been presented for the hearing of the answer to the objections made by the public minister, the defender presented a petition on July 28 last, saying that at the time fixed he would make answer to the objections; and the hearing having been set for the 17th of July following, it was not had for the reason that Licentiate Macedo, by petition which he presented on the 15th, resigned his appointment of defender; that on the said day, July 15, the accused, Bonsall, was required to appoint another defender, the proper order being sent to the district court of Sonora, which order was returned on October 22 last, accompanied by a petition dated the 14th of the said month, in which Bonsall appointed Licentiate Eduardo Viñas his defender; and on the said October 22, the day on which the said petition was received, the accused, Bonsall, appeared personally before this court and said that beside Licentiate Viñas he appointed Licentiate Rafael Icaza to defend him also; the appointments having been accepted by the persons named, on their petition the record was ordered to be placed in the clerk's office in order that they might take such notes as they might deem necessary for Bonsall's defense. So soon as they finish taking these notes a day will be set for the hearing. Such is the present condition of the case in question.

“ISMAEL ELIZONDO.

“MEXICO, *November 12, 1901.*”

By the foregoing report the baselessness of Mr. Nathaniel Bonsall's complaint is shown, for the reason that the delays experienced in the trial arose solely from the withdrawal of the defender, Licentiate Miguel S. Macedo, and the necessity for the appointment of another defender by the accused, without which the continuance of the case was legally impossible.

Furthermore, Mr. Secretary, you may rest assured that, notwithstanding the pressure of business in this court, I will make all endeavor to procure the prompt and preferential dispatch of the case to which your said note refers.

I protest, etc.,

M. CERVANTES.

MEXICO, *November 12, 1901.*

[Inclosure 14.]

Mr. Hunt to Mr. Clayton.

CITY OF MEXICO, *November 12, 1901.*

DEAR SIR: Replying to certain inquiries made in writing by Mr. McCreery, I beg leave to submit the following:

Article 1 of the Spanish railway law of 29 April, 1901, divides the railways under federal jurisdiction into three classes:

1. Of general communication, i. e., those that run through two or more States;
2. Of local interest in federal district and the territories; and
3. Of local interest in the states, i. e., when these last-mentioned lines have a federal concession, a subsidy, exemption from taxation, or any other form of assistance from the Federal Government.

Article 176 of the same law says:

“The railroads dependent on the federation, to which article 1 of this law refers, are subject exclusively to the federal powers, legislative, executive, and judicial, according to their respective jurisdiction, providing always that it refers to any of the following cases:

“I. Contribution or impost of any description upon railroads and their dependencies.

“II. Fulfillment of the obligations that the concession or that federal requirements may impose on the company.

“III. Declaration of the forfeiture of the concession or any of the privileges contained therein.

“IV. Condemnation of the property for public use.

“V. Tariffs.

“VI. General rules of the service.

"VII. Construction and repairs of the works. Delinquencies committed against the security and integrity thereof or against the exploitation of the roads.

"VIII. Security of the same works to which the companies are bound and the faults and delinquencies of these companies or their employees for late trains, carelessness or negligence in the service, and for accidents or mishaps in exploitation.

"IX. Collisions or derailing of train, rules.

"X. Violation of fiscal laws and regulations.

"XI. Violation of correspondence.

"XII. Mortgages and obligations on the railroads and their registry and inscriptions, which should be done in Mexico City.

"XIII. Sale of the railroads and in general all the questions which affect the ownership of the road or in any way connected therewith.

"XIV. All classes of contentions and proceedings from the moment that the railroad may be the object of intervention, embargo, or sequestration.

"XV. Contentions and questions upon the lease of a road or affecting its exploitation.

"XVI. All classes mentioned in articles 161 to 170 of this law. (Special rates, false classifications, etc., when act is with criminal intention.)"

All crimes or misdemeanors in contravention of the railway law are judged by the penal code of the Federal District, since articles 169, 170, and 178 of the railway law read as follows:

"ART. 169. In all the cases mentioned in articles 161 to 167 the dispositions of the first book of the penal code shall be applied in the terms which its third article disposes and equally those of the second book of the same code in regard to civil responsibility.

"ART. 170. The fines incurred through infractions of the law shall enter the federal treasury, observing the rules established in the penal code for their imposition and collection.

"ART. 178. Questions that arise over the interpretation and fulfillment of the concessions or any of the stipulations therein contained shall be decided by the competent tribunals of the Republic and in so far as may not be determined by special laws according to the civil code of the Federal District for which reason these contracts are governed by the dispositions of articles 698 and 699 of that code."

According to articles 330 and 331, Fraction II of the penal code of the Federal District made of universal application by the railway law, railway companies are responsible for the acts and omissions of their employees. Article 332 states that though employees are punishable for negligence, the railway companies are also civilly responsible.

All persons or corporations responsible for loss and damage can be held civilly liable, according to the terms of articles 1458 to 1487 of the civil code of the Federal District, and articles 576 to 604 of the commercial code fix the civil liability of transportation companies.

If you have not these codes I can get you the latter in English and can translate the chapter of the civil code on civil liability.

The foregoing answers the first two questions by Mr. McCreery.

To the third, I can say there are no especial penalties imposed on railway companies for failure to introduce new appliances; their liability for negligence is covered by the answer to the other questions.

To the fourth, no one is held responsible if the accident was unavoidable; if the courts decide that there is responsibility of an employee of a railway, then the company is held responsible for damage done either to passengers or to other employees. There is no exemption of the company from liability because the damage has been done to a fellow-servant of the careless employee.

All this refers to the legal responsibility. You doubtless know how difficult it is in point of fact to recover from railway companies because they are favored by the Government, have the best attorneys in the Republic, and because there is no damage recoverable for anguish in the courts of this Republic.

Should further details be desired, please advise me and I shall be glad to furnish them.

Very truly, yours,

J. L. STARR HUNT.

P. S.—Should any railways exist in this Republic that are not comprehended in Article I of the railway law, then the state, penal, and civil codes would apply thereto, which codes closely resemble as a rule those of the Federal District.

[Inclosure 15.]

*Extract from civil code of the Federal District and Lower California.*CHAPTER III.—*Of property considered according to the persons to whom it belongs.*

ART. 698. Public property is that which belongs to the federation, to the States, and to the municipalities.

ART. 699. Public property shall be governed by the provisions of this code when not determined by special laws; it is subject in all cases to the rules for prescription established by the same.

[Inclosure 16.]

*Extract from civil code of the Federal District and Lower California.*CHAPTER IV.—*Of civil liability.*

ART. 1458. Causes of civil liability are:

I. Failure to perform a contract.

II. Acts and omissions expressly subject to the same by law.

ART. 1459. The contractor who fails to perform his contract, either in substance or in form, shall be liable for the damages and prejudices which he may cause to the other party, unless it be because of an act of the latter, *vis major*, or fortuitous event to which the former may not have contributed in any manner.

ART. 1460. Liability because of fraud obtains in all contracts.

ART. 1461. A contract in which the right is waived to claim liability in the future because of fraud is void.

ART. 1462. There is no liability because of fortuitous events except when they are caused or contributed to by the contractor and when he has expressly accepted the liability.

ART. 1463. The liability of which this chapter treats, besides the return of the thing or its price, or that of both, if necessary, involves the repair of the damages and indemnity for the prejudices.

ART. 1464. Damage is the loss or deterioration of interests suffered by reason of failure to perform a contract.

ART. 1465. Prejudice is the loss of the legitimate profit which might have been obtained by the performance of the contract.

ART. 1466. Damages and prejudices must be caused by the immediate and direct failure to perform a contract, whether they be already caused or necessarily will be caused.

ART. 1467. If the thing is lost or has been so badly damaged, in the opinion of experts, that it can not be used for the purpose for which it was intended, the owner shall be paid the full value of the same.

ART. 1468. If the damage be not so great the amount of the same only shall be paid to the owner upon the return of the thing.

ART. 1469. The value of the thing shall be that which it would have at the time of its return to the owner, except in such cases as the law or the contract may fix another time.

ART. 1470. In estimating the damage to a thing the depreciation of its absolute value shall not only be considered, but also the necessary expenses of the repair of the same.

ART. 1471. In fixing the damage to and the value of a thing the affectional or sentimental value shall not be considered unless it be proved that the party liable destroyed or damaged the same with the object of hurting the feelings of the owner; the increase made on this account shall not exceed a third of the usual value of the thing.

ART. 1472. Civil liability may be regulated by agreement of the parties, saving the cases in which the law expressly provides otherwise.

ART. 1473. Civil liability can be claimed only by him who has the right to exact the performance of the contract and by him in whose favor it is expressly established by law.

ART. 1474. When several parties are civilly liable the rules relating to joint obligations shall be observed if the obligations of this class are those which serve as the basis of the contract, otherwise each shall answer for himself.

ART. 1475. If, in order to save a town, damage be caused to one or more persons, or their property be occupied, indemnification shall be made according to the provisions established by the organic law of article 27 of the constitution.

ART. 1476. The owner of a building is liable for damages caused by the fall thereof if it be because of omission to make repairs or because of defective construction.

ART. 1477. In the second case of the foregoing article the owner has recourse against the architect, in accordance with article 2485.

ART. 1478. The prescriptions of article 1476 include damages caused by the partial fall of a building, or that of trees, or of any other object of private property, those which proceed from the breaking of ditches or dams, those which are caused by the construction or repairing of buildings, and those which are the result of any legal act in the execution of which there may have been negligence.

ART. 1479. There may also be civil liability because of damage caused by industrial establishments, either because of the weight and movement of the machinery, or because of deleterious exhalations, or because of agglomerations of matter or animals injurious to health, or by reason of any other cause which may really prejudice the neighbors. These matters are subject to police regulations.

ART. 1480. The damages caused by animals shall be governed by the penal code.

ART. 1481. Liability arising out of a thing done between others (*res inter alios acta*) shall be governed by the special prescriptions of this code, and in the absence of such by those corresponding of the penal code.

ART. 1482. When no interest is mentioned in a contract, if any should have to be paid under decision, it shall be at the rate of 6 per cent per annum.

ART. 1483. The payment of judicial costs shall be on account of him who fails to perform the contract, and it shall be made in the terms prescribed by the code of procedure.

ART. 1484. Civil liability, caused by the nonperformance of a contract, is prescribed at the time of the prescription of the contract.

ART. 1485. Liability based on the provisions of articles 1480 and 1481 is prescribed within the terms of articles 1095, Section VIII, and 1102.

ART. 1486. The provisions of this chapter shall be observed in all cases not included in any special precept of the code.

ART. 1487. In the matter contained in this chapter the administrative regulations shall be observed in all that which may not be contrary to the foregoing provisions.

[Inclosure 17.]

Extract from the penal code of the Federal district and Lower California.

BOOK 2.

CHAPTER III.

ART. 326. No one shall be held to be civilly liable for an act or omission under a penal law unless it be proved that he has taken unlawful possession of the property of another; that he has personally, or through another, illegally caused damages and prejudices to the complainant; or, that being able to prevent them, they were caused by a person over whom he had authority.

ART. 327. If any of the above conditions is proved the defendant shall incur civil liability, whether he be acquitted or convicted of criminal liability.

The principals and seconds or witnesses of a duel, if the same be fought and death or wounds be caused, are included in this rule; but the physicians and surgeons present at the combat, as such, are not.

* * * * *

CHAPTER IV.—*Assessment of civil liability upon those liable.*

ART. 350. When several persons are condemned for the same act or omission each and all of them shall be obligated for the total amount of the civil liability, and the complainant may recover the same from all of them jointly, or from whomsoever of them he may deem it fit. But if he should not sue all of them, those who pay may recover from the others such part as they ought to pay in accordance with the following article.

ART. 351. When several persons are condemned to the satisfaction of the civil liability for the same act or omission, if the law does not designate the sum for which

each is liable, the criminal judge shall fix the same in proportion to the penalty imposed, and the civil judges in proportion to those imposed by the former, or to those which should be imposed if the decision should not yet be made.

If no penalty should be imposed because of its being found that the authors of the act or omission were not guilty of any offense or fault, but, nevertheless, incurred civil liability, the same shall be assessed *pro rata* upon those liable.

ART. 352. It is understood that the prescriptions of article 351 do not prejudice those of article 350, and that they are solely for the case in which one who is liable pays more than his quota who may then recover the excess from the other parties liable.

ART. 353. In a matter of recovery only the person in whose possession the thing or its products are found may be sued; but if he should not be the one who took unlawful possession he may avail himself of the recourse provided by article 303.

ART. 354. The prescriptions of article 350 do not include receivers except with regard to the damages and prejudices on account of the things which they may have received, but not on account of other things stolen by the direct author of the offense.

ART. 355. Those who, because of being minors or because of mental alienation, are under parental control or under the care of a guardian and masters, are not included in articles 350 and 351; with regard to these, the following rules shall be observed:

I. The insane and minors who act without judgment shall be liable only when those who have them in charge are not held to be civilly liable or have not property wherewith to cover it.

But if they are not under guardianship or parental control they shall be the only ones liable.

II. When the minor acts with judgment he shall have no right to recover from his guardian, nor the latter from the former, except for one-half of the liability, if only one of them pays the full amount.

III. When employees and servants act in disobedience of the orders of their masters, or do not obey them implicitly, the latter may recover from the former all that they may have to pay for damages and prejudices.

But if the damages and prejudices caused are a necessary consequence of the orders of the masters, and the employees and servants act in good faith in the performance of an act not criminal in itself, they being ignorant of the circumstances which constitute it an offense, they do not incur any civil liability with regard to the party prejudiced, and their masters can not recover from them that which they may have to pay.

[Inclosure 18.]

Extract from penal code of the Federal district and Lower California.

CHAPTER III. BOOK I. TITLE 2.—*Persons civilly liable.*

ART. 330. In order that, in accordance with articles 326 and 327, masters may be liable for their dependents and servants, it is a precise condition that the acts or omissions of the latter, which give rise to the liability, shall occur in the service to which they are assigned.

ART. 331. Under the conditions of the foregoing article the following are liable:

I. The members of an association for acts or omissions of its managers in the same terms which, under the civil or mercantile law, they might be liable for other obligations contracted by the latter.

Married women, whether there is or is not legal partnership (*sociedad legal*) or community of property, are excepted from this rule, as they are not responsible for the offenses of their husbands.

II. Owners of diligences, coaches, wagons, or vehicles of any kind, whether for their own use or for hire; owners or overseers of droves of beasts of burden; railway companies; postmasters and mail contractors; owners of canoes, boats, and vessels of all descriptions and their captains; owners and managers of inns, taverns, lodging houses, and all other houses devoted wholly or in part to the regular reception of guests for pay; owners and managers of coffeehouses, eating houses, baths, and livery stables, for the acts and omissions of their employees or servants.

This liability and that mentioned in the foregoing articles shall be governed by the rules expressed in the following articles:

III. The State, through its public functionaries, employees, and dependents; but its obligation is subsidiary, and it shall be paid out of the indemnification fund.

IV. Municipal corporations, with their funds, in the same terms as the State, through the employees and servants, provided that the said employees and servants shall cause the damages and prejudices in the exercise of their offices and that they be appointed and paid by the corporations, and that they be under the orders of and subject to removal by the same.

ART. 332. The civil liability of the persons mentioned in the two foregoing articles does not exempt those upon whose account it is incurred; the party prejudiced may require it in accordance with the prescriptions of articles 350 and 355.

The case in which the person who causes the damage acts in the name of and by order of another, executing in good faith an act not criminal in itself, and with excusable ignorance of the circumstances which constitute it an offense, is excepted from this rule. Then the agent is not liable either in regard to the party prejudiced or to the person in whose name he acts.

Mr. Hay to Mr. Clayton.

No. 656.]

DEPARTMENT OF STATE,
Washington, March 4, 1902.

SIR: I have to acknowledge the receipt of your dispatch No. 1274, of the 21st ultimo, containing a report on the arrest of American citizens employed on railroads in Mexico, for negligence in causing accidents.

In view of your comprehensive investigation and report, it is unnecessary for you to pursue the subject further, unless you are hereafter so instructed.

I am, etc.,

JOHN HAY.

Mr. McCreery to Mr. Hay.

No. 1357.]

EMBASSY OF THE UNITED STATES,
Mexico, May 16, 1902.

SIR: Referring to the embassy's No. 1274 of February 21 last, forwarding a copy of the report of the third circuit judge, showing that the case of Nathaniel F. Bonsall, who complained of unreasonable delay in his trial, was being conducted in accordance with law, I have the honor to inclose a copy of the ambassador's letter to the assistant general manager of the Sonora Railway inquiring the status of the case.

I inclose a copy of Mr. Naugle's reply, stating that Mr. Bonsall, being afraid he might be imprisoned, went to Texas; and forwarding a communication from Attorney Eduardo Viñas (copy herewith), stating that the above-mentioned court sentenced Mr. Bonsall to eight months' imprisonment and that amparo proceedings were instituted against the sentence.

I have, etc.,

FENTON R. McCREERY.

[Inclosure 1.]

Mr. Clayton to Mr. Naugle, assistant general manager Sonora Railway.

EMBASSY OF THE UNITED STATES,
Mexico, March 20, 1902.

SIR. I write to inquire what has become of the case of N. F. Bonsall.

Kindly inform me whether the case has been disposed of, and, if not, what is its present status.

I have not heard from Mr. Bonsall since December 28 last, when he stated that he would advise me if anything came up whereby I could assist him.

Respectfully, yours,

POWELL CLAYTON.

[Inclosure 2.]

Mr. Naugle to Mr. Clayton.

GUAYMAS, SONORA, MEXICO, *March 29, 1902.*

DEAR SIR: In reply to your letter of the 20th instant, I inclose herewith translation of a letter received from our licentiate, Eduardo Viñas, dated Mexico, January 27 last, which will give you the status of the Bonsall case.

Mr. Bonsall has been most outrageously treated in this matter, and I am much disappointed in our failure to secure justice for him in the higher courts of Mexico. The facts are that he was tried by a judge of first instance who was a drunken, unmitigated scoundrel, and created such a scandal over the affair that the State government put him out of office without any request on our part. The district judge at Nogales, being aware of this, absolved Bonsall from the alleged crime; but it appears that the courts of Mexico are acting on the testimony manufactured by the local judge of first instance and have sentenced Mr. Bonsall to eight months' imprisonment, which is most unjust, as he is in no way responsible for the death of Palomino, who jumped from the train while in motion, thereby losing his life. You will note that Licentiate Viñas claims that he has petitioned for amparo.

In the meantime, Mr. Bonsall, being afraid that he might be imprisoned, has gone to Texas, and is there without employment, practically without means, and feeling that he is unable to obtain justice in the higher courts of Mexico.

If you can do anything to expedite his clearance I would appreciate it very much.

Yours, truly,

J. A. NAUGLE,
Assistant General Manager.

[Subinclosure.—Translation.]

Mr. Viñas to Mr. Naugle.

MEXICO, *January 27, 1902.*

MY DEAR MR. NAUGLE: Inclosed herewith find the sentence passed by the third circuit court in the case of Mr. Bonsall.

As you may see by perusing same, the magistrate, taking into consideration the remarks made by the defense, sets entirely aside the slanderous statement made by the unfavorable witnesses, and accepts as truthful the statements of the witnesses for the defense, whereby Mr. Bonsall has been definitely declared not guilty of the throwing of Antonio Palomino off the train while it was in motion, a crime for which Licentiate Lombardo had asked the imposition of eight years' imprisonment upon him. Lombardo has also withdrawn the grave accusation, and has reduced it to only charge against Mr. Bonsall an offense of fault (*delito de culpa*).

The magistrate, however, did not come to the conclusion of considering Mr. Bonsall not guilty, but considering him guilty of an offense of fault, passed upon him a sentence of eight months in prison, as you may read in the sentence. The said sentence could be commuted by some sort of a fine through the department of justice, so that the case of Mr. Bonsall having to go to jail will not occur; but as we aspire to have the courts recognize and declare that he is not guilty we have petitioned for a habeas corpus (*amparo*) before the proper federal courts, presenting a petition, of which I send you a copy herewith.

I will keep you posted of whatever may happen in the case of the habeas corpus referred to, remaining, meanwhile, etc.,

E. VIÑAS.

Mr. Clayton to Mr. Hay.

No. 1413.]

EMBASSY OF THE UNITED STATES,
Mexico, June 11, 1902.

SIR: Referring to Mr. McCreery's No. 1357, of the 16th ultimo, and inclosures, showing that Nathaniel F. Bonsall had been sentenced to eight months' imprisonment and that amparo proceedings were instituted against the sentence, I have the honor to inclose copies of a letter and its inclosure from the assistant general manager of the Sonora Railway, stating that the amparo was denied by the supreme court and that the sentence may be commuted to a fine of \$250.

Mr. Naugle believes that Mr. Bonsall is innocent, and that the proceedings before the judge of first instance were of a scandalous nature, and that false testimony was manufactured and accepted by the judge. He requests me to take the matter up with the Mexican Government.

I inclose a copy of my letter informing Mr. Naugle that I have referred the case to the Department.

I again call the Department's attention to inclosure 2 in Mr. McCreery's No. 1357, showing that Mr. Bonsall has placed himself outside the jurisdiction of the Mexican authorities by crossing the border into the United States.

I await your instruction in the matter.

I have, etc.,

POWELL CLAYTON.

[Inclosure 1.]

Mr. Naugle to Mr. Clayton.

GUAYMAS, SONORA, MEXICO, *June 4, 1902.*

DEAR SIR: Referring to my letter to you of March 29 last, concerning the case of Conductor N. F. Bonsall, I beg to inclose herewith translation of a letter received from Licentiate Rafael Icaza, dated Mexico, May 16, from which you will see that Mr. Bonsall was sentenced to eight months' imprisonment, and that the amparo which was asked for him from the supreme court has been denied; also, that it is now proposed to have this sentence commuted by a fine, which I understand will not amount to over \$240 or \$250 Mexican currency, and which this company is perfectly willing to pay, so far as the money is concerned, and we are proceeding to obtain and submit the certificate of Mr. Bonsall's age, etc., as requested.

We are convinced, however, that Mr. Bonsall is absolutely innocent of any guilt whatever in connection with this alleged crime; and, while there is no doubt whatever but what the supreme court desires to act in absolute good faith, it would appear that their decision is based on the proceedings of the judge of first instance at Magdalena, J. Elias Gonzalez, and they evidently have no knowledge of the scandalous manner in which this prejudiced and ignorant judge conducted this case, manufacturing false testimony, etc., which has seriously injured Conductor Bonsall, first, by badly affecting his health on account of being imprisoned thirty-eight days without being provided with the necessary comforts of life; second, suffering the disgrace in the eyes of the public of being imprisoned, and, finally, by being convicted and sentenced for eight months' imprisonment for something of which he is absolutely innocent.

If you have this matter up with Minister Mariscal I beg you will suggest to him the advisability of referring it to Governor Rafael Izabel of the State of Sonora, who, I am sure, will advise the minister that, owing to the scandalous conduct of this local judge at Magdalena, J. Elias Gonzalez, he (the governor) was compelled to dismiss him from his position, and without any solicitation on the part of this company or its attorneys; and I further believe that he will, although not fully cognizant of all the details of same, certify from his general understanding of the case that he

believes Conductor Bonsall innocent of any wrongdoing in connection with this matter or of any neglect of duty.

Mr. Bonsall is a man of good character, served in the Union Army during the late war between the North and South, and holds an honorable discharge. He is a thirty-third degree Mason and is respected by all who know him. He has left Mexico with the impression that he can not get justice from the courts of this country. I do not think that Minister Mariscal or any of the other good people of Mexico want such an impression to prevail, and think that if it is properly placed before them Mr. Bonsall will receive justice.

Will you kindly submit the matter to the minister and advise results?

Thanking you in advance, I am, etc.,

J. A. NAUGLE,
Assistant General Manager.

[Subinclosure.—Translation.]

Mr. Icaza to Mr. Naugle.

MEXICO, May 16, 1902.

DEAR MR. NAUGLE: By my letter of the 22d of January of the current year I notified you that Mr. Bonsall had been sentenced by the magistrate of the third circuit court to suffer a penalty of eight months' imprisonment, and also notified you that licentiate Viñas and myself were going to attempt the proceeding known as habeas corpus in opposition to this sentence, and promised to communicate to you the result of said appeal.

In compliance with this promise I beg to inform you that in spite of the great efforts made on our part the said appeal has not been successful, because although, as we already notified you, the district judge of this capital, by his decision, sustained the habeas corpus proceeding in favor of Mr. Bonsall in accordance with our petition, yesterday the supreme court, by a majority vote of the magistrates composing the same, overruled the judgment of the district court, so that Mr. Bonsall has not been protected against the sentence of the circuit court, but has hanging over him the sentence of eight months' imprisonment.

What we will now do in order to free him from having to suffer this penalty is to apply to the department of justice, asking that it be commuted by a fine. The basis of this petition is found in the provisions of fraction 2 of article 241 of the penal code, according to which recourse may be had to this commutation of sentence when the person convicted through some circumstances (among which is that of being over 60 years of age, which, we believe, is the case with Mr. Bonsall) may not suffer the penalty of imprisonment.

However, in accordance with the law, we shall have to accompany our petition with proof of Mr. Bonsall's being 60 years of age and this proof you alone can furnish us, and so we ask you to send this as soon as possible to Mr. Viñas's office in this city. In our opinion this evidence should consist of a certified copy of the civil record of Mr. Bonsall's birth or an affidavit of witnesses made before some judge of the first instance at your place and attested by a notary public, showing the testimony in due legal form, should be sent us, or a copy certified to by the judge before whom said affidavit is made might be sent.

Yours, truly,

RAFAEL ICAZA.

[Inclosure 2.]

Mr. Clayton to Mr. Naugle.

EMBASSY OF THE UNITED STATES,
Mexico, June 11, 1902.

SIR: I have to acknowledge the receipt of your communication of the 4th instant, and inclosure, regarding the case of Nathaniel F. Bonsall, which you desire me to bring to the attention of the Mexican Government.

In view of the fact that this is a case which has been adjudicated by the court of last resort, I have deemed it advisable to refer the matter to the Department of State for such instruction as it may deem fit to give.

Thanking you for your kind interest in the matter, and for the information it conveys, I am, etc.,

POWELL CLAYTON.

Mr. Hay to Mr. Clayton.

No. 727.]

DEPARTMENT OF STATE,
Washington, June 21, 1902.

SIR: I have to acknowledge the receipt of your No. 1413, of the 11th instant, on the subject of the arrest and imprisonment of Nathaniel F. Bonsall.

In reply, I have to inform you that, from the appearance of the case as it is now before the Department, it is not perceived that any further action can be taken.

I am, etc.,

JOHN HAY.

Mr. Clayton to Mr. Hay.

No. 1567.]

EMBASSY OF THE UNITED STATES,
Mexico, September 6, 1902.

SIR: Referring to the case of Nathaniel F. Bonsall and to my last dispatch upon the subject, No. 1413, of June 11, 1902, I have the honor to transmit herewith a copy of a note and inclosure from the foreign office, with translations thereof, by which it will be seen that the suit for amparo brought by Bonsall against the sentence of the third circuit court of Mexico, which condemned him to eight months' imprisonment for the offense of negligence, was decided against him by the supreme court of the nation.

As stated in my aforesaid dispatch, it appears that Bonsall has placed himself beyond the jurisdiction of Mexico by crossing into the United States.

I have, etc.,

POWELL CLAYTON.

[Inclosure.—Translation.]

Mr. Marsical to Mr. Clayton.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, August 31, 1902.

MR. AMBASSADOR: Referring to the note of the embassy of October 31, 1901, relating to the suit for amparo brought by Nathaniel F. Bonsall against a sentence of the third circuit court, I have the honor to transmit to your excellency herewith a copy of a note addressed to me by the said court in which it states that the supreme court of justice has denied the said amparo.

I renew, etc.,

IGNO. MARISCAL.

[Subinclosure.—Translation.]

Judge of third circuit court to the secretary of foreign affairs.

THIRD CIRCUIT COURT, *Mexico.*

The first district judge of this city, in a communication of the 22d instant, says to me as follows:

“In the suit for amparo brought by licentiate Eduardo Viñas and Rafael Icaza, attorneys of Nathaniel F. Bonsall, against the sentence of the third circuit court, under your worthy charge, which condemned the complainant to arrest for eight months for the offense of negligence, there is a final decision pronounced by the supreme court of the nation which in its decisory clause says:

“‘MEXICO, *May 15, 1902.*

“‘Having examined _____ for these considerations and based on articles 101 and 102 of the constitution, and 818, 819 and 828 of the Code of Federal Proce-

ture, the decision under review is reversed and it is declared that the law of the union does not protect nor shelter Nathaniel F. Bonsall from the acts of which he complains.

“Let the proceedings be returned to the court in which they originated with certified copy of this decision, let it be published, and let the record be placed in the archives.

“Thus it was decided in full court by the president and ministers of the supreme tribunal of justice of the nation by seven votes against four, and they signed:

“EDUARDO CASTAÑEDA,
“The President.

“FRANCISCO MZ. DE ARREDONDO,

“M. DE ZAMACONA,

“FELIX ROMERO,

“S. MORENO,

“PUDO. DORANTES,

“MACEDO. GOMEZ,

“EUSTAQUIO BUELNA,

“M. GARCIA MENDEZ,

“ANDRES HORCASITAS,

“The Ministers.

“ARCADIO NORMA,

“Secretary.”

“of which I have the honor to duly inform you, returning the record transmitted to this court.

“Mexico, August 22, 1902.

“JUAN P. DE LEON.

“To the PRESIDENT OF THE THIRD CIRCUIT COURT, *Present.*”

As by virtue of the above superior final decision, by which the amparo is denied to the defendant, Nathaniel F. Bonsall, the sentence of this court of January 8 last, of which a certified copy was duly transmitted to the department, stands in full force and vigor. I have the honor to communicate the same to you for your information.

I renew, etc.,

M. CERVANTES.

MEXICO, August 27, 1902.

**TREATY OF COMPULSORY ARBITRATION BETWEEN MEXICO
AND SPAIN.**

Mr. McCreery to Mr. Hay.

No. 1348.]

EMBASSY OF THE UNITED STATES,
Mexico, May 7, 1902.

SIR: I have the honor to inclose copy and translation of a treaty of compulsory arbitration between Spain and Mexico, signed in this city on January 11, 1902, and promulgated by the President of Mexico on the 19th ultimo.

I have, etc.,

FENTON R. MCCREERY.

[Inclosure—Translation.]

Treaty between Mexico and Spain.

Porfirio Diaz, President of the United Mexican States, to all to whom these presents may come:

Know ye, that on the eleventh day of January of the current year there was signed and concluded in this city, by plenipotentiaries duly authorized for the purpose, a treaty between the United Mexican States and the Kingdom of Spain in the form and tenor following:

The President of the United Mexican States and His Majesty the King of Spain and, in his name, the Queen Regent of the Kingdom, with the object of settling all

questions which might disturb the friendly relations which happily exist between the nations, have decided to celebrate a treaty of arbitration, and to this end they have appointed their respective plenipotentiaries:

By the President of the United Mexican States, Licentiate Ignacio Mariscal, secretary of state and of the office of foreign affairs;

By His Majesty the King of Spain and, in his name, the Queen Regent of the Kingdom, Don Pedro de Prat, Marquis Prat y Nantouillet, his envoy extraordinary and plenipotentiary at Mexico, who, after having examined their respective powers and having found them to be in good and due form, have agreed upon the following:

ARTICLE 1. The high contracting parties agree to submit to the decision of arbitrators all controversies which may arise between them during the existence of the present treaty in which they might not have been able to reach an amicable solution by direct negotiation; provided that said controversies affect neither the national independence nor honor.

ARTICLE 2. Neither the national independence nor honor shall be considered to be compromised in the following cases:

A. When treating of pecuniary damages and prejudices suffered by one of the contracting states or by its citizens because of illegal acts or omissions on the part of the other contracting state or its citizens.

B. When treating of the interpretation of the treaties, agreements, and conventions relating to the protection of ownership of artistic, literary, and industrial property, as well as to that of privileges, patents of inventions, trade-marks, mercantile firms, money, weights and measures, and sanitary precautions, either veterinary or to exclude phylloxera.

C. When treating of the application of treaties, agreements, and conventions relating to successions, aid, and judicial correspondence.

D. When treating of treaties, agreements, and conventions now in force, or which may be celebrated hereafter, with the object of putting the principles of public or private international law, either civil or penal, into practice.

E. When treating of questions which relate to the interpretation or execution of treaties, agreements, and conventions of friendship, commerce, and navigation.

ARTICLE 3. For the decision of questions which, in accordance with this treaty, may be submitted to arbitration, the functions of arbitrator shall be conferred with preference upon a chief of state of one of the Spanish-American Republics, or upon a tribunal formed of Mexican, Spanish, or Spanish-American judges and experts.

In the case of not agreeing in the appointment of arbitrators the high-contracting parties shall submit themselves to the permanent international tribunal of arbitration established in accordance with the resolutions of The Hague conference of 1899 with adherence in the latter, and in the former case to the arbitral procedure specified in Chapter III of the said resolutions.

ARTICLE 4. The present treaty shall continue in force for ten years, counting from the date of the exchange of its ratifications.

In the case that neither of the high contracting parties shall have declared within twelve months before the expiration of the said term its intention to terminate the operations of the present treaty, it will continue to be obligatory for one year after one or the other of the high contracting parties shall have abrogated the same.

This treaty shall be ratified and the ratifications shall be exchanged in Mexico so soon as possible.

In testimony whereof the plenipotentiaries have signed and sealed the same, in duplicate, in Mexico on the eleventh day of January of the year one thousand nine hundred and two.

IGNACIO MARISCAL.

EL MARQUÉS DE PRAT DE NANTOUILLET.

The foregoing treaty was approved by the Chamber of Senators of the United Mexican States on the tenth day of the present April.

It was ratified by me on the fourteenth day of the same.

Her Majesty the Queen of Spain approved and ratified the foregoing treaty on the tenth of March last, and

The ratifications were exchanged on the fourteenth instant.

Wherefore I order that it be printed, published, circulated, and duly observed.

Palace of the Federal Government, Mexico, April 19, 1902.

PORFIRIO DIAZ.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. McCreery to Mr. Hay.

No. 1394.]

EMBASSY OF THE UNITED STATES,
Mexico, May 29, 1902.

SIR: I have the honor to acknowledge the receipt of your telegram of the 24th instant, instructing me, at the request of the President of Cuba, to ask the Government of Mexico to permit the United States consular officers within its jurisdiction to use their good offices in representation of the interests of Cuba and of its citizens until Cuban consuls shall have been appointed.

I inclose a copy of my note to the foreign office on the subject, and copy and translation of its reply, stating that the Mexican Government has no objection to the exercise, as desired, of good offices by United States consular officials within its jurisdiction.

I have to-day notified by letter the United States consular officers in Mexico that this permission has been granted by the Mexican Government.

I have, etc.,

FENTON R. MCCREERY.

[Inclosure 1.]

Mr. McCreery to Mr. Mariscal.

EMBASSY OF THE UNITED STATES,
Mexico, May 26, 1902.

MR. MINISTER: I have the honor to inform your excellency that I am instructed, at the request of his excellency the President of Cuba, to ask the Government of Mexico to permit United States consular officers within its jurisdiction to use their good offices in representation of the interests of Cuba and its citizens until Cuban consuls shall have been appointed.

I beg to renew, etc.,

FENTON R. MCCREERY.

[Inclosure 2.—Translation.]

Mr. Mariscal to Mr. McCreery.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, May 26, 1902.

MR. CHARGÉ D'AFFAIRES: Referring to your note of to-day, I am pleased to inform you that the Government of Mexico has no objection to permitting the consular representatives of the United States in the Republic, within its jurisdiction, to use their good offices in favor of the interests of Cuba and of its citizens until Cuban consuls shall have been appointed.

I renew, etc.,

IGNO. MARISCAL.

TREATY OF COMMERCE AND NAVIGATION BETWEEN AUSTRIA-HUNGARY AND MEXICO.

Mr. Clayton to Mr. Hay.

No. 1430.]

EMBASSY OF THE UNITED STATES,
Mexico, June 17, 1902.

SIR: I have the honor to inclose copy and translation of a treaty of commerce and navigation between Mexico and Austria-Hungary,

signed in this city September 17, 1901, and promulgated by the President of Mexico on the 31st ultimo.

I have, etc.,

POWELL CLAYTON.

[Inclosure.—Translation.]

Convention between Mexico and Austria-Hungary.

Porfirio Diaz, President of the United Mexican States, to the people thereof:

Know ye, that in this city, on the 17th day of September, 1901, there was concluded and signed, by the plenipotentiaries duly authorized for the purpose, a convention for the adjustment of the economic relations between the Republic of Mexico and the Austro-Hungarian Empire, in the form and tenor following:

The undersigned, duly authorized for the purpose, have agreed that Mexican citizens in Austria and in Hungary, and reciprocally Austrian and Hungarian subjects in Mexico, shall enjoy the privileges of the most favored nation in importation, exportation, transit, and generally in all things relating to commercial operations and navigation, as well as in trade and industries, and in the payment of the imposts relating thereto.

The privilege on the basis of the most favored nation is equally guaranteed by both parties with regard to the admission of consular functionaries and to the prerogatives and immunities attaching to them, and also to their rights in the general exercise of their functions, particularly in the matter of successions.

The present convention shall be valid for the period of six months, counted from the day upon which it may be signed. In the case that either of the parties shall not have notified before the expiration of this term the intention to cause its effects to cease, the said convention shall continue in force for a further term of six months, counted from the day upon which either of the parties may give notice.

Done in Mexico in duplicate originals, each in both languages, on the 17th of September, 1901.

IGNACIO MARISCAL.
G. HOHENWART.

The foregoing convention was approved in the Senate of the United Mexican States on October 7 of the said year.

It was also approved by the Parliaments of Austria and Hungary and sanctioned by his Majesty the Emperor and Apostolic King.

Considering the character of this convention the exchange of ratifications has not been necessary.

Wherefore, I order that it be printed, published, circulated, and duly observed.
National Palace, Mexico, May 31, 1902.

PORFIRIO DIAZ.

**JURISDICTION OF UNITED STATES CONSULS OVER DISPUTES
AND DIFFERENCES BETWEEN MASTERS, OFFICERS, AND
CREWS OF AMERICAN VESSELS IN MEXICAN PORTS.**

Mr. Hay to Mr. Clayton.

No. 736.]

DEPARTMENT OF STATE,
Washington, July 14, 1902.

SIR: I inclose herewith for your information a copy of correspondence between the Department and the Washington attorney for the Pacific Mail Steamship Company, in relation to the question of the right of the Mexican judicial authorities to assume jurisdiction over disputes between masters, officers, and crews of American merchant vessels in Mexican ports.

You will bring to the attention of the Mexican Government the usual treatment accorded foreign vessels in this regard by the United States courts by way of comity, and invite that Government's action in

the same sense, if possible under Mexican law, pending eventual disposition of the question by negotiation.

You will intimate the willingness of this Government to negotiate with Mexico a supplemental treaty article to meet this point.

I am, etc.,

JOHN HAY.

[Inclosure]

Mr. Chambers, attorney for Pacific Mail Steamship Company, to Mr. Hay.

WASHINGTON, July 7, 1902.

SIR: I have the honor to inclose herewith a letter dated San Francisco, 30th ultimo, that I have received from Mr. R. P. Schwerin, vice-president and general manager of the Pacific Mail Steamship Company, together with the inclosures therein referred to. Mr. Schwerin would like very much to have your opinion as to whether or not the Mexican authorities have the right to interfere in a case of this kind, and if they have, he desires to issue general instructions to prevent the recurrence of such proceedings, and says that in case of trouble on board ship he would direct the master to send ashore for the Mexican authorities to come on board the ship and put the offenders in irons, and take them on shore and lock them up.

I should be very much obliged if you will consider this matter and give me your opinion, as requested by Mr. Schwerin.

Very respectfully,

D. A. CHAMBERS,

Attorney Pacific Mail Steamship Company.

[Subinclosure 1.]

Mr. Schwerin, vice-president and general manager Pacific Mail Steamship Company, to Mr. Chambers.

SAN FRANCISCO, June 30, 1902.

DEAR SIR: I inclose you herewith copy of a letter from Capt. Alfred Urry, commanding steamship *San Juan*, dated at sea, June 12, 1902, in relation to the action of the Mexican authorities in Acapulco last voyage up. He reports verbally to me that these men were Mexicans, shipped in San Francisco and signed articles as American sailors. They obtained liquor in Acapulco and became very unruly, so much so that the captain was compelled to order the first officer to have them put in irons. They, however, made their escape and went ashore. The American consul protested against the Mexican authorities interfering with American sailors, but his protest would not seem to have been of any value.

I should like very much if you would obtain from the State Department, if possible, an opinion as to whether or not the Mexican authorities have the right to interfere in a case of this kind, for if so I should like to issue general instructions to prevent a recurrence of this kind, and if there is trouble on the ship to send ashore for the authorities to go on board the ship and put the offenders in irons and take them on shore and lock them up.

Yours, truly,

R. P. SCHWERIN,

Vice-President and General Manager.

[Subinclosure 2.]

Captain Urry to Mr. Schwerin.

STEAMSHIP "SAN JUAN," *At Sea, June 12, 1902.*

DEAR SIR: I arrived at Acapulco on June 11, at 7.25 a. m. On same date, at 1 p. m., three seamen, Francisco Rodriguez, Domingo Rosendo, and Carlos Valdez, were found in an intoxicated condition and refused to work when so ordered by First Officer J. L. Wilson. On the matter being reported to me, I ordered the men placed in irons, and in carrying out my orders the men resisted and two of them were struck by the first officer.

Valdez and Rosendo jumped into lighter and went ashore, Rosendo beating the boatswain before leaving. Rosendo preferred charges of assault against Wilson before local authorities. First officer acknowledged the charge before the court, which was held on board ship, after which court decided not to dispatch ship until first officer was sent on shore to be held at disposition of Mexican authorities.

Ship was not dispatched until the 12th, at 3.49 p. m., and then only by putting up a bond of \$500 Mexican in lieu of first officer, Agent Maxwell furnishing bond.

Very respectfully,

ALFRED URRY, *Commander.*

[Subinclosure 3.]

Agent Maxwell to Mr. Schwerin.

PACIFIC MAIL STEAMSHIP COMPANY AGENCY,
Acapulco, June 13, 1902.

DEAR SIR: The steamship *San Juan*, voyage 83 up, was ready to be dispatched from this port on the 11th instant at 6 p. m. At 5 p. m. of this date the necessary documents for obtaining dispatches for this steamer were presented at the customhouse and we were informed by the chief of the port that he had received an order from the Mexican court not to dispatch this steamer until an investigation had been made of certain charges brought by three seamen on board against First Officer J. L. Wilson, whom they had accused of assault.

At 6.30 p. m. the judge, attorney, and doctor came on board to make the investigation, and brought out the following facts:

The three seamen who brought the charge, Francisco Rodriguez, Domingo Rosendo, and Antonio Valdez, had been ordered in a boat alongside to paint ship. At about 2.30 p. m. the boatswain reported to the first officer that these men had been getting liquor from shore boats and that they were intoxicated and doing no work. First officer ordered the men on deck and gave them orders to proceed with the painting on a staging where they could not be reached by the shore boats. The men refused to obey this order and gave the first officer a great deal of insolent talk.

These facts were reported to Captain Urry, who ordered first officer to put the men in irons. In complying with these orders the men offered resistance and showed fight, and the first officer struck two of them. One man was put in irons; the other two run for the coal launch, then alongside the ship, meeting the boatswain on the way and giving him a bad beating, and then proceeded on shore and filed the complaint against the first officer.

These investigations were not completed until 11 p. m., after which the judge would not give any decision until he had gone on shore. At 12 p. m. the commandante came on board and notified the captain that the steamer would not be granted her dispatches unless the first officer and one of the seamen were detained on shore, to be held at the disposition of the Mexican court.

Thinking it likely that we would be able to get the ship away by noon on the next day (June 12) and get into Manzanillo on the 13th in time to be dispatched from that port on same date, Captain Urry decided to refuse to allow the first officer to be taken on shore, and to hold the ship until the next day.

As soon as telegraph office was open on the 12th the American consul sent a telegram to the judge of the district court in Chilpancingo stating that the American steamship *San Juan* was being detained at this port on an order from the court owing to charges of assault having been brought against first officer of the steamer. An examination of the injuries done these men by the court's doctor shows the injuries to be of a very trivial nature, and that as the first officer pleads guilty of the charge, that an immediate decision be rendered in the case, or that bond be accepted for the appearance of the first officer on the return of the steamer, and that this steamer be allowed to proceed on her voyage at once.

At 10.30 a. m. a reply was received from the judge at Chilpancingo informing the consul that he had instructed court at this place to accept bond in the amount of \$500 Mexican for the appearance of the first officer.

We at once went to the court and gave the required bond, finishing with these proceedings at 12 noon, yet the court did not send the order to dispatch the steamer until 3.10 p. m., the steamer sailing at 3.30 p. m.

When the judge of the court here first came on board the steamer he was informed that the first officer plead guilty to the charge brought against him, and was prepared to pay the fine, or to give bond for his appearance on the return of the steamer. The judge refused to impose penalty in the case or to accept bond.

The great trouble in these affairs is that the judge of the court here can not render a decision in a criminal case (which they made out of this case), but has to refer the evidence to the judge of the district for his decision, yet the judge here has sufficient authority to detain the steamer.

I shall ask the consul here to take this matter up with the judge of the court at Chilpancingo, in order that the affair may be terminated on the return of the *San Juan* to this port.

It does not look like fair treatment that one of our steamers be detained on a trivial charge of this nature, without the court of the port having sufficient authority to try and render a decision in the case at once.

A protest against the detention of the *San Juan* was filed with the United States consul and another protest with the chief of the port.

I would be pleased to know just what jurisdiction the Mexican court has over our steamers when they are in Mexican waters, at the same time calling your attention to article 13 of the company's contract with the Mexican Government.

Very respectfully,

G. W. MAXWELL, *Agent*.

Mr. Clayton to Mr. Hay.

No. 1529.]

EMBASSY OF THE UNITED STATES,
Mexico, August 15, 1902.

SIR: I have the honor to acknowledge the receipt of Department's instruction No. 736 of the 14th ultimo, and the inclosures therein mentioned, in relation to the question of the right of the Mexican judicial authorities to assume jurisdiction over disputes between masters, officers, and crews of merchant vessels in Mexican ports, and the propriety of the negotiation of a supplementary treaty article to meet this question.

I have to-day addressed a note to the foreign office upon the subject, also an unofficial note, copies inclosed, which I trust properly presents the matter to the Mexican Government.

I have, etc.,

POWELL CLAYTON.

[Inclosure 1.]

Mr. Clayton to Mr. Mariscal.

EMBASSY OF THE UNITED STATES,
Mexico, August 14, 1902.

MR. MINISTER: On the morning of June 11 last the steamship *San Juan*, of the Pacific Mail Steamship Company's line, arrived at the port of Acapulco; on the same day at 1 p. m. three seamen, Francisco Rodriguez, Domingo Rosendo, and Carlos Valdez, Mexicans, who, having signed articles as American sailors and shipped at San Francisco, were found in an intoxicated condition and refused to work when so ordered by the first officer, J. L. Wilson. On the matter being reported to the commander of the vessel he ordered the men placed in irons, and in the carrying out of his orders the men resisted, and two were struck by the first officer. Valdez and Rosendo jumped into a lighter and went on shore, Rosendo beating the boatswain before leaving. Rosendo preferring a charge of assault against Wilson before the local authorities, the first officer acknowledged the charge before the court, which was held on board ship, after which the court decided not to dispatch the ship until the first officer was sent on shore to be held at the disposition of the Mexican authorities. The ship was not dispatched until the 12th at 3.49 p. m., and then only by the furnishing of a bond of \$500, Mexican, for the appearance of the first officer, J. L. Wilson.

It appears that while the local judge has sufficient authority to detain steamers under these circumstances, he can not render a decision, but must refer the evidence to the judge of the district for his decision.

While the Federal courts of my country take jurisdiction over foreign vessels in its ports in the absence of treaty stipulations to the contrary, they usually decline to

exercise it in cases of dispute between masters and seamen of foreign vessels when the nation to which the vessel belongs has provided for the settlement of such disputes before its own consuls.

If, under Mexican law, Mexican courts can and will observe the same comity pending the eventual disposition of the question by negotiations, it will be gratifying to my Government.

In obedience to the request of your excellency, expressed during a late conversation between us concerning the expediency of the negotiation between our two countries of a supplementary treaty article to meet this question, that I furnish to your excellency a list of the governments with which the United States has entered into such treaty stipulations, I herewith transmit such a list, giving the dates of the treaties and the article and page of the book entitled *Compilation of Treaties in Force, 1899*, wherein said treaty provisions may be found, which book is herewith transmitted, under separate cover, for your excellency's inspection. After your excellency is through with the same I respectfully request that it may be returned to this embassy, as it is the only copy we have in our library.

I have, etc.,

POWELL CLAYTON.

[Inclosure 2.]

Mr. Clayton to Mr. Mariscal.

Unofficial.]

EMBASSY OF THE UNITED STATES,
Mexico, August 14, 1902.

DEAR MR. MARISCAL: Referring to our late conversation concerning the expediency of the negotiation of a supplementary treaty article conferring upon consular officers the exclusive power to take cognizance of and determined differences of every kind which may arise either at sea or in ports between captains, officers, crews, etc.

After a more careful examination of my instruction, I have deemed it better to bring the matter to your attention officially, and not by an unofficial memorandum, as spoken of in said conversation.

Believe me, etc.,

POWELL CLAYTON.

Mr. Clayton to Mr. Hay.

No 1547.]

EMBASSY OF THE UNITED STATES,
Mexico, August 26, 1902.

SIR: Adverting to my dispatch No. 1529 of the 14th instant transmitting copies of my notes to Minister Mariscal proposing the celebration of an additional article to the treaty between Mexico and the United States to define the exclusive power of consular officers to take cognizance of and determine difficulties which may arise either at sea or in ports between captains, officers, crews, etc., I have the honor to inclose herewith a copy and translation of Minister Mariscal's reply to my aforesaid notes, stating that the matter has been referred to the consulting attorney of the sections of his department, and that he will inform me opportunely of the decision which may be made in the premises.

I have, etc.,

POWELL CLAYTON.

[Inclosure.—Translation.]

Mr. Mariscal to Mr. Clayton.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, August 16, 1902.

MR. AMBASSADOR: I have received your excellency's note of the 14th instant and another, unofficial, of the same date, in which your excellency is pleased to propose the celebration of an additional article in the treaty between Mexico and the United

States to define the exclusive power of consular agents to take cognizance of and to determine difficulties which may arise at sea or in ports between captains, officers, and crews of vessels.

In reply I have the honor to say to your excellency that the matter has been referred to the consulting attorney of the sections of this department, and that I will opportunely inform your excellency of the decisions which may be made.

I will shortly return the book, from which the respective copies are being made, which your excellency was pleased to transmit with said note.

I renew, etc.,

IGNO. MARISCAL.

Mr. Clayton to Mr. Hay.

No. 1614.]

EMBASSY OF THE UNITED STATES,
Mexico, October 24, 1902.

SIR: Referring to Department's instruction No. 736 of July 14 last, relating to the question of the right of the Mexican judicial authorities to assume jurisdiction over disputes between masters, officers, and crews of merchant vessels in Mexican ports, and the propriety of the negotiation of a supplementary treaty article to meet this question, and to my dispatches No. 1529 and 1547, of August 14 and 26 last, respectively, upon the same subject, I now have the honor to transmit herewith a copy and translation of a note from Minister Mariscal, dated the 6th instant, in reply to mine of the 14th of August last, a copy of which was transmitted with my aforesaid dispatch No. 1529. It will be observed that Mr. Mariscal, after referring to Mexican legislation and jurisprudence concerning offenses committed on board of foreign vessels at anchor in Mexican ports, is of the opinion that the celebration of a new treaty does not appear to be necessary, as without it, and simply by virtue of Mexican laws, the American merchant marine enjoys in Mexican ports all the facilities and exemptions asked for in my aforesaid note. He expresses the hope that the Department of State will be of the same opinion.

I have the honor to transmit also a copy of my note to the foreign office of September 3 last.

I have, etc.,

POWELL CLAYTON.

[Inclosure 1.]

Mr. Clayton to Mr. Mariscal.

EMBASSY OF THE UNITED STATES,
Mexico, September 3, 1902.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's esteemed note of the 16th ultimo, informing me that the question of an additional article to the treaty between the two countries to define the exclusive power of consular agents to take cognizance of and to determine difficulties which may arise at sea or in ports between captains, officers, and crews of vessels, has been referred to the consulting attorney of the sections of your excellency's department.

Awaiting the information referred to in said note, I have, etc.,

POWELL CLAYTON.

[Inclosure 2.—Translation.]

Mr. Mariscal to Mr. Clayton.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, October 6, 1902.

MR. AMBASSADOR: Referring to my note of August 16 last, relating to the desire which your excellency was pleased to express that our Governments should cele-

brate a convention which might confer certain powers upon consular agents to take cognizance of differences of every kind which might arise among the personnel of their respective merchant vessels, I have the honor to transcribe for your excellency a report just made by the solicitor of this department, to whom the matter was referred, as I informed your excellency in my said note:

"The ambassador of the United States of America, in two separate notes of the same date (August 14 last), expresses the desire that Mexico and his Government should celebrate a treaty or an additional treaty article for the purpose of conferring upon consuls or consular agents special powers, with exclusion of the local authorities, to take cognizance of and to decide differences of any kind arising between the captain, the officers, and the crews of vessels belonging to the nation of which the said consuls may be.

"He also says that the judicial authorities of his country, in the absence of treaties, decline to take cognizance of said differences or disputes when the nation to which the vessel belongs has left the settlement of the same to its consuls abroad.

"And, finally, he expresses the satisfaction his Government would feel if the authorities of our ports would adopt the same rule of conduct pending the celebration of the proposed treaty.

"In compliance with your directions I proceed to give as briefly as possible my opinion in the matter.

"One of the questions most discussed in international law is the one relating to the legal regimen of merchant vessels and their crews in foreign ports.

"Two opinions have divided the field of the theory in regard to the offenses or infractions committed on board—one in favor of the jurisdiction of the State to which the vessel belongs, and another which gives the preference to the nation to which the port in which the act occurs belongs.

"In rigorous law, the latter is the only one admissible.

"*Toute la question est de savoir si c'est la souveraineté de l'Etat dont le navire porte le pavillon ou celle de l'Etat maître du port qu'il faut prendre pour point de départ. Sous ce rapport, nulle hésitation n'est permise. Si la première est absolue sur le territoire de cet Etat, et doit être respectée même en pleine mer, en tant qu'elle s'étend sur le navire couvert par son pavillon, il n'y a aucune raison juridique valable pour justifier la prétention d'un Etat à exercer sa souveraineté là où en règne incontestablement une autre et pour rapprocher le régime du navire dans les ports de celui auquel il est soumis en pleine mer. La nature juridique de ces deux domaines maritimes est distincte: la pleine mer est libre; les ports sont sous la dépendance exclusive de l'Etat riverain. L'extension de la souveraineté nationale sur le navire en pleine mer ne s'explique et ne se légitime que par l'absence d'une domination quelconque de la part des autres Etats; comment est-il logiquement possible de vouloir l'imposer là où cette condition essentielle fait défaut?*" (Comte M. Rostworoski, *Annales de l'Ecole libre des Sciences Politiques*, 1894, p. 689.)

"It has been vainly tried to oppose another of equal juridical force to the principles of territorial sovereignty, unless it is that which has been called 'the principle of the territoriality of merchant vessels,' and which consists in attributing to them the character of a part of the territory of the nation to which they belong, as Pradier-Fodéré well states it:

"Les caractères qu'on remarque dans les navires de guerre ne se trouvent point dans les navires de commerce. Ces derniers, équipés par de simples particuliers, dans des vues purement commerciales et pour des intérêts privés, ne sont pas une émanation de l'Etat dont ils portent le pavillon; ils ne font pas partie de la force armée de cet Etat; ils ne sont destinés ni à défendre leur pays contre les forces de l'ennemi, ni à la surveillance des côtes, ni à exercer la police de la navigation. Habitations mobiles des sociétés particulières, s'ils sont, comme tels, soumis aux lois de la puissance dont ils relèvent et s'ils doivent en être protégés comme tous les nationaux d'ailleurs, ni leur capitaine, ni ses subordonnés, ni aucune autre personne de leur équipage ne représentent à leur bord le gouvernement de l'Etat et ne peuvent être considérés comme investis d'une partie de la puissance publique; il n'y a pas à leur bord de délégation officielle de la souveraineté d'un Etat, et, par conséquent, il ne saurait être question de la subordination d'une souveraineté à une autre. Si la raison justificative de l'immunité universellement accordée aux navires de guerre dans les rades et ports étrangers doit être placée dans la nature spéciale de ces navires, et si la nature des navires de commerce n'est pas la même que celle des navires de guerre, il s'ensuit que la situation de ces divers navires dans les rades et dans les ports étrangers doit différer au point de vue de l'action des autorités locales. Les navires de guerre seront exempts de la juridiction de ces autorités, tandis que les navires de commerce lui seront soumis." (Pradier Fodéré, *Traité de Droit International Public*, Tome 5, p. 482; Calvo, *Le Droit International*, Tome 5, p. 554.)

"The rigor of the principles in this case, as in so many others, has been extenuated for reasons of mutual convenience and international courtesy and because of the necessity of giving navigation and commerce all the facilities and freedom of action possible.

"Hence the limitations or restrictions imposed upon territorial jurisdiction, generally accepted by the publicists and the legislation and the jurisprudence of the majority of the civilized nations.

"The system accepted by these, with the exception of England, and which may be called the French system because of its having its origin in the celebrated opinion of the council of state of October 28, 1806, is the following, which among many other citations which might be made, I copy in continuation from Bonfils, because of the conciseness and clearness with which the said author sets it forth:

"On divise les faits délictueux en deux classes: Dans la première, on place: 1°, les actes de pure discipline intérieure, les délits de fonctions, et 2°, les crimes et délits communs, accomplis par un homme de l'équipage, lorsque la tranquillité du port n'en est pas troublée. A l'égard des ces faits les droits de la puissance étrangère doivent être respectés. L'autorité française ne doit pas s'occuper de ces actes, à moins que son secours ne soit réclamé. La seconde classe comprend: 1°, les crimes ou délits commis même à bord *contre ou par* des personnes étrangères à l'équipage, et 2°, ceux accomplis par des gens de l'équipage entre eux, lorsque la tranquillité du port est compromise, ou lorsque le secours de l'autorité française est réclamé. La connaissance de ces faits délictueux appartient à nos tribunaux de répression: la protection accordée aux navires étrangers dans les ports français ne saurait dessaisir la juridiction territoriale, pour tout ce qui touche à la sécurité publique.' (Bonfils, Droit International Public, sec. 625, p. 359.)

"The Institute of International Law, of which the high scientific authority is recognized by all, in the rules which it adopted in regard to definition and regimen of the territorial waters, adopted in its session of 1894-1895, held in Paris, adhering to the most rigid principles of the law of nations, established in article 8, absolutely and without exception of any kind, the jurisdiction of the States, owners of the said waters, over foreign merchant vessels.

"It only admitted (article 6) certain limitations in regard to offenses committed in certain cases on board of vessels simply passing through the said territorial waters.

"Later, and after luminous and prolonged discussion upon the legal regimen regarding vessels and their crews in foreign ports, had in Venice (1896), Copenhagen (1897), and The Hague (1898), it approved, on August 23, 1898, the regulations of which I deem it indispensable to copy the relative articles because of their exceptional importance:

"ART. 29. Les navires de toutes nationalités, par le fait seul qu'ils se trouvent dans un port ou une portion de la mer dépendant du même régime, sont soumis à la juridiction territoriale, sans distinction à raison des faits qui se sont produits à bord ou à terre.

"ART. 30. Par exception, les faits commis à bord des navires dans un port, qui ne constituent que des infractions à la discipline et aux devoirs professionnels du marin, ne relèvent que de la justice nationale du bord. L'autorité locale doit s'abstenir d'intervenir, à moins que son concours ne soit régulièrement réclamé, ou que le fait ne soit de nature à troubler la tranquillité du port. Même dans ce dernier cas, la juridiction locale ne peut devenir compétente que si le fait constitue, en même temps, une infraction disciplinaire, un délit de droit commun.

"ART. 32. Toutes les contestations entre les gens de l'équipage, ou entre eux et le capitaine, ou entre les capitaines des divers bâtiments d'une même nation dans le même port, à raison de l'engagement des matelots ou de différences analogues, doivent être terminées en dehors de l'ingérence des autorités locales.

"Sont assimilées, pour l'application de cette règle, aux personnes appartenant à la nationalité du navire les personnes engagées dans l'armement et portées sur le rôle de l'équipage, quelle que soit leur véritable nationalité.' (Annuaire de l'Institut de Droit International, Tome 17, p. 281.)

"As the result of the foregoing extracts and the discussion which preceded them, confining ourselves to the point in question, it may be said that the accepted doctrine of international law is as follows: Infractions of discipline and neglect of professional duty by the crew, and differences among persons of the crew, or between them and their captains, are not within the jurisdiction of the local authorities. The said authorities should not interfere except when their aid is asked for, when the tranquillity of the port is disturbed, or when one who does not belong to the crew of the vessel takes part in the said infractions or differences.

"It is difficult, as Pradier-Fodéré says (Vol. V, p. 519), to say precisely what is the doctrine of the United States of America in regard to the matter in question.

"There, generally, the tendency to apply the principle of territorial jurisdiction in all its force and to give to its tribunals a very extensive discretionary power on this point, appears to rule.

"It may be safely affirmed that when a merchant vessel of one country visits the port of another for the purpose of trade, it owes temporary allegiance and is amenable to the jurisdiction of that country, and is subject to the laws which govern the port it visits so long as it remains, unless it is otherwise provided by treaty. Any exemption or immunity from local jurisdiction must be derived from the consent of that country. (Note of Mr. Frelinghuysen, Secretary of State, to Mr. Randall. Notes of Mr. Marcy, Secretary of State, to Mr. Paredes, of September 27, 1853, and to Mr. Clay, of August 31, 1855, and of Mr. Frelinghuysen to Baron Schaeffer, of November 13, 1883. Wharton, International Law Digest, sec. 35 A.)

"The practice of the courts of the United States, apart from consular conventions, seems to be to take cognizance of all cases except those involving acts of mere interior discipline of the vessel.' (W. E. Hall, A Treatise on International Law, p. 212.)

"Even in the case of existing treaties with other foreign powers, the United States shows a certain repugnance to waive its rights of sovereignty.

"After referring to the many treaties which grant to consuls the power to act as arbitrators in differences which arise on board and prohibit the local authorities to take cognizance of them, unless they disturb the tranquillity of the port, or which occur among persons not of the crew, Hall adds, in his said work, section 58, page 212, the following:

"Practice, however, even in France, is by no means consistent, and consular conventions seem occasionally to be subjected to very elastic interpretation. When the second mate of an American vessel lying in the port of Havre killed one sailor and wounded another, the cour de cassation delivered a judgment which in effect asserted that merchant vessels were fully under the local jurisdiction whenever the State saw fit to exercise it; and in the *United States* the Supreme Court has held that a local court rightly took cognizance of a case in which one man was stabbed by another, during an affray that occurred between decks on a Belgian vessel and was unknown outside, notwithstanding that a consular convention existed between Belgium and the United States under which the local authorities were forbidden to interfere except when disorder arose of such nature as to disturb the tranquillity of public order on shore or in port.'

"Nevertheless, notwithstanding the severe criticisms of which the decision referred to in the foregoing citation has been the object, and which decision was pronounced on February 4, 1880, in the case of Wildenhuis, of the Belgian vessel *Noordland*, notwithstanding the consular convention celebrated between Belgium and the United States, it may be expected that in the generality of cases, when there are treaties in force, that the zeal of the American authorities in favor of their jurisdiction will yield to the dignity of international stipulations.

"It was so affirmed on a formal occasion by Mr. Fish, Secretary of State, in his note to Mr. Marsh of May 2, 1876, and it is so understood from the terms of the consular regulations of the United States of 1881, cited by Pradier-Fodéré:

"The general principles of the treaties and conventions of the United States with foreign powers with regard to vessels and their crews is that consular officers shall have jurisdiction in questions of wages, the shipment and discharge of sailors, and all cases which occur on board of vessels of the United States in foreign ports, whether in the matter of contracts or in that of crimes or offenses, so long as the said questions relate to the vessels, their cargoes, or to the persons of their crews. If they affect the public peace of the ports or the rights of persons who do not belong to the crews, they fall within the jurisdiction of the local authorities.'

"Mexico has always adhered in this matter to the principles which may be called classic, those which form the French system, and are accepted by the greater part of the enlightened nations and which will undoubtedly become, at a time not remote, the universal rule among nations.

"The decree of January 23, 1854, enumerated among admiralty cases 'those which relate to ordinary crimes or offenses committed on board of a national merchant vessel in a foreign port, roadstead, or territorial waters, by a member of the crew against another of the same, or of another Mexican vessel, provided that in case it should be in a port the tranquillity of the same shall not have been disturbed; those of ordinary crimes or offenses committed on board of a foreign merchant vessel in any port, roadstead, or territorial waters of the Republic, by a person not of the crew or against one who is not of the crew; and those of crimes or offenses committed, in the case of the foregoing paragraph, by persons of the crews among themselves, provided that the tranquillity of the port shall have been disturbed.' (Art. 1, secs. 3, 4, and 5.)

"By virtue of an opinion asked for by the department of war and marine of that

of justice and public instruction in the matter of wounds inflicted upon Nicholas Gervasio, seaman of the Italian hermaphrodite brig *Margarita*, at anchor in the port of Vera Cruz, by a person not belonging to the crew, Licentiate Ignacio Mariscal, then minister of justice, in his note of March 19, 1869, basing his opinion upon authorities of reputation, explained with all clearness the doctrine applicable to such cases, of which the following paragraph, which I copy literally, may be considered as a résumé:

“Confining ourselves to the acts which occur on board of vessels of any nationality, which may be in the port of another country, in time of peace or as neutrals, the jurisprudence most generally accepted and which, according to the opinion of Wheaton, is most in accord with the principles of the universal law of nations, is that adopted by the French Government, which recognizes two classes of acts:

“First. That of acts of the pure interior discipline of the vessels, and even of crimes and offenses committed by the crews among themselves, when the tranquillity of the port has not been disturbed.

“Second. That of said crimes or offenses committed on board against persons who do not belong to the crew, or by one who does not belong to it, or by members of the crew among themselves, when the tranquillity of the port has been disturbed.

“The acts included in the first class are exempt from the local jurisdiction, which should not interfere in them unless its aid or protection should be asked. With respect to those included in the second class, the French legislation decides that its cognizance pertains to the authorities of the country to which the port belongs, because the protection granted to merchant vessels in the ports does not prejudice the territorial jurisdiction in all that relates to the public interests or to those of the State, and these are always affected when persons who do not belong to the crew take part, and they evidently are subject to the local jurisdiction.”

“The law relating to foreign consuls in the Republic, of November 26, 1859, in article 10, Section VIII, authorizes them ‘to be arbitrators in differences arising between captains and crews of vessels belonging to their respective countries with regard to shipments and wages, as well as to the terms of service, provisions, and other things which do not constitute offenses, without intervention of the local authorities, unless the action of the captain or that of the crew should disturb the order or tranquillity of the country, and also when the commercial agents ask for the said intervention in order that their decisions be carried into effect. But this arbitration does not prevent the parties in interest from applying to the authorities of their respective countries;’ a provision repeated with respect to our consuls in foreign countries in article 10 of the Mexican Consular Regulations of September 16, 1871.

“In accordance with all these antecedents and with our invariable tradition, our penal code, in force throughout the Republic in Federal matters, established the rule applicable to the cases which are the subject of this study, a rule which should be examined with care because it will give us the elements necessary to formulate our conclusions with as much accuracy as may be possible.

“In article 189 it says:

“Considered to be committed in the territory of the Republic.

* * * * *

“3. Offenses committed on board of a foreign merchant vessel at anchor in a national port or in the territorial waters of the Republic if the delinquent or the one offended does not belong to the crew or the tranquillity of the port be disturbed. In the contrary case the law of reciprocity shall be observed.”

“Therefore it is seen that in two cases only is the competency of our tribunals to take cognizance of offenses committed on board of a foreign vessel obligatory and rigorous, whatever may be the legislation upon this matter by the country to which the latter may belong when the tranquillity of the port is disturbed and when the delinquent or the one offended does not form a part of the crew.

“In either of these two cases the jurisdiction of our authorities is imposed, although under the same circumstances the tribunals of the country to which the vessel belongs would refrain from taking cognizance of matters of this kind. If on the contrary the delinquent and the one offended belong to the crew and the tranquillity of the port has not been disturbed, the rule of reciprocity will be observed; that is to say, our tribunals will or will not take cognizance if under similar circumstances those of the country to which the vessel belongs are or are not competent according to its legislation.

“There has been much discussion with regard to what should be understood by disturbing the tranquillity of the port and as to whether reciprocity should be applied only when there is a treaty between the two countries, or, if on the contrary, it should be observed even when there are no diplomatic relations existing between the said countries.

“I believe it unnecessary to discuss these questions considering the object of this study, and therefore I will confine myself to remarking—because it is very important—that with the difference of that which is accepted by the Institute of International Law and by several authorities and legislations, our penal code requires, not that the offense be sufficient to disturb the tranquillity of itself, but that it shall be disturbed in fact and in an effective manner; and with respect to reciprocity, that it is not necessary that analogous cases shall have occurred with our vessels in foreign ports, but that for the guidance of the conduct of our tribunals it will be sufficient to observe that of those of the other countries in accordance with their legislation and jurisprudence.

“An omission may be noticed in article 189 of our penal code—the one which relates to the third of the exceptions generally accepted and which determines the competency of the local authorities when their protection is asked. But the latter part of this article supplies this omission, as, prescribing the observance of reciprocity and the said exception being accepted by most of the civilized countries—by all of them it may be said—it is indubitable that the Mexican authorities have jurisdiction in cases in which their aid is solicited to suppress or punish offenses committed on board of foreign merchant vessels at anchor in any of our ports.

“Of several decisions of our courts which have applied article 189 of our penal code, I consider it proper to cite the very notable one pronounced on February 25, 1876, by the supreme court of the nation in the matter of the homicide of the seaman Augusto Durand, committed by Capt. Eugenio Antinori, on board the French barque *Anemone*, at anchor at Isla del Carmen, State of Campeche. In said decision, cited with encomiums by Calvo, Fiore, and other authors, it was decided, in accord with the luminous petition of the public attorney, that the Mexican authorities were not competent to take cognizance of that offense because the tranquillity of the port had not been disturbed; because the slayer and the deceased were of the crew, and because the aid of the said authorities had not been solicited. (El Faro, March 14 and 15, 1876.)

“Lately, in a case very similar to the one cited by the ambassador of the United States in one of his notes, that of the difficulty which occurred between an officer and several of the crew on board of the American steamer *San Juan*, at anchor at Acapulco, the district judge of Guerrero, on the same grounds, in decision of July 2 of the current year, which was affirmed by the third circuit court, decided that he was not competent.

“It seems to be unnecessary to remark that the doctrine based on article 189 of the penal code, which has just been cited, and which relates to acts which constitute true offenses, is entirely applicable, for a majority of reasons, to simple difficulties or disputes, of whatever kind they may be, arising between the captain, the officers, and the crews of foreign merchant vessels lying in our ports.

“And although this principle has been implicitly recognized in all our treaties of commerce and navigation, as it gives consuls the right to reestablish order on the vessels of their country and to ask the aid of the local authorities in the same, the said principle has been expressly and terminantly stipulated in our treaties with Sweden and Norway of July 29, 1885, and Salvador of April 20, 1893, which say, in Articles VII and XV, respectively: * * *

“It is also stipulated that the merchant vessels of the contracting parties shall be subject, respectively, to the jurisdiction of the one in whose ports, roadsteads, bays, inlets, or territorial waters they may be, for crimes, offenses, or acts committed on board by a person not belonging to the crew, or against one who also does not belong to it, or by persons of the crew among themselves, provided that in the latter case the tranquillity of the port shall have been disturbed.

“Merchant vessels of either of the two contracting nations from the time of their entrance into the territorial waters of the other, shall be subject to the local jurisdiction in all that does not concern their interior discipline or offenses committed among their crews which may not disturb the tranquillity of the port in which they may be.”

“From all that has been set forth it may be deduced:

“First. That in accordance with our legislation and our jurisprudence, and as a general rule, our courts are not competent to take cognizance of offenses committed on board of foreign vessels at anchor in our ports.

“Second. That they have jurisdiction to take cognizance of them when the intervention of our authorities is solicited, when the tranquillity of the port is disturbed, or when the offense is committed by or against a person who does not belong to the crew.

“Third. That the foregoing rules are applicable, with greater reason, to the differences or disputes between the captain and the crew, or between the latter among themselves, and which do not constitute true crimes.

"The ambassador of the United States, in order to indicate clearly the idea of the international stipulation which he proposes, and as forms upon which it should be based, presents several articles of an equal number of treaties celebrated by his country with foreign nations. All of them contain, substantially, the same agreements, and for that reason I will limit myself to copying, in continuation, the one celebrated with Germany, selected because, in my opinion, it expresses with greater clearness the fundamental idea upon which all of them are based:

"Arr. XIII. Consuls-general, consuls, vice-consuls or consular agents shall have exclusive charge of the internal order of the merchant vessels of their nation and shall have the exclusive power to take cognizance of and to determine differences of every kind which may arise, either at sea or in ports, between captains, officers, and crews, and especially in reference to wages and the execution of mutual contracts. Neither any court or authority shall, on any pretext, interfere in these differences except in cases where the differences on board ship are of a nature to disturb the peace and public order in port, or on shore, or when persons other than the officers and crew of the vessel are parties to the disturbance.

"Except as aforesaid, the local authorities shall confine themselves to the rendering of efficient aid to the consuls when they may ask it in order to arrest and hold all persons whose names are borne on the ship's articles, and whom they may deem it necessary to detain. Those persons shall be arrested at the sole request of the consuls, addressed in writing to the local authorities and supported by an official extract from the register of the ship of the list of the crew, and shall be held, during the whole time of their stay in the port, at the disposal of the consuls. Their release shall be granted only at the request of the consuls, made in writing.

"The expenses of the arrest and detention of those persons shall be paid by the consuls."

"Hence it may be readily seen that the rules which the representative of the United States proposes to adopt by means of an international agreement are precisely the same as those which Mexico has always observed in this matter, following the example of the majority of civilized nations.

"The celebration of the said treaty does not appear, therefore, to be necessary, as, without it, and simply by virtue of our laws, the American merchant marine enjoys in our ports all the facilities and exemptions which the ambassador of the United States asks for it with such laudable zeal."

The foregoing report having been approved by this department, it hopes, in view of the terms in which it is conceived, that your excellency, as well as the Department of State of the United States, will be of the same opinion, that the celebration of such convention is not necessary, as international practice is sufficient to secure the object which your excellency's Government seeks to obtain.

I have the pleasure to return to your excellency the book which came with the said notes, and to again express, etc.,

IGNO. MARISCAL.

Mr. Hay to Mr. Clayton.

No. 803.]

DEPARTMENT OF STATE,
Washington, November 17, 1902.

SIR: I have to acknowledge the receipt of your dispatch No. 1614 of the 24th ultimo on the subject of jurisdiction by consular officers of the United States in Mexico over disputes arising at sea or in Mexican ports among masters, officers, and crews of American vessels.

With your dispatch is transmitted a copy of a note from the Mexican minister for foreign affairs, in which he expresses the opinion that a new treaty is not necessary, as without it, and simply by virtue of Mexican laws, the American merchant marine enjoys in Mexican ports all the facilities and exemptions asked for in your note to him of August 14 last.

In reply, I inclose herewith for your information a copy of the Department's circular instruction of the 11th instant to our consuls in Mexico, defining their rights and powers in the premises.

I am, etc.,

JOHN HAY.

[Inclosure.]

Department of State to United States consuls in Mexico.

CIRCULAR.

DEPARTMENT OF STATE,
Washington, November 11, 1902.

SIR: As the result of recent diplomatic correspondence in regard to the question of the right of the Mexican judicial authorities to assume jurisdiction over disputes between masters, officers, and crews of merchant vessels in Mexican ports, I now have to inform you that the Department is in receipt of a dispatch, No. 1614, of October 24, 1902, from the ambassador of the United States at Mexico City, transmitting a note from the secretary for foreign affairs of Mexico, in which he declares for the Mexican Government the following:

First. That in accordance with Mexican legislation and jurisprudence, and as a general rule, the courts of Mexico are not bound to take cognizance of offenses committed on board foreign vessels in Mexican ports.

Second. That these courts have jurisdiction to take cognizance of such offenses when the intervention of the Mexican authorities is solicited, when the tranquillity of the port is disturbed, or when the offense is committed by or against a person who does not belong to the crew.

Third. The foregoing rules are applicable with greater reason to the differences or disputes between captain and crew or between the latter among themselves and which do not constitute true crimes.

For your information, as explaining and elucidating these rules, I inclose herewith a copy of an extract from the note of the secretary for foreign affairs.

I am, etc.,

HERBERT H. D. PEIRCE,
Third Assistant Secretary.

**DENIALS OF JUSTICE TO UNITED STATES CITIZENS TO BE
REPORTED TO EMBASSY BY CONSULAR OFFICIALS.**

Mr. Clayton to Mr. Hay.

No. 1485.]

EMBASSY OF THE UNITED STATES,
Mexico, July 26, 1902.

SIR: I contemplate, if such course meets with the approval of the Department, addressing communications to all United States consular officers in Mexico, over whom I have, by virtue of my office, supervisory jurisdiction of the scope set forth in paragraph 101, article 7, United States Consular Regulations of 1896, requesting them to report to me promptly and directly all cases of denial of justice or invasion of the personal or property rights of any American citizen within their respective jurisdictions, not including, however, such cases as have received prompt remedial action by the local authorities upon the representations of such consular officers, said reports to be accompanied by such information as may, in each case, have been brought to the attention of or ascertained by the officer so reporting.

As I understand it, I have no right to make such requests of consular officers over whom a consul-general has supervisory jurisdiction. Under paragraph 8, article 1, of said Consular Regulations, the consul-general at Mexico is not charged with any supervisory powers, and has no consulates or commercial agencies subordinate to him. Paragraph 12, of the same article, designates the consulates over which the consul-general at Nuevo Laredo (now Monterey) has supervisory jurisdiction. I suppose, although I have no official knowledge of the fact, that after this consulate-general was removed to Monterey, it was given supervisory jurisdiction over the consulate at Nuevo Laredo. In that case the consul-general at Monterey would have supervisory

jurisdiction over the following consulates: Chihuahua, Durango, Matamoros, Nogales, Paso del Norte (Ciudad Juarez), Saltillo, Tampico, Piedras Negras (Ciudad Porfirio Diaz), and Nuevo Laredo; and I understand that over all other consulates and commercial agencies in Mexico I have supervisory jurisdiction, and have a right to communicate with them direct, and expect direct replies; and that over the consulates-general at Mexico and Monterey I have supervisory jurisdiction of the scope above referred to.

In my contemplated letter to the consuls, of course, where they have consular agencies under their jurisdictions, I shall request them to ask said agents to report to them the same information as that requested by me of their principal consular officers, said information to be transmitted to me by the superior officers.

My reasons for adopting this contemplated course are, first, a desire to obtain knowledge of cases of denials of justice or invaded rights which otherwise I might not obtain, so that I can take such diplomatic action in each case as the facts may justify; and, second, because instances have occurred of this character within the districts of consular officers over whom I have supervisory jurisdiction that have not been reported to me.

Whether the Department approves of my proposed course or not, I request that it will inform me whether my understanding as to the consular officers over whom I have supervisory jurisdiction is correct.

I have, etc.,

POWELL CLAYTON.

Mr. Adee to Mr. Clayton.

No. 762.]

DEPARTMENT OF STATE,
Washington, August 18, 1902.

SIR: I have to acknowledge the receipt of your No. 1485 of the 26th ultimo, reporting your intention of addressing communications to all United States consular officers over whom you have supervisory jurisdiction, requesting them to report to you promptly and directly all cases of denial of justice or invasion of the rights of American citizens within their respective jurisdictions.

In reply I have to say that your understanding as to consular officers over whom you have supervisory jurisdiction is correct.

The course you propose taking, as shown by your dispatch, is approved.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Clayton to Mr. Hay.

No. 1555.]

EMBASSY OF THE UNITED STATES,
Mexico, August 28, 1902.

SIR: Referring to my dispatch No. 1485, of July 26 last, and to Department's instruction No. 762, of the 18th instant, relating to consular officers over whom I have supervisory jurisdiction, and the propriety of my requesting them to report to me promptly and directly all cases of denial of justice or invasion of the personal or property rights of American citizens within their respective jurisdictions, I have the honor to transmit herewith copies of communications

addressed by me to the consuls-general at Mexico City and Monterey, and to the consul at Vera Cruz upon the subject. Communications similar to that sent to the consul at Vera Cruz were also sent to the other consular officers under my supervisory jurisdiction. Whatever difference may exist between the aforesaid communications and the course which I proposed taking as stated in my dispatch above referred to I hope will meet with the approval of the Department.

I have, etc.,

POWELL CLAYTON.

[Inclosure.]

Mr. Clayton to United States consular officials in Mexico.

EMBASSY OF THE UNITED STATES,
Mexico, August 27, 1902.

SIR: For the purpose of procuring prompt information at this embassy of all cases of denial of justice or invasion of the personal or property rights of any American citizen within the jurisdiction of your consulate-general (consulate), you are respectfully requested to report to this embassy, as soon as practicable, all such cases as may come to your knowledge, either directly or through the consular officers over whom you have jurisdiction, together with statements of such facts relating thereto as you may be able to gather from the sources at your command. The foregoing, however, is not applicable to such cases as may be undergoing fair and reasonably expeditious investigation by the proper judicial authorities, or to cases where the injured citizen has neglected to seek the judicial remedies accorded by the laws of Mexico. Upon complaint being made in such latter cases, it might be well to notify the complainant that before he can receive the intervention of his Government he should seek and exhaust said judicial remedies.

Please communicate the above information to the subordinate consular officers within your jurisdiction with appropriate instructions for the effective accomplishment of the aforesaid purpose.

This instruction is given with the approval of the Department of State.

Very respectfully, yours,

POWELL CLAYTON.

Mr. Adee to Mr. Clayton.

DEPARTMENT OF STATE,
Washington, September 9, 1902.

SIR: I have to acknowledge the receipt of your No. 1555 of the 28th ultimo, inclosing copies of instructions addressed by you to the United States consular officers over whom you have supervisory jurisdiction, requesting them to report to you all cases of denial of justice or invasion of the personal or property rights of American citizens within their respective jurisdictions.

The Department approves the instruction.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

ACCIDENT TO PRESIDENT ROOSEVELT.

President Diaz to President Roosevelt.

[Telegram.—Translation.]

MEXICO, September 4, 1902.

Accept my cordial congratulations upon your escape from accident.

PORFIRIO DIAZ.

President Roosevelt to President Diaz.

[Telegram.]

WHITE HOUSE,
Washington, September 5, 1902.

I highly esteem your congratulations upon my fortunate escape.

THEODORE ROOSEVELT.

**MESSAGE OF THE PRESIDENT OF MEXICO TO CONGRESS—PAS-
SAGES RELATING TO THE PIOUS FUND CLAIM AND THE SILVER
QUESTION.***Mr. Clayton to Mr. Hay.*

No. 1583.]

EMBASSY OF THE UNITED STATES,
Mexico, September 19, 1902.

SIR: I have the honor to transmit herewith, for the information of the Department, copies in duplicate of President Diaz's message delivered to Congress on the 16th instant. The Department's attention is respectfully called to the President's remarks under the head of "The Pious Fund claim," also under the head of "The silver question."

I have, etc.,

POWELL CLAYTON.

[Inclosure.—Translation.]

Extracts from message of President Diaz.

THE PIOUS FUND CLAIM.

The first contentious international case, in which the contending parties are Mexico and the United States of America, has, by mutual consent, just been submitted to the permanent arbitration court instituted at The Hague by virtue of the conference called, and justly called, the peace conference. The case in question grows out of a claim presented by the Catholic Church of Upper California against the Mexican Republic and upheld by the Government of the United States, looking to the payment of interest on a fund which was created in the colonial epoch for the benefit of the missions in that former portion of our territory.

Originally, the fund in question was intrusted to the Jesuits for their California missions, but, as a consequence of the royal order which expelled the Jesuits from Spanish territory in 1768, the property constituting the fund passed to the Crown of Spain, which intrusted its administration to a royal commission, in whose hands it was at the time when our independence was consummated.

The National Government continued to administer the fund, which was destined for the reduction of the barbarous Indians and their conversion to Christianity, and though in 1836 it caused the fund to be placed at the disposal of the bishop of California to be administered by him, that arrangement was canceled by decree of February 8, 1842, and the administration of the fund reverted to the Mexican Government to be employed by that Government in such form and manner as it might determine compatible with the original intention of the founders.

When, in 1848, Upper California was segregated from the Mexican federation, the Mexican Government, taking its stand principally on article 14 of the peace treaty with the United States, concluded in that same year, which pronounced as ended and canceled all debts and claims which citizens of the United States might allege against Mexico, considered itself released from all liability toward the representatives of the Church in California, who, if they believed they had any claim to urge, ought to have urged it against the Government to which the sovereignty of Upper California with all its correlative rights and obligations had passed.

Not convinced by the considerations to which I have alluded, the Church in question, notwithstanding its lack of competency, went before the Joint Claims Commission which was held at Washington under the convention of July 4, 1868, demanding payment of interest up to the date of the claim. Owing to a lack of agreement between the commissioners, the case was submitted to the arbiter or referee, who, believing he had found grounds for such action, sentenced us to pay a certain sum.

The Mexican Government, notwithstanding that it considered the sentence unjust, paid the interest assessed against it.

On the strength of that decision the California Church has since claimed that the Republic ought to continue paying interest on the fund, and its claims were presented through the diplomatic channel. After an exchange of notes between the representative of the United States and the minister of foreign relations, and seeing that no agreement was reached (we, on our side, maintaining that the arbitral decision of 1875 did not include subsequent interest and that there is no ground for claiming that interest or for regarding the principal itself as still subsistent), it was decided, with that spirit of conciliatoriness which befits friendly nations, to submit the case to The Hague court for adjudication. With this end in view a protocol binding both parties was signed at Washington on May 22 last fixing the basis for the action of the court, and that protocol, as you will remember, received the approval of the Mexican senate.

I have to add that, in accordance with the stipulations of the agreement in question, both Governments in due course appointed their respective arbitrators who met on the 1st instant at The Hague, and the arbitrators in turn appointed a fifth arbitrator or referee to decide in case of disagreement.

The Mexican Government confides in the acknowledged integrity and high character of the jurists who constitute the respected tribunal, and once more engages itself to comply with the definite sentence uttered in this matter.

* * * * *

THE SILVER QUESTION.

The fate of silver is to us an arduous problem, and as the definite solution can not yet be conjectured the Executive feels obliged to maintain a waiting attitude and to continue its studies with a view to elucidating the various aspects of the question, such as the conditions surrounding the production, circulation, and consumption of the metal in question, and as nearly as possible the advantages and disadvantages which its depreciation has occasioned or may occasion to Mexico. In any event it is necessary to bear in mind that with silver we meet about one-half of what for various reasons the country is compelled to remit abroad and that, notwithstanding our substantial production of silver, it would be rash for the Republic alone to attempt to regulate the world's output of the white metal, and in that way to bring about stability in its price.

* * * * *

RECEPTION OF THE CUBAN MINISTER TO MEXICO.

Mr. Clayton to Mr. Hay.

No. 1618.]

EMBASSY OF THE UNITED STATES,
Mexico, November 4, 1902.

SIR: I have the honor to inform you that on the 30th ultimo the President of the Republic received General Carlos Garcia Velez as envoy extraordinary and minister plenipotentiary of the Republic of Cuba.

I inclose herewith copy and translation of the addresses delivered on that occasion.

I have, etc.,

POWELL CLAYTON.

[Inclosure.]

From the Mexican Herald, October 31, 1902.

The minister of Cuba in presenting his credentials said:

“Mr. PRESIDENT. I have the honor to deliver to your excellency the letter by which President Tomás Estrada Palma is pleased to accredit me as envoy extraordinary and minister plenipotentiary of the Republic of Cuba near your Government.

“The Cuban nation has many reasons for feeling fervent affection for the Mexican nation, and you will allow me to express it, Mr. President, at this solemn moment when I have the honor to be the first diplomatic agent of my country to be received in a Spanish-American nation.

“Linked in the history of this continent ever since the dawn of modern times, alike in their checkered records, possessing similar factors of national solidarity, resembling one another in their customs and aims, having a common origin and tongue, Mexico and Cuba are two sister nations whose relations of friendship are bound to grow as time passes.

“The intimate character of these cordial relations, which my Government desires to maintain with the Government so wisely directed by yourself, must be greatly fomented by the profound gratitude which we feel toward this great nation, for the generous shelter which, in stormy days for our country, was extended to thousands of Cubans who sought these shores, and by the sincere appreciation of the services rendered by Mexico to our cause in being one of the first to recognize our young Republic, and to accredit to it an honored representative. Counting, therefore, on your benevolent reciprocity of sentiment, I have every hope that I will be able successfully to realize the mission with which I have been charged for the benefit of our respective countries.

“Interpreting the desire of the citizens of Cuba, I have been specially commissioned by President Tomás Estrada Palma to present our most sincere congratulations for the paternal, wise, and benevolent rule that you exercise in the United Mexican States, surrounded by the sincere love of your people and the admiration of foreign nations. We desire you, Mr. President, a long life for the good of this happy nation, so favored by prosperity and so congenial to progress.”

President Díaz replied as follows:

“Mr. MINISTER. It is with special satisfaction that I receive from your hands the letter that accredits you as representative of the new and sympathetic Republic of Cuba, in the capacity of envoy extraordinary and minister plenipotentiary. You are quite right in all that you have said with respect to the powerful reasons that already exist, and to which time will add, why our Governments should cultivate a sincere friendship, in keeping with the deep cordiality which unites the two peoples. Their proximity, the points that are common in the history of both, the identity of their aspirations and ideals, the civilization that impresses a special character on the group of nations to which they pertain, all make for that unity of sentiment that will bring about a friendly combination of interests, both in trade and in other matters that bind modern nations to each other.

“For the obtaining of such desirable results, you have been happily selected to be the chief of the first mission that Cuba sends us, and for that reason you may count on our special cooperation to obtain those objects, seeing that Mexico fully reciprocates the friendly sentiments that you have expressed on behalf of your Government.

“In conclusion, I beg that you will transmit to the Chief Magistrate of your country my sincere hopes for his personal happiness and for the prosperity of the new Republic of Cuba, which is rich in hopes for the future.”

NETHERLANDS.

PASSPORT APPLICATION OF JULIAAN JOHAN BECKER.

Mr. Newel to Mr. Hay.

No. 453.]

LEGATION OF THE UNITED STATES,
The Hague, January 9, 1902.

SIR: I have the honor to inclose herewith an application^a by Juliaan Johan Becker for a passport, and to ask for a ruling on it by the Department. I also inclose a passport issued at this legation to the said Becker in 1888. I have consented to forward this application only after having been importuned to do so by the applicant.

Both J. J. Becker and his brother, Henry Lewis Becker, were granted passports at this legation (Nos. 3 and 4), on the 19th of February, 1888. On the 21st of May, 1891, Henry Lewis Becker applied for a renewal of his passport, and after correspondence between the Department and this legation the Department ruled that the applicant was not entitled to a passport, and therefore none was issued.

The case of the present applicant, J. J. Becker, a brother to the Henry Lewis Becker above mentioned, seems to be similar in all its essentials to the former case. He was born at Arnhem in the Netherlands in 1849, and went with his father and brother to America in 1854, when he was under 5 years of age. He states that his father was naturalized in 1868. The original naturalization papers are not forthcoming, but a "duplicate," dated the 28th of November, 1891, witnesses that "at a term of the county court of Kings County, held in the city of Brooklyn on the 3d day of July, 1868, Christopher Becker [the father] was admitted to be a citizen of the United States of America." The present applicant resided in Brooklyn from 1854 to 1870, in which year he returned to the Netherlands. He has not been in the United States for over thirty-one years. He is engaged in business in Rotterdam. He avers that it is his intention to return to America, where his brother is now living at New Rochelle, in the State of New York, so soon as he may be able to turn over his business to his son, which will surely be within two years and a half. His son is about 19 years of age and has never been "as far away as America." He desires the passport for the purpose of identification, and that his son may not have to "waste several years in the Dutch army."

I have, etc.,

STANFORD NEWEL.

Mr. Hay to Mr. Newel.

No. 306.]

DEPARTMENT OF STATE,
Washington, January 29, 1902.

SIR: Your No. 453, of the 9th instant, forwarding the application of Juliaan Johan Becker for a passport, has been received.

The Department approves your refusal to issue a passport to him.

^a Not printed.

The case is clearly one covered by the following language in the Department's Circular of March 27, 1899:

A naturalized citizen who returns to the country of his origin and there resides without any tangible manifestation of an intention to return to the United States may, therefore, generally be assumed to have lost the right to receive the protection of the United States. His naturalization in the United States can not be used as a cloak to protect him from obligations to the country of his origin, while he performs none of the duties of citizenship to the country which naturalized him. The statements of loyalty to this Government which he may have made are contradicted by the circumstances of his residence and are open to the suspicion of being influenced by the advantages he derives by avoiding the performance of the duties of citizenship to any country.

I am, etc.,

JOHN HAY.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS. "

Mr. Newel to Mr. Hay.

LEGATION OF THE UNITED STATES,
The Hague, June 20, 1902.

SIR: I have the honor to advise you that the Netherlands minister of foreign affairs notifies me, under date of June 16, that the Government of Her Majesty the Queen has no objection to the United States consular officers in the Netherlands and its colonies being charged with the interests of Cuba and of its citizens until Cuban consuls shall have been appointed.

In accordance with the Department's instruction I have this day notified the United States consuls in this country and its colonies of the fact.

I inclose herewith a copy of the correspondence that has passed between this legation and the foreign office on the subject.

I have, etc.,

STANFORD NEWEL.

[Inclosure 1.]

Mr. Newel to Baron de Lynden.

LEGATION OF THE UNITED STATES,
The Hague, May 26, 1902.

SIR: At the request of the President of Cuba, my Government instructs me to ask the Government of the Netherlands to permit the United States consular officers within its jurisdiction to use their good offices in representation of the interests of Cuba and of its citizens until Cuban consuls shall have been appointed.

In asking that this request may be granted, I seize this occasion, etc.,

STANFORD NEWEL.

[Inclosure 2.—Translation.]

Baron de Lynden to Mr. Newel.

MINISTRY OF FOREIGN AFFAIRS,
CONSULAR AND COMMERCIAL BUREAU,
The Hague, June 16, 1902.

MR. MINISTER: Referring to your excellency's note of the 26th of May last, I have the honor to advise you that the Government of Her Majesty the Queen has no objection to the United States consular officers being charged with the interests of Cuba and its citizens in the Netherlands and its colonies until Cuban consuls shall have been appointed.

Accept, etc.,

MELVIL DE LYNDEN.

NICARAGUA, COSTA RICA, AND SALVADOR.

PROTECTION OF DANISH INTERESTS IN SALVADOR BY UNITED STATES OFFICIALS.

Mr. Hay to Mr. Merry.

No. 425.]

DEPARTMENT OF STATE,
Washington, October 25, 1901.

SIR: Referring to the Department's Nos. 470^a and 535,^b dated, respectively, July 3, 1896, and February 6, 1897, relative to protection of Chinese subjects in Nicaragua and Salvador by the representatives of the United States in those countries, I inclose a translation of a note^c from the Danish minister at Washington explaining that his Government has no representatives in Salvador, and asking that under the circumstances the protection of the United States be extended to Danish subjects and interests in that country.

Your efforts are to be confined to the friendly intervention in case of need for the protection of Danish subjects in their person and property from unjust and harsh treatment. You are not to hold any representative character or function as respects the Danish Government and are to act informally. Before taking any steps in the matter, however, you should represent to the Government of Salvador the wish of the Danish Government and the willingness of your Government to accede thereto, as herein indicated, provided the assent of the authorities of Salvador is entirely favorable.

Its decision upon the subject should be reported to the Department.

I am, etc.

JOHN HAY.

Mr. Hay to Mr. Merry.

No. 429.]

DEPARTMENT OF STATE,
Washington, December 10, 1901.

SIR: Referring to instruction No. 425, of October 25 last, I inclose herewith for your information a copy of a note^d from the Danish minister stating that his Government will issue a notice to Danish subjects in Salvador that they have been placed under the protection of the United States as soon as it is informed that the Salvadorean Government assents to such protection.

I am, etc.,

JOHN HAY.

Mr. Merry to Mr. Hay.

No. 691.]

LEGATION OF THE UNITED STATES,
San Jose, February 20, 1902.

SIR: I have the honor to forward herewith the reply of the Government of El Salvador to your request as per your No. 425 of October

^a See Foreign Relations, 1897, p. 425.

^b See Foreign Relations, 1897, p. 426.

^c See under Denmark, p. 365.

^d Printed, p. 366.

25 and No. 429 of December 10, 1901, that Danish subjects in that Republic may be accorded the protection of the United States Government under the same restrictions applicable to the subjects of the Chinese Empire.

You will note that the Government of El Salvador concedes this request. I respectfully await your instructions to so advise our consular officers in that Republic.

With assurances, etc.,

WILLIAM LAWRENCE MERRY

[Inclosure—Translation.]

Mr. Trigueros to Mr. Merry.

DEPARTMENT OF FOREIGN RELATIONS,
San Salvador, February 10, 1902.

SIR: The consul-general of the United States in this Republic has informed me in a note of January 28 last that the minister of Denmark in Washington has requested the Government of the United States to obtain from my Government the necessary authority for the diplomatic representative of the Government of your excellency to grant his official protection to the Danish subjects residing in the Republic.

In reply it is my duty to inform your excellency that my Government has no objection to conferring that authorization in order that the diplomatic representatives of the Government of the United States may exercise their good offices in favor of the Danish subjects, with the same restrictions and in the same form that it is permitted them to use their good offices respecting the subjects of the Chinese Empire.

I am pleased, etc.,

JOSÉ TRIGUEROS.

Mr. Hay to Mr. Merry.

No. 457.

DEPARTMENT OF STATE,
Washington, March 7, 1902.

SIR: I have the honor to acknowledge the receipt of your No. 691 of the 20th ultimo, with inclosure from the Salvadorean minister of foreign affairs, from which it appears that the Government of Salvador has no objection to the exercise of your good offices and those of our consular officers in Salvador in favor of Danish subjects, with the same restrictions and in the same form as their exercise is permitted respecting Chinese subjects.

You state that you will await the Department's instructions before advising the consular officers in Salvador.

The Department's instructions in regard to the use of good offices in favor of Chinese subjects are contained in its No. 470,^a of July 3, 1896, and No. 535^b of February 6, 1897, to your predecessor, Mr. Lewis Baker. As regards Danish subjects you will be guided by these instructions and that to you numbered 425^c of October 25, 1901. You will instruct the United States consular officers in Salvador to act in accordance therewith.

I inclose for your information copy of a note^d which I have this day addressed to the Danish minister on the subject.

I am, etc.

JOHN HAY.

^a See Foreign Relations, 1897, p. 425.

^b See Foreign Relations, 1897, p. 426.

^c Printed, ante.

^d Printed, under Denmark.

**ARBITRATION OF CLAIMS OF THE SALVADOR COMMERCIAL
COMPANY ET AL. v. SALVADOR.**

The SECRETARY OF STATE.

SIR: The following report, in the form of a draft instruction and accompanying memorandum, in the case of the Salvador Commercial Company v. Salvador is respectfully submitted.

W. L. PENFIELD, *Solicitor.*

[Inclosure.]

Draft of instruction to United States minister to Salvador.

SIR: I gladly avail myself of this opportunity to express the gratification with which the Government of the United States has observed the kindly feeling and unflinching courtesy shown by the Government of Salvador throughout its elaborate discussion of the claim of the Salvador Commercial Company.

It also affords me unfeigned pleasure to express the sincere desire of the Government of the United States to cultivate and strengthen the cordial relations which have long and happily existed between the two Republics. Constantly animated by a high sense of justice, the Government of the United States is incapable of consciously lending itself to the commission of an act of injustice either toward its own nationals or those of other States; far less could it do so toward another friendly State. It entirely shares the views of the Salvadoran Government that the question at issue between the two Governments is simply a question of right, and one which should be determined by the principles of equity, sanctioned by the conscience of all good men. This has been the sole criterion of its judgment; and such being its constant motive, it has no opinion to offer on the language quoted in the first counter-memorandum from the writings of the distinguished publicist, Mr. Charles Calvo, containing charges by the distinguished author of wrongful interventions of European States with those of South and Central America for the collection of indemnities.

If it were necessary to defend the high sense of honor which uniformly governs its own conduct in analogous cases, the Government of the United States is not wanting in ample precedents to vindicate its title to a foremost place among the nations in its respect for justice between nation and nation as between man and man. It might refer to the restitution to Japan of an indemnity which it collected in the sum of \$785,000; to China, of an indemnity collected in the sum of \$453,400.90; to Brazil, of an indemnity collected in the sum of \$96,406.73, which had been wrongfully obtained on misinformation of the facts; and to the restitution recently made to the Republic of Mexico of \$690,863.85 American gold. Other instances might be cited. Some of these moneys were refunded in the light of a better information and understanding of the facts, even after their payment to this Government on award made in pursuance of international arbitration, after a full hearing of all the evidence and arguments on both sides.

In the light of these high precedents and of the frequent displays of its magnanimity and of its justice, and of the numerous and striking proofs it has given of its strong and sincere friendship to the States of Central and South America, the reference to the cited text of Calvo would seem to be inapposite to this discussion. That the Government of the United States should consciously do an unjust act toward any individual or any State is an impossible conception. Its vast resources and great power have, in its conception, no measure of value in comparison with the principles of justice, by the vindication of which and by the constant display of kind and fraternal feeling would it seek to win its true position among nations. There is never on its part danger of the conscious abuse of power; yet I am aware that there is always danger of the abuse of conscious power; and ever watchful against such subtle influence and in the effort to maintain the equal poise of the balance, the conclusion reached, from a most careful and laborious study of all the correspondence and evidence submitted on either side in this case, and especially of the oral arguments and counter-memoranda submitted on behalf of the Salvadoran Government, is that Mr. Sol, vice-president of El Triunfo Company, was guilty of an act of usurped authority in assuming the permanent presidency of El Triunfo Company; that Sol,

Lopez, and Cochella were likewise guilty in their pretended removal of Burrell from the presidency thereof, and in their petition to have the court decree the company in a state of voluntary and judicial bankruptcy; that the court did not acquire lawful jurisdiction to decree the state of bankruptcy of said company; that these facts were apparent of record, and that the judge practiced an undue delay and discrimination of justice in passing on the question of his jurisdiction; and that the act of the President of Salvador in annulling the concession by arbitrary executive decree, on February 14, 1899, the next day after a call and notice had been issued and published by the majority stockholders for a general meeting of the stockholders, to enable them to take lawful steps to oust the usurping minority directors and to secure the release of the property by the court, was wrongful in itself and constituted in its effects a veritable intervention in the legal controversy between the parties, unduly influencing and affecting the regular and ordinary processes of justice and rendering nugatory the lawful measures contemplated and initiated by the majority stockholders; that this act of the President, whatever its motive, was indefensible from the standpoint of justice and private right, as well as of international law, and justifies and would require, if the controversy is not otherwise amicably, promptly, and satisfactorily adjusted between the parties, the intervention of this Government and the payment of an adequate indemnity to the American stockholders.

The grounds on which the foregoing conclusions are based are set forth at large in the accompanying memorandum.

Though the conclusion reached may not be satisfactory to either of the contending parties, the Department is not without hope of convincing them that the case has been considered with the sole aim of reaching a decision which will vindicate the supremacy of justice over might, whether the latter should be invoked against the Government of Salvador or should be exercised by it in the destruction of vested rights of private property. If, as urged by Salvador, it were wrongful for the Government of the United States to decide a controversy and fix the amount of an indemnity by the sheer exercise of power, not less wrongful was the act of the Executive of Salvador in arbitrarily destroying rights of private property. The arbitrary use of power is not less wrongful on the part of Salvador than of the United States; and the latter, sharing the feeling of abhorrence expressed in the counter memorandum for gross interventions of any kind "in which brute force always prevails over right," has reached its conclusion.

The President of the United States can not take from any man the slightest right, or even a doubtful right, even as against a confessed wrongdoer, without submission to the courts, whose rule of decision is: Is it lawful; is it just? The Government of Salvador can therefore appreciate the inability of the Government of the United States to conceive any other procedure as compatible with the existence of the State, which exists only to safeguard rights of property, of contract, of life and liberty, which can not be taken away except upon a fair and impartial hearing and upon solemn judicial decision.

It is conceivable that the President of Salvador, animated by patriotic motives, felt that El Triunfo Company was not fully discharging the obligations of the concession, and that in a feeling of repugnance at its supposed incompetency he thought to put an end, once for all, to alleged inconveniences suffered by the public service; but the fact remains that the property of El Triunfo Company was taken away without due process of law. Such arbitrary executive action, even supposing it righteous in its results, is essentially unjust, since it proceeds by ignoring the substance of the forms of justice, without the observance of which there can be no security in the possession of any private right.

[Subinclosure 1.]

MEMORANDUM.

From an attentive study of the documents submitted in the case the following facts are either admitted by both of the parties, or are, on the documentary evidence, established beyond dispute:

On October 6, 1894, the Government of Salvador granted for the period of twenty-five years, together with certain other incidental privileges, the exclusive privilege of steam navigation of the port of El Triunfo; that said concession was, on October 25, 1894, assigned to the Salvadoranean corporation "El Triunfo Company, Limited," having a capital stock of \$100,000 American gold, consisting of shares of \$100 each; that 501 of these shares were, before the commission of the grievances hereinafter mentioned, and still are, owned by the Salvador Commercial Company, a corpora-

tion organized under the laws of the State of California; that the grant of said concession was lawful and valid, and that said El Triunfo Company acquired a vested right of property therein; that over 70 per cent of said capital stock has been paid; that said port was opened in 1895, and said company entered upon the use of its concession and expended large sums of money in the development of the same; that the profits of said concession during the year 1898 are stated by said company to have been \$30,000 and are admitted by the Government of Salvador to have been \$7,851.85 net for the first six months of said year.

That by the statutes of El Triunfo Company its directors were to be five in number, with three substitute directors or alternates; that the officers of said company were to be a president, vice-president, treasurer, and secretary; that articles 12 and 18 of the statutes or by-laws of the company provide that a special or extraordinary meeting of the directors can only be called by the president; that at the general assembly of stockholders, held June 10, 1898, there were elected as directors H. H. Burrell, Simon Sol, J. H. Ellis, Francisco las Plazas, and G. Lozano; and as substitutes, C. Cochella, A. Canessa, and E. B. Ruano; that the minutes of the twentieth session of the board of directors, held June 10, 1898, show "present the Messrs. H. H. Burrell, E. B. Ruano, J. H. Ellis, S. Sol, and G. Lozano, appointed by the general assembly of stockholders in session to-day to form the board of directors, which should exercise its functions during the current year;" that the board of directors on said day elected as president H. H. Burrell, as vice-president Simon Sol, as treasurer J. H. Ellis, as secretary F. las Plazas; that article 9 of the by-laws provides for five directors and three substitutes, who, according to the order of their nomination, shall supply the places of absent directors; that no power is given by the corporation statutes or by-laws to the board of directors, or to a majority thereof, to appoint one of the substitutes as a permanent director; that such substitutes can act as directors, according to article 9 of the by-laws, only in the order of their nomination and only when the principal fails; and that the record does not show that any notice or opportunity was given to the regular directors to attend the meetings of the board hereinafter specified, except Directors Sol and Lopez, and fails to show that the substitutes were called in the order of their nomination, or that there was any such failure of the principals as would authorize substitute directors to act in their stead.

That from the minutes of the continuation, September 1, 1898, of the twenty-third session of the board, signed by Lopez, Sol, and the substitute Cochella, failing to show the authority of Cochella to act as a regular director, it appears that they requested Burrell to resign the presidency—that is to say, they show that they "supplicated Burrell, the president, that for a prudent time he rest from the administration"—but it does not appear that he resigned or vacated his office; that after the session was ended and the said minutes were completed, dated, and signed, as aforesaid, the following addendum, undated, was made under the word "corrections," signed only by Sol and Lopez:

"Inasmuch as the director of the Company of El Triunfo, Mr. H. H. Burrell, without giving notice and contrary to the express resolution of the board of direction, has absented himself, and this company not being able to continue without a head, as it finds itself, as vice-director, appointed conformably to article 11 of the statutes of the company, the undersigned assumes the office of president of the same.

"SIMON SOL.
"L. LOPEZ."

That article 11 gave no authority whatever to said Vice-President Sol to constitute himself permanent president of said company; that, as shown by the records of said company, the said Burrell attended said twenty-third session and every session of the board from the first to the twenty-third, both inclusive; that, in keeping with the above proceedings, the said Sol usurped the presidency of the board on the unfounded pretension that Burrell had vacated or been removed from his office as president; that this addendum to the minutes by Sol that he was president of the company on account of the absence of Burrell is a manifest subterfuge—styled in the minutes "corrections"—to give an air of legality to his usurpation; that the pseudo-president, Sol, made a pretended call of a meeting of the board for September 22, 1898; that said call was a mere nullity, and the action taken by Sol, Cochella, and Lopez, under that call at said pretended session and without call from the lawful president, assuming to depose Burrell from the presidency, is in fact an admission of the prior usurpation of Sol, sought to be legalized by another act of usurped authority; that another, the twenty-sixth and extraordinary, session of the pretended board was held October 14, 1898, without notice or call by the lawful president, and a resolution was adopted to throw the company into judicial bankruptcy; that a petition signed by said Cochella, Sol, and Lopez, dated October 17, 1898, was presented to the

judge of the primary court of claims and of commerce, requesting said judge to declare the voluntary and formal bankruptcy of said company, and on October 19 following the judge declared the state of bankruptcy thereof and appointed M. Meardi receiver, who accordingly took possession of the books and property of said company, that said petition in bankruptcy was made and filed in court by the pseudo-director Cochella and by Sol and Lopez in the professed capacity of directors of the company; that it is contended by the Salvadoranean Government that the formalities of law were not complied with in the organization of the corporation, and that therefore it was simply an unincorporated association of persons, and that the proceedings in bankruptcy were not against the corporation, but against its associated members; that no informality in the organization of the corporation has been pointed out and no substantial informality affecting the validity of the incorporation existed in fact; that this fact is corroborated by the further fact, as appears from the records of the proceedings before the court, that the bankruptcy proceeding was against the corporation as such, and not against its members as collective associates; that the petition in bankruptcy was filed by Cochella, Sol, and Lopez in the professed capacity of directors of the company; that they failed to comply with the last paragraph of article 1254 of the commercial code in relation to the bankruptcy of corporations, which provides: "If the debtor shall be a society, the petitions shall be subscribed by all the collective associates who hold this position according to the society compact and who were present at the domicile of the society;" that the records fail to show the absence of any of the regular and principal directors or stockholders of the company from the domicile of the society; that, in fact, said bankruptcy proceeding was prosecuted solely against said corporation, without the authority of its lawful president, and without the authority of any of its stockholders except Sol, Lopez, and Cochella; that said proceeding was carried on against said corporation only is further shown by the order of the judge, entered the same day, which declares "as parties in this judgment and in representation of the company of El Triunfo, Limited, the Messrs. Sol, Cochella, and Lopez, let be declared in a state of bankruptcy the designated company." And the court appointed Meardi receiver of all the property of the company, and the fact is, as shown by the entire proceeding taken by the petitioners, by all the decrees and orders of the court, that the proceeding and adjudication were against the corporation and not against its members as collective associates, against whom in that capacity no steps whatever were taken; that articles 1241 and 1242 of the code declare that bankruptcy is an indivisible status, and consequently covers all the goods and debts of the bankrupt, and that the bankruptcy of a collective society implies the personal bankruptcy of all its members; that article 370 of the Salvadoranean code of commerce regarding insolvency of corporations provides that "the directors shall state this fact in a declaration signed by all," which was not done; that the records fail to show that the petition was signed by all the directors, as required by the laws of Salvador, and fail to show the absence or inability of all or any of the directors to sign the petition; that the records fail to show facts necessary to give the bankruptcy court jurisdiction of the petition; that the Salvador Commercial Company and their stockholders raised this question before the court and sought in vain to have it decided, as shown by its own records; that on February 17, 1899, appeared before the court Mr. Lozano, Mr. Meta, Mr. Rossi, the firm of Dreyfuss, Mr. Ellis, and the Salvador Commercial Company, representing 580 shares of the stock, and represented to the court that on September 22, 1898, said Sol and Lopez in the most arbitrary manner, having summoned Cochella, decided to deprive Burrell and Ellis of their respective offices of president and treasurer, and proceeded without any authority to present the company in bankruptcy;" that this conduct was "notoriously illegal from their not having powers to dissolve the society in this form without the previous letter of convocation or general assembly, and that this letter had not granted its dissolution in any form, much less in the very grave one which they pretend to verify, it is undeniable that this decree does not have any legal value, except as an illegal act punishable by law;" that the board of directors "under no supposition have the right to proceed as they have done, and neither could they be considered in the judgment as persons who legitimately represent the company treating it for an anonymous society; that the parties appearing before the judge constituting by the value of their shares the veritable chief part of all the interests of the company, and not being disposed to approve this nullity, by the present instrument they protest against the illegality of all done in their name; that, moreover, for such an act, the legislature has provided that all members of the board must concur in this act, which did not take place, as by said legislative provision presupposes always the necessary resolution of the general assembly," and appointed Dr. Leopoldo Alejandro Rodriguez their attorney "for the purpose of presenting the present protest and to put a final end to the judgment,"

The majority in value of the creditors likewise protested, the claim of the Bank of Salvador not then being due. That said Rodriguez, as such attorney, on February 23, 1899, likewise reiterated before the judge the protest of his constituents, and moved the court to declare the nullity of the judgment.

That not until July 5, 1899, did the court ever enter an order allowing said Rodriguez to appear and represent his constituents "in order to resolve upon the adverse exceptions, and granted three days' time for answer thereto," and the fact thereby appears from the action of the court that the exceptions raised were sufficient in substance and in form to test the question of the jurisdiction of the court; that in the writ dictated by the judge July 5, 1899, the court, instead of allowing the Salvador Commercial Company to be represented by Mr. Rodriguez, the lawyer who had been deputed by and appeared for this company and others in presenting the question to the court, restricted the representation of Mr. Rodriguez to the presentation of the question raised by other aggrieved parties, and named, to represent the Salvador Commercial Company, Mr. Ellis, who is not a lawyer, and who at the time was not in the Republic of Salvador, as is shown by the deposition of J. Jirkowsky and by that of Ellis, in which he deposes that he had no knowledge or information of this writ, or of the action of the court which it purports to show, until he saw the reference to it in the counter memorandum of the Republic of Salvador in December, 1900. Copies of said affidavits are hereto attached.

That not until two weeks thereafter, to wit, on July 18, 1899, did Dr. Pedro Chavarria enter his appearance as "attorney of the secretary of the board of direction, Luis Lopez."

That not until October 7, 1899, did Cochella and Dr. Chavarria, the latter as attorney for Lopez, file any answer alleging "that the nullities alleged by Dr. Rodriguez are neither just nor legal," and made reference to the judicial proceedings; and that said Sol and Lopez have never answered.

That the nullity of these proceedings is apparent on the face of the record, and showed the lack of jurisdiction of the court to take cognizance of the petition and to decree the state of bankruptcy of the company.

That the record of the proceedings corroborates the affidavit of Dr. Rodriguez. (Copy attached.)

That the court has never yet taken any action or made any ruling on the motion of Dr. Rodriguez to declare the nullity of the judicial proceedings, thereby preventing an appeal and constituting a denial of justice.

That no creditor of said company asked or sought to have said company declared bankrupt, showing the high probability that said company was not in a state of bankruptcy.

That as appears from the diplomatic correspondence and the counter memoranda of the Salvadoranean Government, these illegal proceedings are upheld and justified by said Government, which has thus made itself a party to the original proceeding.

That the Salvador Commercial Company and others, representing a majority of the stockholders of El Triunfo Company, issued due notice and call, February 13, 1899, for a meeting of the stockholders of said company to be held at San Salvador February 28, 1899, for the purpose of taking steps to annul the proceedings of the court and to recover control and possession of the property, and the President of Salvador the next day, February 14, 1899, intervened in the struggle by an executive decree, closing the port of El Triunfo to importations, and thereby destroying the concession in which said company, as trustee for its stockholders, had acquired and held a valuable and vested right of property.

That this act of sovereignty, even on the supposition that the proceedings of the court were legal, effectually paralyzed the arm of the court, by destroying the chief and most valuable asset of the company for the liquidation of its debts and for the distribution of any surplus among the shareholders who would be equitably entitled thereto after the payment of its debts on the extinction of the anonymous society; and hence that this act of Government rendered futile and nugatory any further action by the Salvador Commercial Company to set aside the proceedings of the court; that the Government of Salvador granted on May 13, 1899, an exclusive concession for said port to Messrs. Arango, Arviola, and Gonzales, and at the same time the President, by executive decree, reopened the port.

That the new concessionaries accepted their concession; that this is shown by the official report of the minister of the army and navy to the National Assembly, published in the Official Gazette, March 7, 1900, which recites:

"The new navigation company of the port of El Triunfo, organized by virtue of the contract entered into with Drs. Manuel E. Arango, Ramon Garcia Gonzales, and J. Francisco Arviola, brought for loading and unloading a small steamer, the *Maule*, which it bought of an English company. Unfortunately, when it had hardly begun

to serve its purpose, it was lost on the high seas, without its having been replaced up to date. Aside from this only one sailing vessel has entered the port, taking away a cargo of wood."

It is also shown by the affidavit of the customs officer of San Francisco (copy attached). These acts of sovereignty inflicted irreparable injury and damage on the vested legal rights of property of said El Triunfo Company and on the equitable rights and interests of stockholders therein.

That on August 31, 1900, the President of Salvador by an executive decree, after the United States had intervened, revoked the decrees of February 14 and May 13, and declared that the decree of February 14, 1899, as well as the concession of May 13, was each dictated "until a definite arrangement could be made with the bankrupt company and the Government," thus imposing conditions and interfering with the lawful freedom and independence of action of El Triunfo Company and of its stockholders, in accordance with the original concession, and thereby in effect expressly sanctioning the judicial decree of the state of bankruptcy which the Government had made effective by destroying said franchise.

That the executive decree of August 31, 1900, still further sanctioned these wrongs by declaring suspended the services of the port until the Government (in agreement with the company) decided otherwise, thus constituting a fresh intimidation of the company and a further denial and impairment of its rights under the concession; thereby casting a further cloud on the commercial standing of said company.

LAW.

In the above statement the fact is not found whether the company was insolvent or not—that is, whether it had lost 50 per cent of its capital. The evidence submitted by the parties is conflicting. But it is a significant fact that the Government of Salvador nowhere takes into account the value of the franchise, which is the chief asset of the company. The solvency of a corporation or individual is presumed as a matter of law. It is shown in this case by the evidence submitted by the Salvador Commercial Company. The presumption is not satisfactorily disproven by the conflicting accounts and statements of Salvador.

But it is unnecessary to make an absolute finding of the fact whether the company was solvent or not; for, even if it was insolvent, its concession would be held with the other of the company's property and be exploited by the receiver for the benefit of the company, its creditors, and stockholders, until the debts were paid and the company rehabilitated in its property, or until sold by the court in course of liquidation, in which event the stockholders would be entitled to any surplus remaining after the payment of debts. If, therefore, the decree of February 14 was wrongful, it was not the less wrongful in law whether the company was solvent or insolvent, which could only affect the damages.

The ultimate and controlling fact on which the decision turns is the Presidential decree of February 14, 1899, annulling the concession and closing the port to importations, the destructive force of which extends to this day in its injurious effects on the company, first, by annulling the concession and then by an imperfect rehabilitation on terms inconsistent with the concession. The act of the President destroyed the very end for which the corporation El Triunfo Company was created; and this in effect wrought the dissolution of the corporation by rendering impossible of performance the principal consideration for which the concession was granted. It had the inevitable effect to render impossible the exercise of its powers, thereby rendering the corporation ultimately and inevitably insolvent by destroying its earning capacity. The question then is whether the Government of the United States may justly and lawfully intervene in behalf of the Salvador Commercial Company, an American corporation, which owned a majority of the stock of El Triunfo Company, a Salvadoranean corporation, on account of the decree of February 14, which was so timed as to be in effect an intervention in the pending litigation, thereby perverting the due and regular course of justice, rendering nugatory the lawful efforts of the majority of the stockholders to regain control of the company and terminate the legal proceedings by the destruction of the very object of its existence.

It is impracticable to consider in detail all the numerous contentions made on behalf of the Government of Salvador during the prolonged discussions of this case. If any of them appear to be overlooked, it is not because they have not each received due consideration, but only because the decision turns on a few principal questions which will be considered. It is contended by Salvador:

First. That "the decree of February 14 was issued in the exercise of national sovereignty;" that the franchise granted by the concession "formed a part of the sovereignty and its enjoyment could not be delegated to any private corporation"

The concession was granted by the executive and ratified by an act of the national congress pursuant to the constitution of Salvador. "*Allegans contraria non est audiendus.*"

Second. That by the stipulations of the concession the stockholders agreed in advance to renounce diplomatic intervention and bound themselves in any case of controversy between the parties to submit their differences to private arbitration for determination. The contract does indeed contain stipulations which read, according to the translation furnished by the Salvadoranean Government, as follows:

"ART. 8. The company shall have its domicile in this Republic, which may be agreed upon by the partners who may compose it, and shall be subject to the laws and courts of the country.

"ART. 9. In the event that some difficulty shall arise between the Government and the company, the latter shall abandon any diplomatic intervention with reference to anything that may refer or relate to this contract, and both parties hereto bind themselves that any difference shall be decided by friendly arbitrators, each party to appoint one, and in case of difference of opinion the two to appoint a third to decide it, both parties binding themselves beforehand, and without appeal, to accept the decision rendered by the arbitrators."

A consideration for the agreement to renounce diplomatic intervention was the agreement to arbitrate. But this agreement was violated by the President of Salvador by annulling the concession arbitrarily, instead of resorting to the prescribed arbitration. The Government of Salvador, having violated the agreement, can not appeal to that agreement in support of its own wrong. It can not plead the contract in bar of intervention after having itself repudiated the contract by which arbitration was provided as a remedy. Nor can it destroy the concession and escape the consequences of its unlawful act by attempting to reinstate, in an equally arbitrary and imperfect manner, the right it had annulled. No small part of the damage results from the injury done to the commercial credit and reputation of the company whose property is subject to such caprice. This injury and the loss suffered by the closing of the port are not compensated by the decree of August 31.

In the counter memorandum it is stated that the company was not injured by the appointment of Meardi as receiver, because Meardi was discharging the obligations of the concession. If this statement is true, then the statement in the decree of February 14 of the pretext for its issuance is untrue—that the obligations of the service of the port were not being performed.

In any event, the Government was precluded by the terms of its grant from making the decrees of February 14 and May 13. If the President of Salvador claimed the company was not performing its obligations under the contract on account of the state of bankruptcy, he was denied the power to decide that question arbitrarily. But in truth this controversy is not upon the construction and performance of the contract, but it originates in the destruction of the concession itself, and there is no agreement to waive diplomatic intervention for that cause. It is more than doubtful whether the Government of the United States would admit the competency of its citizen to barter away his right to its protection against tortious, arbitrary acts of lawlessness on the part of any state.

On this question precedents are not wanting.

The Imperial Government of Germany has decided in a case arising in Venezuela that it will no longer consider itself bound by the clause in most contracts between foreigners and the Venezuelan Government which states that all disputes growing out of the contract must be settled in the courts of the latter; that the German Government is not a party to these contracts and is not bound by them; and that it reserves the right to intervene diplomatically for the protection of its subjects whenever it shall be deemed best to do so, no matter what the terms of the contract in this particular respect are.

The British Government, in a case arising in the United States, has taken the position that in a matter of international obligation its right of intervention is not affected even by the failure or omission of the individual to avail himself of a remedy before the courts for the grievance complained of.

Third. That under the constitution of Salvador, which was binding upon El Triunfo Company and its stockholders, diplomatic intervention is inadmissible.

While the Government of the United States has not taken so extreme a position as Germany and Great Britain, it has declared that "laws of a foreign state attempting to deprive citizens of the United States from having recourse to their own Government to press their claims diplomatically will not be regarded as internationally operative by the Government of the United States." (Wharton's Digest, vol. 2, sec. 242, p. 695.)

The constitution of Salvador declares:

"TITLE IV, ART. 45. Foreigners, from the moment they arrive in the territory of the Republic, shall be strictly bound to respect the authorities and to observe the laws, and shall acquire the right to be protected by them.

"ART. 46. Neither Salvadoraneans nor foreigners can in any case claim of the Government any indemnity for damages or detriment which may be caused by factions to their persons or property, having their speedy remedies to prosecute their claims against guilty officials or individuals.

"ART. 49. No international agreement can modify in any particular the provisions contained in this title.

"ART. 50. Foreigners shall remain subject to a special law of alienism."

The law enacted by the Salvadoranean Congress in relation to foreigners provides:

"ART. 38. Every foreigner is obliged to obey and respect the institutions, laws, and authorities of the Republic, as provided by article 45 of the constitution, and to obey the decisions and sentences of the tribunals, without power to seek other recourses than those which these same laws give to Salvadoraneans.

"ART. 39. Only in case of a denial of justice or of a voluntary delay of its administration can foreigners appeal to the diplomatic forum; but only after having exhausted in vain the ordinary remedies provided by the laws of the Republic.

"ART. 40. It is provided, however, that there is a denial of justice only when the judicial authority shall refuse to make a formal decision on the principal matter in dispute or on any incidents of the case of which it has taken cognizance or which is submitted to its jurisdiction. Consequently, by the sole fact that the judge has pronounced a decree or sentence, in whatever sense, it can not be claimed that there is a denial of justice, even though it may be said that the decision is iniquitous or given against express law.

"ART. 41. The delay of the administration of justice ceases to be voluntary whenever the judge finds it in any reason of law or in any physical impediment which is not in his power to remove."

Without entering into an elaborate analysis of these singular provisions of the constitution and laws of Salvador, it is obvious that even if not ingeniously contrived for the purpose, they would have the effect, if carried out in practice to a logical conclusion, to defeat the ends of justice in respect of foreigners. Under the claim of obedience to the local laws, the constitution prohibits the making of a treaty which would guarantee the rights of aliens, recognized among all civilized states, to appeal to their governments for protection; next commands obedience to the local laws; next follows the enactment of laws requiring obedience to the decisions and sentences of the tribunals, "without power to seek other recourses than those which these same laws give to Salvadoraneans;" and finally, a legislative definition of a denial of justice, which is in itself the consecration of injustice, by declaring that a decision is just even though it is grossly and confessedly iniquitous.

The will of the sovereign may be expressed either through constitutional and legislative enactments or through the unrestrained action of the executive. That will, whether expressed in the one form or the other, can not control the international relations of states; can not bind any foreign state. When there is a clash of opinion between two sovereign states on the right of intervention when invoked by the citizen of either against the other, the right is to be determined by principles of international law affecting states in the sovereign capacity and applicable to the given case. An attempt to prohibit by municipal law the right of intervention given by the common law of nations is inconsistent with sovereignty; and in all such cases the right of intervention is decided upon the merits of the particular case. A sovereign state can not yield this right without abandonment of one of its own most imperative duties.

Fourth. In the third counter memorandum prepared for the Salvadoranean Government by Messrs. Cotton & White, the case of the *Antioquia* is cited in support of the contention that intervention does not lie in behalf of American stockholders in a foreign corporation.

In that case the vessel *Antioquia* was owned by a Colombian corporation, whose capital stock was held by nationals of the United States, Great Britain, and other states. The vessel was seized by Colombian authorities as an act of military necessity. The president of the State of Magdalena, the authorities of which had seized the vessel, "offered to return the vessel and make prompt indemnification without the necessity of a reclamation or of judgment by the courts."

This was an acknowledgment of the liability and an offer to make prompt compensation. The case itself, together with the admission and offer of the Colombian Government, is an authoritative precedent establishing the illegality of the action of

the Executive of Salvador in this case and its liability to make indemnification to El Triunfo Company. This has not been done in this case. On the contrary, it has steadfastly upheld its action, and this attitude of the Colombian Government distinguishes the case from the one in hand.

The acknowledgment and offer of the Colombian Government disposed of the question of intervention, for Secretary Seward declared that "the Federal Government of Colombia declares that it has instructed its procurador to collect the necessary documents and submit them to the legal tribunals with a view to the liquidation of damages. It therefore invites the agent of the company to furnish his bill of charges and his proofs. With this I think the claimants must rest satisfied."

The question was not presented for actual decision, as in this case, of the right of intervention where the act of the Government has practically destroyed the corporation by the destruction of the object of its incorporation and the means of its operation. This precise question arose and was decided by Secretary Blaine, and by the British Government, in the case of the Delagoa Bay Railway Company against Portugal, hereinafter mentioned.

The cited decision of Secretary Frelinghuysen (Wharton's Digest, vol. 2, p. 547) directly supports the claimant in the case in hand. Secretary Frelinghuysen held that "redress must be sought through the board of directors of the company or by vote of the stockholders, or by other remedies provided by the charter or by the by-laws of the company."

That is precisely what the stockholders of El Triunfo Company were proceeding to do when the decree of February 14 rendered their proceedings nugatory by annulling the concession and rendering impossible the plenary exercise of the powers of the corporation.

While the Department does not dispute the contention that intervention by the Government of the United States would not be in entire accord with certain dicta expressed in the case of the *Antioquia* in respect of intervention in behalf of American stockholders in a foreign corporation, it is consistent with the actual grounds of that decision. ✓ But if all the reasons stated in that case against the right of intervention were to be accepted, even if intervention had been refused solely on the academic reasons given, the decision of this case would be controlled by the later decision of the Department in the case of the Delagoa Bay Railway.

In that case a concession had been granted in 1883 by the Portuguese Government to Colonel McMurdo, an American citizen, to construct a railroad from Lourenço Marquez to the frontier of the Transvaal. The concession was transferred to a Portuguese corporation, in which Colonel McMurdo owned 498,940 out of 500,000 shares and £425,000 of the debenture bonds of the company. An English corporation—the Delagoa Bay and East African Railway Company—was formed and McMurdo assigned to it his shares and bonds of the Portuguese company, and the railroad was constructed with the funds thus raised.

The Portuguese Government canceled the concession, and Colonel McMurdo and the British shareholders in the English corporation applied to their respective Governments for protection. The American minister, under instructions from Secretary Blaine, protested against the act as unjust and demanded the restoration of the property or indemnity. Secretary Blaine held that the seizure of the railway by the Portuguese Government was an act of confiscation; that the Portuguese company being without remedy and having ceased practically to exist, the only recourse was intervention.

The Portuguese Government contended that it had no concern with the English company and could only recognize the Portuguese company, which had the power of appealing for protection to the laws of Portugal. But the British Government held that this contention was inadmissible for that the Portuguese company had for all practical purposes ceased to exist.

The Portuguese Government, however, annulled the contract and seized the railroad property. The concession provided that differences between the Government and the company in respect of the performance of the contract should be decided by arbitration; and the British Government held that "there was no meaning in the acceptance of arbitration after the party accepting it had settled the disputed question in its own favor by force;" that "the question at issue is not the motive, but the justice of the seizure;" that "the action of the Portuguese Government was wrongful and violated the clear rights and injured the interests of the British company, which was powerless to prevent it, and which, as the Portuguese company is practically defunct, has no remedy except through the intervention of its own Government;" that "the British investors have suffered a grievous wrong," and "that for that wrong Her Majesty's Government are bound to ask for compensation from the Government of Portugal."

Secretary Blaine, in reply to the attitude of the Portuguese Government, held that the Portuguese Government in its correspondence "virtually admitted the facts upon which this Government's opinion in respect to the confiscation is based;" that having annulled the concession, the Portuguese Government now appeals to its provisions for arbitration; that "it is not within the power of one of the parties to an agreement first to annul it and then to hold the other party to the observance of its conditions as if it were a subsisting engagement," and declared that the United States "will not allow the Portuguese company to be interposed so as to obstruct the ends of justice."

See Appendix for a fuller statement of this important case.

As the latest precedent, as well as for the solid grounds on which the decision was based, the Department feels constrained to follow it and to hold that the right of intervention exists in this case. Without intervention, confessedly, no adequate remedy is given by the laws of Salvador to assure full and due compensation for the arbitrary and lawless act of the Executive in annulling the concession, then granting it to others, and then rehabilitating it on terms inconsistent with the original grant, thereby casting a cloud on the original title, rendering its enjoyment insecure and doubtful, causing loss of profits of exploitation, and inflicting grave injury on the commercial credit and reputation of the lawful owner of the concession and seriously impairing its commercial value.

Intervention is therefore legitimate. This conclusion is moreover justified because compelled by the great law of necessity—by the demands of justice, which is the supreme necessity.

The distinguished European publicist, Pradier-Fodéré, states:

"It is the duty of every State to protect its citizens abroad. It owes them this protection when the foreign State has proceeded against them in violation of principles of international law—if, for example, the foreign state has despoiled them of their property."

Vattel says:

"Whoever uses a citizen ill indirectly offends the state, which is bound to protect the citizen, and the sovereign of the latter should avenge his wrongs, punish the aggressor, and, if possible, oblige him to make full reparation; since otherwise the citizen would not obtain the great end of the civil association, which is safety. But if a nation or its chief approves and ratifies the act of the individual (or if he does it himself), it then becomes a public concern, and the injured party is to consider the nation as the real author of the injury."

Halleck says:

"There can be no doubt that a state is responsible for the acts of its rulers, whether they belong to the executive, legislative, or judicial department of the government, so far as the acts are done in their official capacity." (International Law, Vol. I, Chap. XIII, p. 393.)

DENIAL OF JUSTICE.

Calvo, Dictionary of International Law, defines justice as, "rendering to each one his due, respecting the rights of another, while also conforming our own actions to the law."

The same author defines a denial of justice as "every refusal to give anyone his due."

"The denial of justice by one government to the citizen or subject of another—that is to say, reparation for an evident injury or wrong—justifies recourse to reprisals by the government of the foreigner who claims this reparation.

"Those who resort to foreign countries are bound to submit to their laws. The exception to this rule, however, is that when palpable injustice—that is to say, such as would be obvious to all the world—is committed toward a foreigner for alleged infractions of municipal law, of treaties, or of the law of nations, the government of such foreigner has a clear right to hold the country whose authorities have been guilty of the wrong accountable therefor." (Wharton's Digest, vol. 2, p. 612, sec. 230.)

"When citizens of the United States go to a foreign country, they go with the implied understanding that they are to obey its laws and submit themselves in good faith to its established tribunals. But the case is widely different when the foreign government becomes itself a party to important contracts, and then not only fails to fill them, but capriciously annuls them, to the great loss of those who have invested their time and labor and capital from a reliance upon its own good faith and justice." (Wharton's Digest, vol. 2, p. 615, sec. 230.)

"It is the right and duty of a government to judge whether its citizens have received the protection due to them pursuant to public law and treaties.

"In cases of a denial of justice, the right of intervention through the diplomatic

channel is allowed, and justice may as much be denied when, as in this case, it would be absurd to seek it by judicial process as if it were denied after having been so sought." (Wharton's Digest, vol. 2, pp. 617-618, sec. 230.)

"International justice may be denied by studied delays and impediments for which no good reason can be given, and which are in effect equivalent to a refusal, or by an evidently unjust and partial decision." (Wharton's Digest, vol. 2, p. 649, sec. 230.)

CONCLUSION.

In its second counter memorandum, the Government of Salvador proposed "to raise the judgment of bankruptcy and to rehabilitate the bankrupt company in the administration of its property," "if the claimants will submit to an equitable and reasonable settlement of the whole question."

In the counter memorandum dated October 27, 1900, the Government of Salvador "repeats the offer of assistance by all the means in its power to rehabilitate El Triunfo Company in the management of its property and the exploitation of its privileges and franchises."

In the spirit of these propositions, which, if carried out by Salvador, will greatly minimize the damages, the Government of Salvador should promptly take the proper steps to reinstate El Triunfo Company unconditionally in the possession and enjoyment of its property, including the concession, and to restore to the Salvador Commercial Company its legitimate control of said El Triunfo Company, discharged from the court. There would then remain the question of compensation for the damages caused to the American stockholders by the wrong initiated by the order in bankruptcy and the appointment of the receiver. In solving this question, the rights of the Salvadoranean stockholders and the legitimate rights of creditors of El Triunfo Company should be respected. This is in entire harmony with the sentiment of Salvador, "that in any settlement which is evolved, it shall be made without injury to the interests and rights of the other shareholders, not plaintiffs."

This equitable solution may be reached:

By ascertaining the entire sum of the damages sustained by "El Triunfo Company" by the wrongs committed. Out of this sum should be first paid the legitimate debts of said company, if sufficient for that object, and out of the residue, if any, should be paid to the Salvador Commercial Company a sum which shall bear to said residue the proportion of 501 to 1,000; the remaining fraction of four hundred and ninety-nine one-thousandths being retained by Salvador, or being paid by it, at its own option, to the Salvadoranean stockholders. The proportion actually paid to American stockholders should, of course, exceed the fraction of five hundred and one one-thousandths, if American stockholders own more than 501 shares. The American stockholders would be entitled to receive such proportion of the damages sustained as the number of shares owned by them bears to 1,000. The entire amount of the damages sustained by El Triunfo Company should be ascertained, in order to assess the amount of the indemnity, if any, which would belong to the American stockholders after the payment of the legitimate debts created by the lawful managers of the company. This would render the indemnity complete and effective to recompense the American shareholders.

In the interest of the mutual friendship and good will which have always distinguished and blessed the two Republics, it is hoped that the above solution, or some other which is equitable and satisfactory to the parties, may be promptly reached by amicable negotiation. If not, the only alternative would seem to be to assess in a lump sum the indemnity to be paid to the American stockholders, to be ascertained in the manner above indicated.

In addition to the above indemnity, the Salvador Commercial Company should also be paid its costs of prosecution and its attorney's fees, reasonably incurred.

[Subinclosure 2.]

APPENDIX.

The right of diplomatic intervention by the Government of the stockholders of a corporation whose charter has been granted by a foreign state.

THE DELAGOA BAY RAILWAY ARBITRATION.

In the matter of the Delagoa Bay Railway arbitration, the Government of the United States and the Government of Great Britain jointly, as well as severally,

intervened in the interests of American and British stockholders and bondholders, although the concession to build the railroad was legally vested in a corporation organized under the laws of Portugal. The facts are these:

In 1883 Edward McMurdo obtained a concession from the Portuguese Government to construct and operate a railroad from Lourenço Marquez to the frontier of the Transvaal. It was stipulated in the concession that he should form a company for this purpose under the laws of Portugal, and such company, called the Lourenço Marquez and Transvaal Railway Company, was organized in accordance therewith. In May, 1884, Colonel McMurdo assigned his concession to the Lourenço Marquez and Transvaal Railway Company, and received as consideration therefor 498,940 out of 500,000 shares of the stock of the said Portuguese company. By the same instrument Colonel McMurdo agreed to construct the railroad in consideration of the transfer to him of the whole of the debenture bonds of the company, amounting to £425,000.

For several years McMurdo was unsuccessful in his efforts to float these bonds. Finally, in 1887, he obtained the assistance of English capitalists, who, however, stipulated that their interests should be represented by the bonds and shares of a company to be incorporated under English laws. In this way the Delagoa Bay and East African Railway was formed, with a capital of £500,000 in shares. McMurdo then assigned to this English company the shares and bonds of the Portuguese company and the benefit of his contract with said Portuguese company of May, 1884, the English company undertaking to indemnify him in respect to the obligations of his contract, to pay him £115,500, and to give him their entire issue of stock. The company then issued debenture bonds to pay McMurdo and raise money to build the road.

In July, 1887, the Portuguese Government intimated that it would require an extension of the line of the railway. Meantime the railway was completed in accordance with the original plans and accepted by the Portuguese Government, with a reservation of the question as to the further extension of the line. Controversies over this extension led to the confiscation of the road in June, 1889, by Portugal.

The first step of the United States toward intervention was taken May 9, 1889, when Mr. Blaine instructed Minister Lewis, at Lisbon, to send the Department all the documents relating to the McMurdo concession. On June 19 Mr. Blaine further instructed Mr. Lewis that it was reported that the Portuguese Government intended to take possession of the railway on the 24th of June, and he expressed the hope that no decisive action might be taken until the Government of the United States could investigate the case and make known any objections it might desire to express. At the same time he reserved all the rights of the United States in the matter. When it was reported that the concession had been canceled, Mr. Lewis was instructed to make a formal protest, reserving all rights the heirs of McMurdo, who had died meanwhile, or other American citizens might have in the concession; and on October 12, 1889, Mr. Loring, who had succeeded Mr. Lewis as our minister at Lisbon, was directed to "inform Portuguese minister for foreign affairs that this Government, after careful investigation, views the forfeiture of Delagoa Railway concession and confiscation of the property of American citizens as unwarrantable and unjust, and that it will demand and expect the restoration of property or indemnity for losing, inflicted by Portuguese Government at the time of threatened forfeiture."

On November 8, 1889, in the course of a long instruction to Mr. Loring, reviewing the facts in the case, Secretary Blaine says:

"Upon full consideration of the circumstances of the case, this Government is forced to the conclusion that the violent seizure of the railway by the Portuguese Government was an act of confiscation which renders it the duty of the Government of the United States to ask that compensation should be made to such citizens of this country as may be involved. * * * The Portuguese company being without remedy and having now practically ceased to exist, the only recourse of those whose property has been confiscated is the intervention of their respective governments."

The British Government had already taken action for the protection of its shareholders independently of the United States. On June 24, 1889, Mr. Petre, the British minister at Lisbon, was advised by Lord Salisbury that should the Portuguese Government take steps to cancel the concession and forfeit the line the British Government would be justified in intervening diplomatically in order to prevent such action. The instruction continues:

"You should accordingly inform Senhor Barros Gomes that if the Government refuse to grant the extension of time for completion of the line * * * and decline to submit the questions at issue to arbitration, this would, in the opinion of Her Majesty's Government, be, on their part, a very serious step." (No. 178, from London, February 13, 1890, p. 16 of inclosure.)

On September 10, 1889, Lord Salisbury instructed Mr. Petre as follows (confidential inclosure with Mr. Lincoln's No. 109, October 24, 1889, from London):

"Senhor Barros Gomes, in his notes of the 26th of June and 1st of July, while admitting the right of Her Majesty's Government to advocate, on just grounds, the claims of British subjects, contended that in this case such advocacy was not needed, as the Portuguese Government had no concern with the English company, and he asserted that they could only recognize the Portuguese company, which had the power of appealing for protection to the laws of Portugal.

"If this contention were admitted, the interests of the British company would be at present absolutely unprotected, for the Portuguese company, after submitting, under protest, to a decision which it felt itself incapable of resisting, has, for all practical purposes, ceased to exist. But Her Majesty's Government consider this view to be altogether untenable. Senhor Barros Gomes must, indeed, in advancing it have forgotten the circumstances which attended the establishment of the British company.

"It is unnecessary to recapitulate the history of the concession given to Colonel McMurdo in 1883, of the subsequent formation of the Portuguese company (the Lourenço Marquez and Transvaal Railway Company), and of the successive prorogations of the term fixed for the completion by that company of the contract. It is sufficient to remark that the company, notwithstanding the extensions of time granted to it, was unable to find the capital to enable it to fulfill its obligations. It was in consequence of this failure that an attempt was made to obtain funds in England. The attempt was successful, and in March, 1887, the British company—the Delagoa Bay and East African Railway Company—was formed in London with the object of working the concession; and the necessary capital was subscribed.

* * * * *

"The Portuguese Government, basing their action on article 42 of the concession, annulled the contract, seized by force the rails, bridge work, and other material of the railway, and thus confiscated the whole property of the English company. This step was taken, notwithstanding that provision had been expressly made in the concession for the amicable settlement of a dispute of this character, it having been stipulated in the fifty-third article that all questions which might arise between the Government and the company touching the execution of the contract should be decided by arbitration. This declaration made by Senhor Barros Gomes in his note to you of the 26th of June last, that arbitration would be accepted, but that in the meanwhile the annulment of the concession could not be suspended, can only be regarded as illusory. There was no meaning in the acceptance of arbitration after the party accepting it had settled the disputed question in its own favor by an act of force.

* * * * *

"Into the merits of the question I do not propose to enter. The question at issue is not the motive, but the justice of the seizure.

"Her Majesty's Government are of opinion that the Portuguese Government had no right to cancel the concession nor to forfeit the line already constructed.

"They hold the action of the Portuguese Government to have been wrongful and to have violated the clear rights and injured the interests of the British company, which was powerless to prevent it, and which, as the Portuguese company is practically defunct, has no remedy except through the intervention of its own Government.

"In their judgment the British investors have suffered a grievous wrong in consequence of the forcible confiscation by the Portuguese Government of the line and the materials belonging to the British company and of the security on which the debentures of the British company had been advanced, and that for that wrong Her Majesty's Government are bound to ask for compensation from the Government of Portugal."

* * * * *

The answer of the Portuguese Government to the British Government (confidential inclosure with Mr. Lincoln's No. 141, December 27, 1889) is in part as follows:

"It is incorrect to suppose that the Portuguese Lourenço Marquez Railway Company has ceased to exist. * * * It is evident, therefore, that the company, on the one hand, did not make use of the power conferred upon it by law of dissolving on its own accord, and, on the other hand, it can not be held to be legally extinct by the sole fact of the decree of the 25th of June having rescinded the contract of the 14th of December, 1883.

* * * * *

"It is true that Lord Salisbury's dispatch only declares the company extinct for all practical purposes; but not even from this strict point of view is the noble lord's assertion justifiable. As regards the decree of the 25th of June up to the present,

the company has done no more than protest against what it supposed to be the unjust provisions of the decree. This is true. But that very protest is an evident sign that it did not look upon itself as extinct, and there is nothing to prevent it from still appealing, as I said, to the court of arbitration, the constitution of which in accordance with article 53 of the contract insures the greatest impartiality to the parties to the suit. The Delagoa Bay Company, which owns at present almost the whole of the shares of the Portuguese company, is in a position to contribute in a most decisive manner toward the carrying into effect of this perfectly legal appeal. The supposition, therefore, that the interests of the company are unprotected is absolutely groundless, on which supposition it thought, as may be presumed, that it was placed under the unavoidable necessity of having recourse to diplomatic intervention. The defense of those interests was, and still is, placed in the hands of those who can better and are, moreover, obliged to protect them—that is to say, the company itself. In the contract, from which His Majesty's Government have never swerved, except for the purpose of generously favoring the company—as will hereinafter be amply proved—in the laws of Portugal, and in the good will of His Majesty's Government—of which they have invariably given it the most decisive proofs—the company would have found, and will still find, more than sufficient means for the effectual defense of the interests which it represents.

“The supposition that the Delagoa Bay Company was formed with the full assent of the Portuguese Government must not be considered as hardly less void of foundation. His Majesty's Government were not called upon either to give or to refuse their assent to the formation of that company. The telegrams of the financial agent of the Portuguese Government do not prove at all any such assent. They merely prove that His Majesty's Government were aware, as they could not fail to be, that the new company was being formed and for what precise purpose, and they also prove the care taken by His Majesty's Government to notify, in order that the good faith of no one should be deceived, the laws and legal provisions by which the action of the company, when once formed in Portugal, would have to be bound and regulated. The declarations made by the Baron da Costa Ricci are both clear and positive. According to those declarations the Portuguese Government had, in the first place, nothing whatever to do with the formation of the Delagoa Bay and East Africa Railway Company and, consequently, were not in any way responsible for the statements and promises contained in its prospectus.

* * * * *

“In truth, no document whatever can be produced in which a single word can be found amounting to an official recognition of the English company, or to an official assent having been given to its formation. On the contrary, the Portuguese Government have always and invariably only recognized the Portuguese company as legally existent. The concession was only made to it, and they have always and directly treated with it alone. It appears to me unnecessary to add anything further on this point.

* * * * *

“Although the Government rescinded the contract on these strong grounds, nevertheless they did not, as alleged, confiscate the line and the materials belonging to the company; they only took possession, in accordance with the precise terms of the contract, of the whole of the property of the company, in order to act toward it, as they did invariably, in accordance with the clauses of the contract. For this purpose, it is clear, they based their action on article 42, but at the same time without infringing, as it is alleged they did, article 53. I have more than once officially recognized, in the name of the Government of which I am a member, the right of the company to appeal to the court of arbitration upon the question of the rescission of the contract of 1883, it being the intention of His Majesty's Government, as it could not fail to be, to respect the award, whatever it might be, and to cause it to be entirely carried into effect. The means to compel the Portuguese company to appeal, as it had the right to do, are, as I have already pointed out to your excellency, in the hands of the company, which will thus be easily able to refrain from having recourse to diplomatic intervention.

* * * * *

“Nevertheless, it must not be in any way inferred from the above statement that His Majesty's Government are not willing to accept, as regards this pending question, a settlement which may conciliate the paramount interests which it is their duty to protect carefully and in equity the interests of the company on whose behalf Her Britannic Majesty's Government have, in the exercise of a right which is worthy of respect, thought proper to interfere.

“With a view to this equitable and conciliatory settlement, it is the opinion of His Majesty's Government that the starting point can not but be from the firm conviction

that the Portuguese company still exists both de facto and de jure, which I have asserted more than once, and which I think I have proved in the course of this note, and also from the clauses of the decree which the Portuguese Government published on the 25th day of June last, under the full conviction of their right to act in that manner."

The Department further instructed Mr. Loring on November 30, in reply to his dispatch inclosing the answer of the Portuguese Government to the demand of the United States:

"The views of the Department, as expressed in its instruction of the 8th instant, are not modified by the note of Senhor Barros Gomes, of the 5th instant, which virtually admits the facts upon which this Government's opinion in respect to the confiscation of the railway is based. The offer of arbitration now held out to the Portuguese company, which has practically ceased to exist, is not the offer of arbitration contemplated by the concession to Colonel McMurdo. That concession provided for the arbitration of any difficulties which might arise between Colonel McMurdo and the company which he was to form on the one hand and the Portuguese Government on the other. Such a difficulty having arisen on account of the action of the Portuguese Government, that Government, instead of offering to submit it to arbitration, makes it a ground for the annulment of the concession and the seizure of the property acquired thereunder. But having thus annulled the concession, the Portuguese Government now appeals to its provisions as governing the rights of the contractors and investors. If the terms of the concession still bind those persons to the arbitration therein provided, they must also be held likewise to bind the Portuguese Government, and hence to require the rescinding of the order of annulment and the restoration of the property to its owners, in order that such arbitration may take place. It is scarcely necessary to say that it is not within the power of one of the parties to an agreement first to annul it and then to hold the other party to the observance of its conditions as if it were a subsisting engagement."

On April 24, 1890, Minister Loring was instructed by telegram to "say to minister of foreign affairs that the Government of the United States will not permit the property of American citizens to be seized and appropriated by any other government. The rights of American citizens in the Delagoa Bay Railway can not be solely determined by a Portuguese tribunal. The United States will accept nothing less than an international arbitration of the real merits of the case, and will not allow the Portuguese company to be interposed so as to obstruct the ends of justice. Express the hope to the minister of foreign affairs that Portugal will take no steps which will produce unfriendliness between the two Governments."

UNITED STATES OF AMERICA, STATE OF CALIFORNIA, *County of Alameda, ss:*

Julie Jirkowsky, being sworn, deposes that she resides in the city of Oakland, county of Alameda, State of California, is of the age of 32 years, and is by occupation a clerk; that she is personally acquainted with Julius H. Ellis, who formerly represented Salvador company in the Republic of Salvador with respect to its interests as a stockholder of the Triunfo Company; that during all the month of July, 1899, she was employed in a business office in the city of San Francisco with which said Julius H. Ellis had business relations, and that during all that month she saw said Ellis nearly, if not quite, every day except Sundays, and that she knows positively that said Ellis was not in the Republic of Salvador or absent from the State of California in said month of July, 1899.

And further deponent saith not.

JULIE JIRKOWSKY.

Subscribed and sworn to before me this 14th day of March, A. D. 1901.

[SEAL.]

J. H. CLAY,

Notary Public of the State of California in and for the County of Alameda.

UNITED STATES OF AMERICA, STATE OF CALIFORNIA, *County of Alameda, ss:*

Julius H. Ellis, being sworn, deposes upon his oath that he is a citizen of the United States and resident of the State of California; that he is of the age of 27 years; that by occupation he is a merchant; that he is the same Julius Heyman Ellis who in the year 1898 was a director of the corporation named Compania de El Triunfo, Limitada, of the Republic of Salvador, in Central America, and at that time was sojourning in the said Republic, and his residence was at the town of Usulután, which town is about 24 miles from the city of Santiago de Maria; that during all the month of September, 1898, deponent was at said town of Usulután, and at his office

and business there, and that he was the treasurer of said corporation, and until the 26th day of said month had possession of the treasurer's books of said corporation and acted as treasurer thereof; that between the said town of Usulután and said city of Santiago de María there was during all that time a daily mail each way; that the mode of travel between said places was by riding on horseback, and the time necessary for the journey was about four hours; that he did not at any time receive any notice of a meeting of the directors of said corporation to be held or which was held on the 22d day of September, 1898, and did not know of said meeting until the said 26th day of September, at which time Simon Sol, Luis Lopez, and C. Cochella came together to his place and demanded the treasurer's books of said corporation, informing him that said Cochella had been made treasurer in place of deponent, and thereupon he delivered the books to said Cochella.

Deponent further says that there is no truth whatever in the statement set forth in the contra-memorandum of the Republic of Salvador that Henry H. Burrell, president of said corporation, abandoned his office or abandoned the business of said corporation in the month of September, 1898, or at any time, but the truth is in respect thereto that in the month of September, 1898, said Henry H. Burrell, who was the general manager of said corporation as well as its president, and who lived at the said town of Usulután, went to the city of San Salvador, the capital of said Republic, which is only about 100 miles distant from the said city of Santiago de María, upon business of said corporation requiring his attention there; that deponent knows the nature of business and the purpose of said Burrell's going to San Salvador at that time, because said Burrell conferred with him about it before starting, and telegraphic communication was had between him and said Burrell at different times during the stay of the latter at San Salvador concerning said business; that among the objects of the journey of said Burrell to said San Salvador was the executing of security to the bank called Banco Salvadoreño for the debt which said corporation owed said bank, and said Burrell did make the necessary arrangement with said bank and executed a mortgage for such security, which mortgage is the same that is referred to in document 4, Package D, accompanying said contra-memorandum. Deponent recalls distinctly that upon this same journey said Henry H. Burrell went in company with Eugene Hoffman, who also resided at Usulután.

Deponent further says upon his oath that he was not notified of the meeting of the board of directors held on the 14th day of October, 1898, but that, it coming to his knowledge by rumor at the port El Triunfo, where he was at the time that a meeting was about to be held, he went to the meeting at Santiago de María; that the meeting was held at the dwelling house of said Simon Sol, and there were present Messrs. Sol, Lopez, Cochella, Burrell, and deponent, and a part of the time Mr. Morales, an attorney, who appeared to be acting as the legal adviser of said Sol at the meeting; that in that meeting there was much discussion of the question whether said corporation should continue in business or should be put into liquidation, the said Sol, Lopez, and Cochella speaking in favor of liquidation and against continuing in business, and this deponent and said H. H. Burrell opposing liquidation, calling attention to the fact that the corporation was now in a condition to make money, that it had abundant resources to meet its present obligations, and especially calling attention to the fact that \$80,000 gold par value of the stock of said corporation was still subject to call or assessment to the amount of 10 per cent, which would produce \$20,000 silver at the then current premium. That all the current obligations of said corporation then existing and the expenses to accrue during the remainder of the year 1898 would not exceed \$6,000 silver in the aggregate; and that there had been made large profits during the last previous shipping season, which begins annually about the 1st of January, or a little earlier, and extends to the month of June, and there was prospect of still larger profits the coming season, and that therefore it was entirely unnecessary to think of liquidation; and thereupon the said Burrell and this deponent urged that an assessment be levied sufficient to meet the immediate demands of the corporation and the current expenses for the remainder of the year; the said Burrell made a motion to that effect which this deponent seconded, but said Sol, who was acting as president of the meeting, refused to put the motion, saying simply it was unnecessary, that the corporation must go into liquidation. Thereupon said Burrell offered himself to advance money necessary to meet the current demands and carry the expenses until the shipping season, which was but a little over two months distant, but this was refused. Then Sol put to vote a resolution that said corporation should cease business and go into liquidation, with the result that Sol, Lopez, and Cochella voted for the resolution, and Burrell and this deponent voted against it. Lopez was the secretary of the corporation and seemed to be keeping the minutes of the meeting. If the minutes state that this deponent voted for liquidation they are absolutely false. The deponent and said Burrell opposed liquidation, both in discussing and in voting. This deponent and said Burrell remained at Santiago de

Maria until the next morning, when they made preparation to return to El Triunfo. The journey was to be made on horseback, and when they were ready to start and had the animals saddled, rode to the dwelling house of said Sol for the purpose of hearing the reading of the minutes of said meeting; that said Lopez pretended to read the minutes of said meeting, and read them as stating that this deponent and said Burrell voted against liquidation; and thereupon this deponent, without himself looking over the minutes, signed them and immediately left the room; but said Burrell refused to sign, saying as they were written in the Spanish language he feared there might be something in them which were not true, and he would decline to sign. This deponent and said Burrell then rode away.

This deponent further says upon his own personal knowledge that up to the time when he ceased to act as the treasurer of said corporation, as hereinbefore stated, that there had never been one moment's cessation or suspension of payment of the current expenses of or demands against said corporation; that the crew of the steamer *Celia* received their wages monthly, the month's wages always running from the 7th of one month to the 7th of the succeeding month; that the crew were always paid promptly at the end of the month, and that all had been paid at the end of the month which ended September 7, 1898; that the laborers working at the port El Triunfo received their wages weekly, and all were paid up to the end of the last week before this deponent ceased to act as treasurer aforesaid; that Albert Hylton was check clerk of said corporation, and his wages were \$125 silver per month, payable at the end of the month; that he had drawn his wages for all the time to the end of the last monthly period therefor preceding the time when this deponent ceased to act as treasurer, and at that time there was nothing due him, the month not being up.

This deponent further says that in the month of February, 1899, while Mauricio Meardi was in possession of the property of said corporation as receiver, in the course of a conversation with Meardi concerning the proceedings in bankruptcy against said corporation, Meardi said to this deponent that the port of El Triunfo having now been opened up by American money the Americans must be put out.

Deponent further says that in the month of September, 1899, while he was in the city of San Salvador, he had occasion to see and examine a bill of sale of the steamer *Maule*, and that said bill of sale bore the name as the maker thereof not of an English company, but of the company called *Compania Sud Americana*, which company was represented at San Salvador by an English gentleman named W. E. Caldwell, and that said bill of sale named as the grantee of said steamship M. Meardi & Co., which the bill of sale stated was represented in the transaction by Ramon Garcia Gonzales, an attorney of the city of San Salvador, who was one of the persons named as grantees in the concession made by the Government of Salvador on May 13, 1899, purporting to grant the same property and franchises which had been previously held by said *Compania de El Triunfo Limitada*. In said bill of sale it was also specified that said steamer *Maule* was purchased for use in the transshipment of cargo from the port of Triunfo to the high sea. This deponent recalls with great distinctness the said facts concerning said bill of sale, because he considered it very remarkable that the steamer should have been purchased by M. Meardi & Co. in their own right, and for use at said port, and that in the negotiations therefor M. Meardi & Co. should have been represented by said Gonzales, one of the grantees of the hostile concession. This deponent for that reason examined and reexamined said bill of sale, and immediately afterwards reported the facts concerning it as above stated to his principal, the Salvador Commercial Company, at Oakland, Cal.

This deponent further says that he was not at any time in the month of July, 1899, in the Republic of Salvador, but during all that time was at his home in the State of California; and that he never saw nor had any intimation of the existence of the order or writ alleged in the said contra-memorandum to have been made by the judge of the court of the first instance of Alegria, in said Republic, on July 5, 1899, until he saw the statement thereof in the said contra-memorandum in the month of January, 1901.

This deponent further says that he was present when Leopoldo Alejandro Rodriguez, at the city of San Salvador, made and signed the statement which is certified by Hon. John Jenkins, the American consul at said city, under date of January 1, 1900, and which is referred to in the reply of Salvador Commercial Company as the deposition of said Rodriguez; that said Rodriguez himself dictated said statement, and this deponent heard and saw the said consul administer to him an oath that the said statement was true, and said Rodriguez did then and there, in the presence of this deponent and said consul, swear to the truth of said statement. This deponent makes this statement, not supposing it will be denied that said statement was made under oath, but because the certificate of the said consul omits to state that the said deposition was sworn to.

And further deponent saith not.

The foregoing deposition was subscribed by the deponent therein named in my presence, and was sworn to by him before me on the 16th day of March, A. D. 1901, at the city of Oakland, in the State of California, and I certify that he is a person of good standing and repute.

Witness my hand and official seal this the said 16th day of March, A. D. 1901.

[SEAL.]

J. H. CLAY,

Notary Public of the State of California in and for the County of Alameda.

CITY OF SAN SALVADOR,
REPUBLIC OF SALVADOR, CENTRAL AMERICA,
January 1, 1900—2 p. m.

Leopoldo Alejandro Rodriguez, resident and born in the city of San Vincente, in the Republic of Salvador, 30 years of age, by occupation attorney and archivist, being sworn to tell the truth in all that he expresses, deposes—that for five years last past he has practiced his profession of attorney and archivist in the tribunals of this Republic; that in the month of February, 1899, he was employed by Julius H. Ellis, acting as agent and representative of a corporation of the State of California, United States of America, called the Salvador Commercial Company, to represent said company in the court of first instance of the district of Alegria in this Republic, in a proceeding then pending in that tribunal, in which had been pronounced an adjudication of insolvency and bankruptcy of a corporation of this Republic, namely, "La Compania de El Triunfo, Ltd.," and in which company the "Salvador Commercial Company" figured as the owner of the majority of the shares; that the purpose of the employment of this deponent and which he was instructed to carry into effect, if possible, was to procure the vacation of said adjudication of bankruptcy, on account of the proceeding not being founded on the laws of this Republic and on account of there not being any fundamental reason for the referred to adjudication, and to restore the company to its former state, thereby obtaining the removal of the receiver who had been appointed in said proceeding to the end that the property, assets, and franchises of said corporation so adjudged bankrupt be restored to it; that in the public document of power of attorney made by Mr. Ellis in conjunction with other shareholders of the "Compania de El Triunfo, Ltd.," before the attorney, Daniel Quiroz, the proceeding of the court of Alegria was energetically protested against, and said document demonstrated and proved the illegality of the adjudication of bankruptcy, all of which was founded upon the substantive laws and according to the proceedings established by such cases in this Republic, which public document the deponent presented to the judge of first instance of Alegria, accompanying same with a writing by which the deponent strengthened the statements in said document, with reference to declaring the vacation of the suit, on account of its treating upon absolute nullities; that upon the receipt of the writing and public document by the court of the district of Alegria said tribunal ordered that said documents be attached to the records or acts, not deciding anything with reference to the alleged nullities and to the incorrectness of the proceedings; that it was impossible to obtain any fundamental decision in said tribunal for the definite arrangement of the referred to bankruptcy from the 19th of October, 1898, the day it was declared bankrupt, until date, the deponent being unable to find out the reason why they did not hear his petition nor why they did not continue the bankruptcy suit with the object to finish same and to come out in that manner from the state of indecision in which the things are found at present, so that his representatives might know to what they should abide by; that all which he has said is the truth, and he knows it to be the truth on account of the knowledge which he has of the case which he knows from sight and from the knowledge which he has of the laws of this country, signing for proof.

LEOPOLDO A. RODRIGUEZ.

CONSULATE OF THE UNITED STATES,
San Salvador, January 1, 1900.

I, John Jenkins, consul of the United States at San Salvador, do hereby certify that the signature of Leopoldo A. Rodriguez, at the foot of the paper annexed, is his true signature, made and acknowledged in my presence, and that said Leopoldo A. Rodriguez is personally known to me, and of good repute as a man of truth.

In witness whereof I have hereunto set my hand and affixed the seal of the consulate at San Salvador this day and year next above written and of the Independence of the United States the one hundred and twenty-third.

[SEAL.]

JOHN JENKINS,
Consul of the United States.

John P. Irish, being duly sworn, deposes and says: That he is a citizen of the State of California, and is and has been since February 17, 1894, the naval officer of customs in the revenue district of San Francisco, Cal., and that he was the naval officer of customs at San Francisco on the 11th day of September and the 30th day of September, 1899; and he further deposes and says: That as such naval officer of customs it is by law made a part of his duty to enter and clear all ships and vessels that enter said port of San Francisco and depart therefrom, and that of his own knowledge he deposes that the Salvadoranean steamer *Maule* from Triunfo, Salvador, was entered at said port of San Francisco, on the 11th day of September, and was cleared therefrom on the 30th day of September, 1899, with cargo for Triunfo and other ports in the Republic of Salvador; and further deponent saith not.

JOHN P. IRISH.

Subscribed and sworn to before me this 2d day of April, 1901.

GEORGE D. BROOKES,
Notary Public in and for the City of Washington, D. C.

Señor Zaldívar to Mr. Hay.

LEGACIÓN DE EL SALVADOR,
Washington, October 30, 1901.

SIR: Referring to the matter of the claim of the Salvador Commercial Company of California against the Republic of Salvador pending in the Department of State, I am authorized by my Government to make the following communication:

In accordance with the spirit of amity which prevails both in the United States and in the Republic of Salvador, several attempts have been made to adjust this claim amicably and satisfactorily, efforts which have failed through no fault of my Government. Regretting this result and being desirous of maintaining our present close friendship with the Government of the United States and desirous that justice be done in the premises, my Government suggests the adoption of some course which shall finally and justly determine the differences which have arisen in respect to this claim.

Animated, therefore, by the spirit of that principle which prevails among nations to adjust all differences by reference to a tribunal of arbitration, which principle has always been steadfastly upheld by the Government of the United States, the Government of Salvador, through me, proposes that the claim of the Salvador Commercial Company be submitted to an impartial international board of arbitration, the decision of which shall settle finally the respective rights and responsibilities and the direct damages suffered by either party.

Fully convinced that this proposal of my Government will be accepted by the Government of the United States, in accordance with its oft-proven sense of justice and right,

I have, etc.,

RAFAEL ZALDIVAR.

Protocol of an agreement between the United States of America and the Republic of Salvador for the arbitration of certain claims against Salvador, signed at Washington, December 19, 1901.

PROTOCOL OF AN AGREEMENT BETWEEN THE SECRETARY OF STATE OF THE UNITED STATES OF AMERICA AND THE ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY OF THE REPUBLIC OF SALVADOR FOR SUBMISSION TO ARBITRATION OF THE CLAIMS AGAINST THE REPUBLIC OF SALVADOR OF THE SALVADOR COMMERCIAL COMPANY AND OTHER CITIZENS OF THE UNITED STATES, STOCKHOLDERS IN THE CORPORATION STYLED "EL TRIUNFO COMPANY, LIMITED," WHO HAVE NOT ACQUIRED THEIR STOCK FROM CITIZENS OF SALVADOR OR OTHERS NOT CITIZENS OF THE UNITED STATES SINCE THE DATE OF THE FILING OF THE MEMORIAL OF THE SALVADOR COMMERCIAL COMPANY.

The United States of America and the Republic of Salvador, through their representatives, John Hay, Secretary of State of the United States of America, and Don Rafael Zaldivar, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Salvador, have agreed upon and signed the following protocol:

Whereas, the United States of America, on behalf of the Salvador Commercial Company and of any and all of its citizens as described above, claim indemnity from the Government of Salvador for damages alleged to have been caused to such stockholders, as mentioned either in said Memorial, in the correspondence between the two Governments or in the report of the Solicitor of the Department of State, made to the Secretary of State; and

Whereas, the Government of Salvador denies any liability either to the Salvador Commercial Company or to any such citizens by reason of the acts and alleged grievances above referred to;

It is therefore agreed between the two Governments:

I.

That the said questions of law and fact brought in issue between the two Governments shall be referred to the decision of the Honorable Henry Strong, Chief Justice of the Dominion of Canada; the Honorable Don M. Dickinson, of Detroit, Michigan; and the Honorable Dr. David Castro, Chief Justice of the Supreme Court of Salvador, whose award in writing and stating the grounds of the decision shall be final and conclusive.

II.

The arbitration tribunal shall sit at Washington, D. C., and shall hold its first session not later than the first day of April, 1902. A majority of the arbitrators shall be competent to act as well as to decide on all matters and questions submitted to the arbitral tribunal. Should either said Strong, Dickinson or Castro be unable to serve as arbitrator, in that event the place of the former shall be filled by agreement of the two Governments and of either of the two latter by the United States and Salvador respectively.

III.

That within eighty days from the date of the signing of this protocol, each party shall furnish to the other and to each of the arbitrators a copy of the said Memorial and copies of all the documents, papers, accounts, official correspondence and other evidence on file at their respective Foreign Offices relating to said claims, and of all affidavits of their respective witnesses relating thereto, and the Department of State of the United States shall include among the documents thus transmitted by it copies of the report of its Solicitor in said case; and each party shall furnish in the manner aforesaid all books of account, contracts and papers of the "El Triunfo Company Limited" which may be in its possession or control: *Provided*, That said arbitration tribunal may request either Government to furnish such additional evidence as it may deem necessary in the interests of justice, and each Government agrees to comply with said request; it may, also, in its discretion, allow all such pleadings to be filed as may be conducive to the full presentation and trial of the claims of the interested parties.

IV.

The arbitration tribunal shall have full power to regulate the procedure and to take such action and make any such order as it may find necessary in the interests of justice. Each Government agrees to abide by such determination, and in default thereof, the said tribunal may proceed in such manner and at such times as it may determine, in order to close the proofs and make final and complete award. It shall also have power to appoint such officials to render such clerical and other assistance as it may find needful, and fix the stipend therefor, as well as to provide for payment by the parties of all expenses incident to the arbitration.

V.

Each of said Governments by their respective counsel, and the said stockholders by their attorney, may orally argue said cause and may severally submit to the said tribunal written arguments, copies of which shall at the same time be furnished to counsel of the other parties, with the right to reply, touching the questions of law and fact in issue, within thirty days from the date limited for the submission of the evidence; but the said tribunal shall not for such purpose in any event delay its decision beyond two months from the date of the submission to it of the evidence aforesaid, unless for good cause said tribunal shall find a longer period necessary, which shall in no event exceed three months.

VI.

If said tribunal finds that any liability is established, it shall have full power to grant complete, just and legal relief to the parties; the damages awarded shall be fully compensatory but shall not include any which are merely speculative or imaginary. The tribunal may also pass upon the right of claimant to recover costs and reasonable attorney's fees and the award may bear interest at the rate of six per cent. per annum from the date when the damages are shown to have occurred. It shall bear interest at the rate of six per cent. per annum from the date of its rendition until paid.

VII.

The award, if any, shall be payable, in American gold, as soon as the National Assembly of Salvador shall authorize the payment; but said authorization shall be made at its next ensuing regular session, in February, 1903. An extension of the time of its payment may be granted by the Government of the United States.

VIII.

Reasonable compensation to the arbitrators for their services and all expenses incident to the arbitration shall be allowed and paid in equal moieties by said Governments.

IX.

This protocol shall be submitted for approval and ratification by the Congress of the Republic of Salvador. When so approved and ratified, the Government of Salvador will immediately notify the Government of the United States thereof. Unless so approved and ratified and such notice is given by the Government of Salvador on or before March 1st, 1902, this protocol shall be deemed null and void; and the United States will be at liberty to proceed diplomatically.

Done in quadruplicate in English and Spanish at Washington, this nineteenth day of December, 1901.

JOHN HAY
RAFAEL ZALDIVAR

Award of arbitrators.

IN THE MATTER OF THE ARBITRATION BETWEEN THE UNITED STATES
OF AMERICA AND THE REPUBLIC OF SALVADOR.

THE CLAIM OF THE SALVADOR COMMERCIAL COMPANY AND OTHER CITIZENS OF THE UNITED STATES, STOCKHOLDERS IN THE CORPORATION STYLED "EL TRIUNFO COMPANY, LIMITED," WHO HAVE NOT ACQUIRED THEIR STOCK FROM CITIZENS OF SALVADOR OR OTHERS NOT CITIZENS OF THE UNITED STATES SINCE THE DATE OF THE FILING OF THE MEMORIAL OF THE SALVADOR COMMERCIAL COMPANY IN THE DEPARTMENT OF STATE OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA.

Certain differences having arisen between the United States of America and the Republic of Salvador as to the liability of the last-mentioned Republic to pay an indemnity for the loss sustained by certain citizens of the United States, namely, the Salvador Commercial Company, H. H. Burrell, Luis Maslin, J. H. Ellis, J. B. Hays, and G. F. Thompson, by reason of the action of the Government of the Republic of Salvador in respect of the practical destruction or cancellation of a franchise or concession granted by the Republic of Salvador to certain persons, subsequently duly acquired under the laws of Salvador by a body corporate named and styled "El Triunfo Company, Limited," of which corporation the said Salvador Commercial Company, a corporation created under the laws of the United States, and

whose corporators are citizens of the United States, and other American citizens were the principal shareholders; which said franchise or concession granted for the period of twenty-five years the exclusive privilege to establish in the port of El Triunfo steam navigation, and to carry on coasting trade with adjacent ports, to establish a line of steamers to connect said port of El Triunfo with certain other ports on the Pacific coast of Central America, Colombia, Mexico, and California; with other valuable privileges and powers, and exemptions from governmental liabilities, all as more fully and at large appear in the said franchise or concession, duly executed as a bilateral contract by the grantees thereof, as well as by the executive officers of the Republic of Salvador, on the sixth day of October, in the year of our Lord one thousand eight hundred and ninety-four, and duly ratified in accordance with the constitution of the said Republic by the supreme legislature thereof on the nineteenth day of April, in the year of our Lord one thousand eight hundred and ninety-five, to which reference is hereby had and made; as well as to the construction of the said franchise or concession given by the formal act of the executive of the said Republic on the seventh day of November, in the year of our Lord one thousand eight hundred and ninety-four, wherein and whereby the said franchise or concession was declared to embrace and cover the entire Bay of Jiquilisco.

And it having been found impossible to adjust the said differences by diplomatic negotiation, it was agreed by the said United States of America and the Republic of Salvador to refer the said disputes to the arbitrament and award of the Right Hon. Sir Henry Strong, chief justice of Canada; the Hon. Don M. Dickinson, of the United States, and the Hon. Señor Don José Rosa Pacas, LL. D., of the city of Santa Anna, in Salvador, who, having taken upon themselves the duty of hearing and determining the said differences, do now, in accordance with and by the powers and under the terms of the protocol of the agreement between the said Governments in respect of the said claims, signed at Washington on the nineteenth day of December, in the year of our Lord one thousand nine hundred and one, and after having read and considered the evidence and documents produced by the parties, respectively, and after having heard the parties by their counsel, and after due consideration, proceed to make their award as follows:

That is to say, the said Señor Don José Rosa Pacas, differing from the other arbitrators aforesaid, doth adjudge, award, and determine that the Republic of Salvador is not liable in any way to the said United States in respect of the said claims or to the said claimants; but the said Sir Henry Strong and Don M. Dickinson, being a majority of the said arbitrators, do award, adjudge, and determine that the said Republic of Salvador is liable to the United States for the benefit and behoof of the said Salvador Commercial Company and the other American citizens named in the second schedule to this award annexed in respect of the said claims in the amount of five hundred twenty-three thousand one hundred seventy-eight and $\frac{64}{100}$ dollars in gold coin of the United States, to be paid with interest at the rate of six per centum per annum from the date of this award until the said amount is paid at the time and in the manner specified in the protocol of submission; and the said two last-named arbitrators do award and declare that the sum of five hundred twenty-three thousand one hundred seventy-eight and $\frac{64}{100}$ dollars so awarded to be paid to the United States is made

up and composed of the several sums or items set forth in the first schedule to this award; and the said two last-named arbitrators do further declare that the said sum so awarded is in respect of the claims of the said claimants, being American citizens, as set forth in the second schedule to this award; and the said two arbitrators who make and sign this award do, in conformity with the requirements of the protocol or agreement of submission, state the grounds of their decision to be that the concession of franchise granted by the Republic of Salvador, and which became vested in the El Triunfo Company (limited), was arbitrarily and unjustly revoked, destroyed, and cancelled by the Republic of Salvador, as they have more fully explained in a joint opinion signed by them.

In witness whereof, the said Sir Henry Strong and the Hon. Don M. Dickinson, being a majority of the said arbitrators, have signed declared, and published this their award at the city of Washington this eighth day of May, in the year of our Lord one thousand nine hundred and two, the said Señor Don José Rosa Pacas declining to sign the same.

HENRY STRONG.
DON M. DICKINSON.

This is the first schedule referred to in the within award:

536/1000th parts of \$750,000, value of the concession and franchise destroyed and annulled by the Government of Salvador.....	\$402, 000. 00
536/1000th parts of \$28,956.87, the value of the steamer <i>Celia</i> , lost through the action of Salvador	15, 522. 56
536/1000th parts of \$45,000, the value of the property of El Triunfo, taken by the Government of Salvador	24, 120. 00
The expenses of the Salvador Company in endeavoring to secure restoration before intervention by the United States.....	2, 671. 31
Expenses of prosecuting the claims, exclusive of attorney and counsel fees	18, 864. 77
Attorney and counsel fees.....	60, 000. 00
Total amount of award.....	523, 178. 64

The above schedule contains a statement of the several sums or items of claim of which the sum of five hundred and twenty-three thousand one hundred and seventy-eight and $\frac{64}{100}$ dollars by the award directed to be paid by the Republic of Salvador to the United States is composed, made up, and allowed.

In witness whereof the two arbitrators concurring in the award have hereto set their hands this eighth day of May, A. D. 1902.

HENRY STRONG.
DON M. DICKINSON.

This is the second schedule referred to in the within award showing the American corporation and American citizens in respect of whose claims the indemnity mentioned in the said award is awarded and the amount awarded and attributed to each of the said claims, respectively, that is to say:

(501 shares) The Salvador Commercial Company and expenses as shown in Schedule 1	\$494, 339. 53
(5 shares) H. H. Burrell.....	4, 119. 98
(10 shares) Luis Maslin.....	8, 239. 66
(3 shares) J. H. Ellis.....	2, 471. 97
(2 shares) J. B. Hays.....	1, 647. 96
(15 shares) G. F. Thompson	12, 359. 54

In witness whereof Sir Henry Strong and the Hon. Don M. Dickinson, two of the arbitrators, have set their hands this eighth day of May, A. D. 1902.

HENRY STRONG.
DON M. DICKINSON.

In the matter of the arbitration between the Republics of the United States and Salvador.

IN RESPECT OF THE CLAIM OF THE SALVADOR COMMERCIAL COMPANY AND OTHER CITIZENS OF THE UNITED STATES, STOCKHOLDERS IN THE CORPORATION WHICH WAS CREATED AND EXISTENT UNDER THE LAWS OF SALVADOR, UNDER THE NAME AND STYLE OF "EL TRIUNFO COMPANY, LIMITED."

Opinion of Sir Henry Strong and Don M. Dickinson:

This controversy has its origin in schemes to establish and develop a new port on the Pacific coast of Central America, in the Republic of Salvador, on the Bay of Jiquilisco.

For years, as the greatness of the natural resources of Salvador had been discovered and understood, the attention of capital, both foreign and domestic, had been directed to the subject of founding another, and, as was hoped, a better port for the purposes of commerce, and one to which the larger and richer resources of the Republic, both in agriculture, including cotton and tobacco, its rich woods, and its mineral wealth, might most economically be made tributary, and which should also be a port of distribution for imports.

As early as 1850 the Bay of Jiquilisco, in connection with this subject, had been brought to the attention of the investing world by well-known writers, whose positions and residence in Central America made their statements impressive. In these statements the Rio Lempa, as "the most important natural feature of Salvador,"^a in connection with its proximity to estuaries of the Bay of Jiquilisco and the great advantages of a port which might be established on that bay, were pointed out.

Prior to the exploitation and development of the concession involved in this case, substantially the only ports of the Republic for commercial purposes had been those of La Libertad Acajutla and La Union, neither of which had certain commercial advantages that would appertain to a new port if established in Jiquilisco Bay, and all of which were subject to objections as seaports which at the new port would be obviated.

As time went on and knowledge of the conditions and of the possibilities of the development of the country became more widespread interest in the subject increased. The Government of Salvador, however, had never undertaken the improvement of the harbor within or the ship entrances to Jiquilisco Bay.

In the late summer or fall of 1894 contesting petitions were presented to the Government of Salvador for a concession of the right, for a period of years, to establish steam navigation in the port of El Triunfo, setting forth the details of the proposed enterprise. One

^aSquiers, Central America.

application was presented by Simon Sol, Luis Lopez, and Lorenzo Campos, and the other by Henry H. Burrell and George F. Thompson, citizens of the United States, and Gustavo Lozano and Emeterio S. Ruano, citizens of the Republic of Salvador. The proposals were published in the official journal of the Republic by the proper executive department of the Government, and bids were invited for the franchise so sought.

These proceedings resulted in the awarding of the franchise or concession to the Burrell party, and on October 6, 1894, the Republic of Salvador granted them, for the period of twenty-five years, the exclusive right of steam navigation of the port, together with certain valuable privileges and as valuable exemptions. The grant was in the form of a bilateral contract, signed by the executive officers in behalf of the Government of Salvador as party of the one part and by the grantees as party of the other part.

On November 7, 1894, to forestall any possible misunderstanding or narrower construction in future as to the extent of the concession the President of the Republic officially construed the contract as covering the entire Bay of Jiquilisco.

The constitution of Salvador requiring that such a concession must be submitted to the supreme legislature for ratification, it was so submitted and ratified by that body on April 15, 1895.

There can be no doubt that the privileges conferred were of very great value, but in turn there were most onerous reciprocal obligations.

The grantees' privileges were exclusive as to steam navigation of the port to connect with any line of steamers then in existence or which might thereafter be established, and to transship passengers, products, and merchandise which should be exported through the port, to carry on the coasting trade with adjacent ports, to establish a line of steamers to connect with other ports of Central America, Colombia, Mexico, and California.

And not only did the exclusive privileges apply to the port of El Triunfo but they were attached to such other places on Jiquilisco Bay and its estuaries as the company might establish for embarkation and debarkation and for the export of the natural products of the country.

The grantees were given the right to import, free of duties and taxes, all materials necessary for founding, constructing, and maintaining all works pertaining to the enterprise; exemption from taxes on all their property, franchises, and operations; exemption of their employees from military service; exemption from the use of stamped paper and revenue stamps in making contracts within the scope of the business, and the free use of the telegraph and telephone lines operated by the nation. The Government further agreed to do its utmost to keep the roads open between the port of El Triunfo and the coffee centers of the department of Usulután—the department or municipal subdivision in which Jiquilisco Bay was situated.

But the grantees of the concession or contract executed, as we have seen, on October 6, 1894, were required by its terms to have in readiness by March 1, 1895, such facilities at the port of El Triunfo as would enable them to handle and ship through the port the coffee crop of the year 1895, and, furthermore, that during that year, unless prevented by unforeseen emergency or superior force, they must have the

traffic definitely established, together with the construction and furnishing of a building for a Government custom-house not less than 60 varas (165 feet) long, with offices for the customs collector and his employees, and for the telegraph and telephone line, to be constructed wholly by the grantees at their own expense, and that such building and its furniture were to belong to the Government as of its own property; together, also, during that year, with the construction of such other buildings and other works the company might consider necessary for its own use, and the construction of a pier of iron and steel having the necessary conditions of strength and convenience for embarkation and disembarkation of freight and passengers, the construction of which was to be under the inspection of the Government, in order to assure compliance with the conditions of strength and convenience.

The pier also was to be the property of the Government, and the grantees were to provide steamers, steam tugs, launches, and such other boats as the traffic should require. The concession also required the procuring and placing at the expense of the grantees of such buoys as should be necessary to mark the entrance to the port, together with the erection of a light-house to indicate the entrance *if the Government should deem it necessary*.

It was provided, too, that the company should carry without charge the high officials of the Government, and all its employees when traveling by order of the Government; all materials of war and merchandise which the Government might embark by means of the company, if the property of the Government. The grantees were to carry correspondence by mail between the port and wherever they might have steamers plying, and were to give free pilotage to Government ships when entering or departing from El Triunfo, and were to pay \$1,200 per year, silver of the country, in monthly payments, during the entire twenty-five years. The tariffs to be imposed by the grantees, both for passengers and freight, for embarking and disembarking, were also to be approved by the Government.

The concession also required that the grantees should form a corporation to take and operate the concession.

Thereupon, on October 25, 1894, that corporation was formed, and is called throughout the case El Triunfo Company, Limited. The capital stock of the corporation was divided into 1,000 shares.

This capital stock was acquired and distributed as follows: the Salvador Commercial Company, a corporation created and existing under the laws of the State of California, which, as clearly appears by the record, was the moving projector and spirit in the enterprise of developing the port of El Triunfo and in acquiring the concession, took a majority of the stock, that is to say, 501 shares. Henry H. Burrell, who was made the president of El Triunfo Company, and who was an American citizen, acquired and held 5 shares. Julius H. Ellis, who became the secretary of El Triunfo Company, and who was an American citizen, acquired and held 3 shares; J. B. Hays, an American citizen, 2 shares; Luis Maslin, an American citizen, 2 shares, and George F. Thompson, an American citizen, 15 shares, so that the total shares held by citizens of the United States in El Triunfo Company were 536 in number.

It is apparent that upon the execution of its contract with the Salvador Government, through which the concession was acquired, and upon the formation of the corporation required by the concession, El Triunfo

Company entered upon the preparation and development of the port, and the performance of the requirements imposed upon it, with exceptional enterprise and vigor.

The concession having been granted on October 6, 1894, and the corporation having been formed with its American representation within nineteen days thereafter, there being no nucleus at the port or even the beginning for a dock, or a known ship harbor within Jiquilisco Bay, it did, nevertheless, within four months and four days from the date of its incorporation—that is to say, on March 1, 1895—through many difficulties and embarrassments naturally incident to the initiation of such an enterprise, have that port ready, with sufficient equipment of every description to move and ship the coffee crop of 1895, and did ship that crop.

It is worthy of comment and deserving of consideration, in view of subsequent events, that this work was done under such circumstances, when in addition to the difficulties attendant upon every entirely new enterprise, requiring conception and creation from the beginning, it was also done in the face of the fact that the supreme legislature of the Republic of Salvador, from the date of the concession until the port was equipped and ready for business on March 1, 1895, had not ratified the concession or contract under which the work was done, and did not ratify it until April 19, 1895, so that the money was raised and the port practically created with no certainty that the grantees of the concession would ever receive the right to hold it or the value created by them by their work and expenditure in the port of El Triunfo.

There can be no doubt on this record that the company pushed forward the work of permanent equipment from March 1, 1895, with the same vigor and enterprise as had been displayed in the preparation for the shipment of the crop of the year 1895; for within one year and twenty-seven days from March 1, 1895, we find the president of the company reporting to the Government the entire completion of the permanent work and a full compliance with the contract on the part of those to whom the concession had been given.

This report was true, and this statement does not rest in any degree upon the testimony of the president or that given by or in behalf of the claimants, but upon the reports of the proper officials of the Government of Salvador, viz, its inspector-general, its secretary of the treasury, and its secretary of public works, who all report the completion of the enterprise in accordance with the contract, and a full compliance with their obligations in that regard by the grantees of the concession.

The grantees of the concession did much more.

Beginning at once upon the grant of the concession, and even before its ratification by the supreme legislature of Salvador, they brought about, by persistent efforts and powerful influence upon the Government of the United States, a hydrographic survey of the entrance and harbor at this port by the authorities and instrumentalities of that Government. The ships of the United States began to arrive at the port in the month of December, 1896, for this purpose, and their survey, prosecuted continuously thereafter at a cost, as claimed by the record, of \$100,000 in gold, established the fact that the port of El Triunfo was one of the best and safest on the Pacific.

The official chart of the entrance and of the whole bay was issued by the Hydrographic Office of the United States, the depth of water on

the bar was shown at high and low tide, the ample width and the straightness of the channel were demonstrated, as well as the fact that the distance across the bar was but a few hundred feet, and that the water in the channel inside the bar and throughout the entire bay was of entirely sufficient depth for the largest vessels.

As to establish the port it was essential that the safety of vessels entering and departing should be assured, there was probably nothing which could add so much to the advantage of the Government of Salvador, a maritime country, in respect of its commerce tributary to the interior, as this survey by the United States. Clearly it was a permanent addition and increment to the resources and wealth of the nation, and this was brought about almost wholly by the enterprise and energy of the American citizens who entered upon the enterprise of developing the port of El Triunfo, and was so added without any legal obligation to do so resting upon them by the contract or concession of October 6, 1894, or otherwise.

A very large amount of testimony has been presented to the arbitrators by the opposing sides in this controversy bearing upon the history of El Triunfo Company and its affairs and management from the beginning of its operations to the closing of the port of El Triunfo by the executive authority of Salvador in February, 1899. It has been the effort of counsel for Salvador to show at this hearing that the company did not comply with the terms of the concession, either before or after the reports of the executive officers of the Government showing the completion of the preparation and equipment of the port for carrying on the business, as required by the concession.

It is of course obvious that the Salvador Government should be estopped from going behind those reports of its own officers on the subject and from attacking their correctness without supplementary evidence tending to show that such reports were induced by mistake or were procured by fraud or undue influence. No evidence of this kind is introduced. But were it otherwise, after the most careful and painstaking consideration of the evidence we are unable to discover anything in the record having any proper tendency to show any substantial or material failure of the company in this regard.

Having expended the necessary capital, and having received the official approval of the Government of compliance with the concession, it is still contended by Salvador that in the details of the management of its affairs and of the port, and in carrying on the business committed to it with the means it had provided, the company did not fully and in good faith perform its duty in its administration of the affairs of the port under the powers and privileges granted and in accordance with its liabilities under the concession.

From the beginning of 1896 to the autumn of 1898 it is evident to us, from the entire record, that the volume of business which came to this port after it was equipped and opened by El Triunfo Company was even larger than anyone, the most sanguine of the investors and believers in the profitable future of the enterprise, had anticipated. They had expected success. This induced the investment, encouraged and spurred on the spirit of enterprise which accomplished so much under the circumstances as hereinbefore detailed within the short period from October, 1894, to March 1, 1895, and in the year following, by the completion of the permanent improvements.

But it is not to be wondered at that the rapid increase of business,

necessarily unanticipated to a degree, should have strained to some extent the capacity of the first equipment and facilities provided to handle the business. As in all new ventures, the means and methods at first adopted were necessarily to a degree experimental. The distances from other and settled points of supply necessarily had to be met, and difficulties arose in getting skilled labor for the handling of the various kinds of products and merchandise, for additions and repairs to buildings, for the manning of ships, as well as in getting common laborers promptly, as the work increased beyond expectation.

The correspondence in evidence shows many such embarrassments which were surmounted. Promptness and evenness in the transaction of the business of the port could hardly be expected under the circumstances. But with all this it can not be said, as now here claimed by the Government of Salvador, that there was any such failure in the performance of its obligations in the circumstances of the case as would have justified or sustained a complaint for a breach of contract in a court of justice if this franchise had been a contract between private parties. Much less was there any such breach of contract on the part of El Triunfo Company at any time as would have justified a forfeiture of a dollar in damages against the company, or of a right granted it under the concession.

The complaints, when examined and analyzed, were few and insignificant. That the company met and overcame such emergencies as necessarily arose is shown by the fact that although the business from the fall of 1895 to the middle of 1898, a period of less than three years, increased in the matter of shipments alone to the extraordinary amount of between four and five hundred per cent, yet the facilities and equipment, as supplemented, improved, and provided, were not overwhelmed by this increase and on the whole were substantial and well kept up.

Naturally no profit was shown in the years 1895, 1896, and 1897, but the tendency to the meeting of both ends was certain from the beginning and increased with added momentum, demonstrating the future greatness of the enterprise, until, from the beginning of the year 1898, a steady balance of net profits was shown as long as the company operated, which was half the year, aggregating at the end of that time, according to the testimony introduced on behalf of Salvador by that Government's official accountant, the sum of \$17,000 over and above all losses and expenses of every kind, and according to the testimony introduced in behalf of the Salvador Commercial Company a much larger amount.

There can be no doubt that the record proves to a demonstration that the enterprise, which may properly have been considered an experiment up to the beginning of 1898, although it had shown an improving financial condition from the beginning of its business, was an assured financial success, equaling if not exceeding the most sanguine expectations of its promoters by this showing of profits on the steadily increasing business at the close of the first half of that year. A careful examination of the voluminous evidence in the case shows that from March 1, 1895, to the close of the first half of 1898 the percentage of gains on expenses and losses regularly increased at the rate of about $33\frac{1}{3}$ per cent per annum.

It is clear to our minds that as soon as the success of the enterprise was so demonstrated, and its future as an exceptionally paying enter-

prise was assured, an intrigue commenced within the company, whose object was to oust the management and control the American interests and to wrest the concession from their hands and to appropriate it and the entire investment of the American shareholders for the benefit of the conspirators. There can be no other reasonable explanation of the events that now rapidly followed the stage of its affairs where the showing of profits and the percentage of increase promised such large returns for the future.

At the annual meeting of the shareholders, held on June 10, 1898, a full board of directors was elected, including Burrell and Ellis and Simen Sol, who had been one of the competitors for the concession as against the Burrell interests when it was granted in 1894. On the same day the board of directors met and organized, reelecting Burrell president, Sol as vice-president, and Ellis as treasurer. At the next general meeting of the shareholders, held on July 31, 1898, one of the Salvadorean directors resigned his office as director and secretary, and Luis Lopez was elected to fill the vacancy.

It may be of significance in passing that this is the same Luis Lopez who, joining with Sol, was a competitor for the franchise as aforesaid as against the American or Burrell party in 1894. At the meeting of directors held on this same day this same Luis Lopez was appointed secretary of the company.

In September, 1898, while the president of the company was at the city of San Salvador on its business, Sol assumed the office of president by clear usurpation and without any authority whatever, and without notice to Burrell or Ellis assumed to hold a meeting of directors at his own house in Santiago de Maria, at which the only attendants besides himself were the said Lopez and one Cochella, and then and there passed a resolution removing Burrell from the position of president and putting himself in his place, and removing J. H. Ellis from the position of treasurer and putting Cochella in his place; so that the three, Sol, Lopez, and Cochella, the only attendants of the said alleged meeting, became by their own act the president, secretary, and treasurer of the company. Burrell received no notice of this meeting within time to reach it, and Ellis received no notice at all. These proceedings were clearly fraudulent and void, as shown by the record.

On October 14, 1898, another so-called meeting of the board of directors was held, which was assumed to be an extraordinary or special meeting, according to the minutes. This meeting was attended by Burrell and Ellis, although they received no notice of it; but having casually heard of it, in an endeavor to protect the interests of the American investors whom they represented, presented themselves.

Motions were offered by them in proper form at this meeting, and Sol, acting as president, refused to put the motions. Without detailing further the wholly illegal character of the meeting and of its proceedings, and the falsity of its minutes, the fact may be stated that under its proceedings a petition for adjudication of the bankruptcy of the company was authorized, and almost immediately filed in the court of first instance at Santiago de Maria, under the authority of the said alleged directors. Promptly following, on October 19, five days after the so-called meeting was held, a form of adjudication of bankruptcy was made by the court, and one Meardi was appointed receiver and custodian of the property and effects of the company.

This receiver at once possessed himself of all the books, papers, vouchers, and correspondence of the company and its officers, and these were withheld from the American investors and from their representatives. From that time free access to these papers was wholly denied them until after these proceedings were pending in Washington, and even then large quantities of such papers were never produced for their inspection. Immediately following this proceeding Ellis and Burrell, the sole representatives of the American capital invested in the company, were driven from Salvador in fear of their lives.

The Salvador Commercial Company and the other American investors in this enterprise, who had pushed it to success, were far away in California, unaware of these proceedings or any of them, but at the earliest time after they received advice of them they took measures to undo the transactions of the conspirators. In the meantime a civil war broke out in Salvador, throwing everything into confusion. A successful revolution was inaugurated, and by it the existing administration was overturned. But as soon as it was possible under the circumstances representatives of the Salvador Commercial Company came to the Republic and undertook to have the acts of the conspirators vacated, the company rehabilitated by the action of its stockholders, all to the end that the proceedings in bankruptcy might be set aside and the directorate chosen by them reinstated in the management.

The bankruptcy proceedings were, in our opinion, the result of a fraudulent conspiracy, which successfully imposed upon the court in which the proceedings were taken. On February 12, 1899, in order to move in the only proper legal manner for the restoration of the company's rights and its rehabilitation by turning out the conspirators and installing a representative directorate to move in the matter, a meeting of the shareholders was called, to be held on February 28, to concert measures for these purposes. The call for the meeting was published in the official journal of the Republic on February 13, 1899.

On the day following the president of the Republic issued an edict closing the port of El Triunfo against all importations. Thus was the first step for relief met, thus was the concession stricken down and practically canceled and destroyed, and thus every effort of its owners and the American shareholders to extricate it from the results of the fraudulent manipulation of the conspiracy was paralyzed.

The Salvador Commercial Company presented to the Government its solemn protest against this decree. Every effort was made by the representatives of the American shareholders to obtain its revocation. All were in vain, and on May 13 the executive granted a concession to others, citizens of Salvador, of everything that had been covered by the franchise and concession of October 6, 1894. The owners of the American interests presented their solemn protest to the executive against this grant, but no attention was paid to it or to them.

Then followed the appeal of the American citizens interested to their Government for its intervention for their protection and for reclamation.

In view of this history it need hardly be said that the evidence discloses that at the time the proceedings in bankruptcy were taken by the false and fraudulent representatives of this company no creditor had complained and no creditor had a just cause of complaint against it for nonpayment of its debts. On the contrary, its complete finan-

cial success and the certainty of its prosperous future had been but then completely assured.

It is claimed that the United States can not in this case make reclamation for its nationals, the shareholders in El Triunfo Company who had thus been despoiled, for the reason that such citizens as so invested their money in the Republic of Salvador must abide by the laws of that country, and seek their remedy, if any they have, in the courts of Salvador; and, moreover, that before reclamation can be successfully urged against Salvador in their behalf it must be shown that such citizens of the United States, having appealed to the courts of the Republic, have been denied justice by those courts.

The general proposition of international law as thus stated is not denied.

If the Government of Salvador had not intervened to destroy the franchise and concession of El Triunfo Company, and thus despoiled the American shareholders of their interests in that enterprise, an appeal might have been, as it was evidently intended to be, made to the courts of Salvador for relief from the bankruptcy proceedings. The first step to that end would be the turning out of the conspiring directors and the installment of a proper directory by the supreme authority of the corporation, the shareholders' meeting.

But by the executive decrees, rather than by the bankruptcy proceedings, the property rights of the American citizens involved were irrevocably destroyed.

Seeking redress through a called meeting of the shareholders of the company, the moment the call was issued, and it appeared that the proper remedy was to be sought by the corporation itself, showing that the proceedings by its alleged representative directors for bankruptcy were fraudulent, and that the bankruptcy court had been imposed upon by their conspiracy, in fraud of the incorporators, whom they falsely pretended to represent, that moment the Government of Salvador came to the aid of the conspirators and by executive act destroyed the only thing of value worth retrieving through the courts.

It is not the denial of justice by the courts alone which may form the basis for reclamation against a nation, according to the rules of international law.

There can be no doubt—

Says Halleck—

that a State is responsible for the acts of its rulers, whether they belong to the legislative, executive, or judicial department of the Government, so far as the acts are done in their official capacity.

The law enacted by the Congress of Salvador in relation to foreigners provides (art. 39):

Only in case of the denial of justice, or of a voluntary delay of its administration, can foreigners appeal to the diplomatic forum, but only after having exhausted in vain the ordinary remedies provided by the laws of the Republic.

It is apparent in this case that an appeal to the courts for relief from the bankruptcy would have been in vain after the acts of the executive had destroyed the franchise, and that such a proceeding would have been a vain thing is the sufficient answer to the argument based upon this law of Salvador.

What would have profited these despoiled American citizens if they had successfully appealed to the courts for the setting aside of the

bankruptcy proceedings, after the concession was destroyed by the closing of the port of El Triunfo and the grant of the franchise to strangers?

Said Mr. Fish to minister Foster:

Justice may as much be denied when it would be absurd to seek it by judicial process as if denied after being so sought.

Again, this is not a case of the despoliation of an American citizen by a private citizen of Salvador, on which, on appeal to the courts of Salvador, justice has been denied the American national, nor is it a case where the rules applying to that class of reclamations, so numerous in international controversies, have to do. This is a case where the parties are the American nationals and the Government of Salvador itself as a party to the contract; and in this case, in dealing with the other party to the contract, the Government of Salvador is charged with having violated its promises and agreements by destroying what it agreed to give, what it did give, and what it was solemnly bound to protect.

Some one of the most respected authorities in international law, Lewis Cass, has laid down the undoubted rule and its exception, as broad as the rule, when he says that—

When citizens of the United States go to a foreign country, they go with an implied understanding that they are to obey its laws and submit themselves in good faith to its established tribunals. When they do business with its citizens, or make private contracts there, it is not to be expected that either their own or the foreign government is to be made a party to this business or these contracts, or will undertake to determine any dispute to which they give rise. * * *

The case is widely different when the foreign government becomes itself a party to important contracts, and then not only fails to fulfill them, but capriciously annuls them, to the great loss of those who have invested their time, labor, and capital in their reliance upon its good faith and justice.^a

In any case, by the rule of natural justice obtaining universally throughout the world wherever a legal system exists, the obligation of parties to a contract to appeal for judicial relief is reciprocal. If the Republic of Salvador, a party to the contract which involved the franchise to El Triunfo Company, had just grounds for complaint that under its organic law the grantees had, by misuser or nonuser of the franchise granted, brought upon themselves the penalty of forfeiture of their rights under it, then the course of that Government should have been to have itself appealed to the courts against the company and there, by the due process of judicial proceedings, involving notice, full opportunity to be heard, consideration, and solemn judgment, have invoked and secured the remedy sought.

It is abhorrent to the sense of justice to say that one party to a contract, whether such party be a private individual, a monarch, or a government of any kind, may arbitrarily, without hearing and without impartial procedure of any sort, arrogate the right to condemn the other party to the contract, to pass judgment upon him and his acts, and to impose upon him the extreme penalty of forfeiture of all his rights under it, including his property and his investment of capital made on the faith of that contract.

Before the arbitrament of natural justice all parties to a contract, as to their reciprocal rights and their reciprocal remedies, are of equal dignity and are equally entitled to invoke for their redress and for

^a Wharton's Digest, section 230.

their defense the hearing and the judgment of an impartial and disinterested tribunal.

It follows that the Salvador Commercial Company and the other nationals of the United States who were shareholders in El Triunfo Company, as hereinbefore named, are entitled to compensation for the result of the destruction of the concession and for the appropriation of such property as belonged to that company, excepting such property as was accumulated and constructed under the terms of the concession, to be vested in and owned by the Republic, to the extent of the interests of such American citizens in said concession and such property.

Under the terms of the protocol and by the accepted rules of international courts in such cases, nothing can be allowed as damages which has for its basis the probable future profits of the undertaking thus summarily brought to an end. Notwithstanding the evidence of the computable rate of increase of earnings and profits from the beginning until the end of the first half of 1898, and although the concession by its terms still had twenty-one years to run, yet we are precluded by the rule mentioned from assuming that the rate of profits would increase during the remainder of the term in the same ratio, or at all, or even that it would continue to earn at the rate actually shown by the evidence of Salvador itself, heretofore cited.

If on the tangible evidence for the assessment of the valuation of the franchise we give its value, in our view we can give nothing even for the cost of the buildings and structures erected by the capital of the company which, by the terms of the franchise, were to become the property of the Republic. Neither can we give any award for the expenditure made through the procurement of the company by the United States in the survey and charting of Jiquilisco Bay and its entrance, however much such structures and such survey may add to the permanent wealth of the Republic of Salvador.

On the clear and certain evidence before us, without involving ourselves in speculation, but computable on the uncontradicted and direct evidence presented, we find the value of the franchise, computed without reference to future or speculative profits or any speculative or imaginary basis whatever, to be \$750,000. We think also that damages should be awarded for the value of the steamer *Celia*, less the balance of her purchase price, which remained unpaid at the closing of the business of the company. We find also that the value of the property of the company taken and left in Salvador, which was not the property of the Government, as before stated, but which was exclusively the property of the company, to be \$45,000.

We are of opinion that the claimants before this tribunal are entitled to recover costs and reasonable attorneys' fees. Attorneys and counsel have been employed to obtain relief from the Government of Salvador before the intervention of the Government of the United States was invoked. Since intervention eminent counsel have been employed whose residence and places of business are in California, and these, since the latter part of 1899, have been almost constantly employed in this matter both at Salvador and at Washington, at distances far remote from their places of residence and business.

These expenses have been exclusively borne by the Salvador Commercial Company. Before intervention by the United States they disbursed in that behalf, according to the evidence, irrespective of

attorneys' fees, \$2,671.31 in an effort to secure rehabilitation of El Triunfo Company. After intervention by the United States the expenses of prosecuting this reclamation, borne by the Salvador Commercial Company, exclusive of all attorney and counsel fees, have been, according to the evidence, \$18,864.77.

We are of opinion that fair compensation for such attorneys and counsel employed after intervention, including their services rendered at the capital of Salvador and at Washington, is \$60,000. Of the valuation of the franchise, of the damages for the *Celia* and the property taken as above stated, we think the Government of the United States is entitled to recover, for the behoof of its nationals involved in this matter, each its or his proportion in accordance with the number of shares held in Triunfo Company, Limited; and as those shares were divided into 1,000 of \$100 each, each of the American citizens, including the Salvador Commercial Company, will be entitled, through the Government of the United States, to receive of this award for such property such proportion of the amounts as the number of shares held by each bears to the total number of shares of the company.

Aside from its share in the damages last mentioned, which would be represented by its 501 shares in El Triunfo Company, the Salvador Commercial Company is entitled to receive as a part of its damages all of the said expenses paid out and the attorney and counsel fees, in which the other stockholders, having contributed nothing, have no share.

We have not discussed the question of the right of the United States under international law to make reclamation for these shareholders in El Triunfo Company, a domestic corporation of Salvador, for the reason that the question of such right is fully settled by the conclusions reached in the frequently cited and well-understood Delagoa Bay Railway Arbitration.

The particulars and items of the damages found are definitely stated in the formal award and its schedule this day signed.

HENRY STRONG.
DON M. DICKINSON.

ARBITRATION OF CLAIM OF ROSA GELBTRUNK v. SALVADOR.

Mr. Hay to Mr. Merry.

No. 438.]

DEPARTMENT OF STATE,
Washington, January 11, 1902.

SIR: I have to acknowledge the receipt of your dispatch^a No. 608, of August 24, 1901, inclosing a copy and translation of a note from the Government of Salvador contesting the claim of Mrs. Rosa Gelbtrunk against that Government for \$22,654.43 for the seizure of merchandise at Sensuntepeque, Salvador, by revolutionary troops in November, 1898.

The Department has given careful consideration to this claim. The revolutionists who made the seizure now constitute the Government of Salvador, which is therefore answerable for the full payment of the indemnity. The Government of Salvador denies liability, while

^a Not printed.

not denying the seizure and appropriation of the property by the military forces of the Republic.

The seizure is proved by the affidavits of a number of eyewitnesses, the evidence of title in the claimant is clear, and the value of the goods taken is shown by the certificate of two appraisers appointed by the court, one representing Gelbtrunk and the other the Salvadorean Government.

Inasmuch as this claim is founded in the tortuous action of the State, the State is answerable for the payment of an indemnity, the amount of which seems to have been fairly established as above stated. The Government of the United States therefore expects the immediate payment of an indemnity in the amount of said claim. The claim is just beyond dispute, and for this reason it is hoped that it will be paid without further delay.

As, however, the Department has accepted the principle of arbitration in the case of the Salvador Commercial Company, it is not unwilling that such principle shall apply also to this case, and that this claim shall be submitted to the same arbitrators as the claim of the Salvador Commercial Company is to be submitted to, provided the agreement to submit is made promptly.

You will, accordingly, propose to the Salvadorean Government that the claim be submitted to arbitration as above suggested.

I am, etc.,

JOHN HAY.

Mr. Merry to Mr. Hill.

No. 696.]

LEGATION OF THE UNITED STATES,
San José, March 1, 1902.

SIR: I have the honor to advise the receipt of a dispatch from the Salvador Government stating that it will accept our offer to arbitrate the Gelbtrunk claim for \$22,654.43, jointly with that of the Salvador Commercial Company, provided it be allowed thirty days from the date upon which you accede to the request as notified to this legation by cable, this period being claimed as necessary to collect and translate the evidence which the Salvador Government desires to present. * * *

I presume that you will agree to the request regarding the Gelbtrunk claim, and, if agreeable, shall expect on receipt hereof your cablegram to that effect, which I shall promptly transmit to the minister of foreign affairs at San Salvador, the thirty days allowed commencing from the date of your cablegram to this legation.

I respectfully forward herewith copy and translation of dispatch from the minister of foreign relations of Salvador conveying above request.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

[Inclosure.—Translation.]

Mr. Trigueros to Mr. Merry.

MINISTRY OF FOREIGN RELATIONS,
San Salvador, February 18, 1902.

MR. MINISTER: I have the honor to refer to your excellency's dispatch dated January 28 last, relative to the calling of the attention of this Government to the Gelbtrunk claim for \$22,654.43, arising from merchandise taken by the troops of the

Government, who, in your excellency's opinion, should be responsible for that amount, because, this claim being founded upon an unjust act of the State, this Government is responsible for the payment of an indemnity whose amount appears fully established. Your excellency adds that, having accepted arbitration in the case of the Salvador Commercial Company, you desire to apply the principle to this question and that the Gelbtrunk case be submitted to the same arbitrators as the claim of the Salvador Commercial Company, provided that this Government gives prompt consent, since otherwise your excellency advises having instructions to ask the early payment of that sum.

In reply I have the honor to advise your excellency that my Government accepts the friendly proposition of the United States Government regarding the submission to the court of arbitrators who will act in the claim of the Salvador Commercial Company the matter of Mrs. Gelbtrunk, provided that there be granted to both parties a period of one month to present their proofs, a period that should count from the acceptance of this first request by the Government of your excellency, since my Government needs this fixed term to collect, prepare, translate into English, and to send to Washington to our lawyers some documents that should be proofs of its rights before the arbitrators.

If your excellency accepts this period that I request, since that marked by Article III of the protocol of arbitration is about to expire, I beg that you will please advise by telegraph, if you approve, with the purpose that the term of thirty days to which I have made reference begins to count from that date.

I am pleased to renew, etc.,

JOSÉ TRIGUEROS.

Mr. Hill to Mr. Merry.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 14, 1902.

(Mr. Hill states that a delay of thirty days to present proofs for the arbitration of the Gelbtrunk claim in form requested by Salvador is granted; that this action closes the agreement to arbitrate the claim, and that proofs will accordingly be presented.)

Mr. Merry to Mr. Hill.

No. 698.]

LEGATION OF THE UNITED STATES,
San José, March 15, 1902.

SIR: I have the honor to acknowledge the receipt of your cablegram dated March 14. On receipt thereof I sent a cablegram to the minister of foreign affairs of Salvador, copy of which please find herewith, and also copy of my dispatch to him on the same subject, which goes forward via Puntarenas by mail hence to-morrow.

With the hope that this claim is now likely to receive a friendly solution in the near future, I remain, etc.,

WILLIAM LAWRENCE MERRY.

[Inclosure 1—Telegram.]

Mr. Merry to Mr. Trigueros.

LEGATION OF THE UNITED STATES,
San José, March 15, 1902.

The Washington Government concedes thirty days' period from the fourteenth of present month to present proofs for arbitration of Gelbtrunk case in manner requested by Salvador. This concludes arrangement to arbitrate this claim, and proofs will be presented accordingly.

WILLIAM L. MERRY.

[Inclosure 2.]

*Mr. Merry to Mr. Trigueros.*LEGATION OF THE UNITED STATES,
San José, March 15, 1902.

SIR: I have the honor to confirm my cablegram of this date to your excellency. This being in accordance with the request presented in your excellency's dispatch dated February 19, 1902, I congratulate you that this matter is thus to receive a friendly solution agreeable to both our Governments. The Department of State at Washington will accordingly await the evidence in this case from the Government of El Salvador within the period mutually arranged.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

Award of arbitrators.

IN THE MATTER OF THE ARBITRATION BETWEEN THE UNITED STATES
OF AMERICA AND THE REPUBLIC OF SALVADOR.

THE CLAIM OF ROSA GELBTRUNK.

Certain differences having arisen between the United States and the Republic of Salvador as to the liability of the last-mentioned Republic to pay an indemnity for the loss sustained by certain citizens of the United States, namely, Maurice Gelbtrunk and Isidore Gelbtrunk, members of the firm of Maurice Gelbtrunk & Co., by reason of the loss and destruction of merchandise belonging to the said firm during the occupation of the town of Sensuntepeque, in the month of November, 1898, by a revolutionary force, the said merchandise having been carried off, stolen, or destroyed by the soldiers of the said revolutionary army, which claim was afterwards assigned by the firm of Maurice Gelbtrunk & Co. to Rosa Gelbtrunk, the present claimant; and it having been found impossible to adjust the said differences by diplomatic negotiation, it was agreed by the said Republics to refer the said disputes to the arbitrament and award of the undersigned, Sir Henry Strong, chief justice of Canada; the Hon. Don. M. Dickinson, of Michigan, and the Hon. Señor Don José Rosa Pacas, LL. D., of the city of Santa Anna, in Salvador, who, having taken upon themselves the duty of hearing and determining the said differences, do now, after having read and considered the evidence and documents produced by the parties, respectively, and having heard the parties by their counsel, proceed to make their award, as follows:

The said arbitrators do award, declare, and adjudge that the said United States is not entitled to any payment or indemnity in respect to the claim made by the said Rosa Gelbtrunk.

In witness whereof, the arbitrators above named have signed and published this, their award, at the city of Washington, this 2d day of May, in the year of our Lord 1902. Done in quadruplicate and in the English and Spanish languages.

HENRY STRONG.
DON M. DICKINSON.
JOSÉ ROSA PACAS.

Re arbitration The United States v. Salvador.

THE CLAIM OF ROSA GELBTRUNK.

Opinion of Sir Henry Strong:

In 1898 Maurice Gelbtrunk & Co., a partnership firm composed of Maurice Gelbtrunk and Isidore Gelbtrunk, both of whom were American citizens, were engaged in carrying on a mercantile business in the Central American Republic of Salvador.

In November, 1898, there was a revolution in Salvador and a revolutionary force occupied the city of Sensuntepeque, where a quantity of merchandise of the value (in silver) of \$22,000 and upward, belonging to the firm of Gelbtrunk & Co., was stored. There is no dispute as to the value of these goods or as to the fact of their being the property of Gelbtrunk & Co. The soldiers of the revolutionary army possessed themselves of the goods—"looted" them, in short—and sold, appropriated, or destroyed them. It does not appear that this was done in carrying out the orders of any officer in authority or as an act of military necessity, but, so far as it appears, it was an act of lawless violence on the part of the soldiery. The firm of Maurice Gelbtrunk & Co. having assigned their claim against the Republic of Salvador to the present claimant, Rosa Gelbtrunk, the wife of Isidore Gelbtrunk, Mrs. Gelbtrunk (who, following the status as regards nationality of her husband, was also an American citizen) appealed to the Government of the United States to intervene on her behalf in claiming indemnity for the property lost. The Government did so intervene, and having failed to bring about a satisfactory settlement by diplomatic negotiation, it was agreed by the United States and Salvador to refer this claim to the arbitrators to whom another claim by the United States against Salvador had already been referred. The arbitrators in question were the Hon. Don M. Dickinson, Don José Rosa Pacas, a citizen of Salvador, and myself. After having read the evidence and documents produced by the parties and heard the learned and able arguments of counsel, we came unanimously to the conclusion that the United States had failed to establish a right to indemnity on behalf of the claimant.

I now write this opinion not on behalf of my brother arbitrators, but as stating exclusively my own personal reasons for the conclusion arrived at.

There is no dispute as to facts. It is admitted, or can not be denied, that the members of the firm of Gelbtrunk & Co. were American citizens; that the merchandise looted or destroyed in respect of which the claim is made was of the actual value stated; and, further, that it was stolen or destroyed by the soldiers as alleged. The only point for decision is that principally argued, namely, the right, upon established principles of international law, of the United States to reclaim indemnity for a loss accruing to its citizens upon the facts stated.

The principle which I hold to be applicable to the present case may be thus stated: A citizen or subject of one nation who, in the pursuit of commercial enterprise, carries on trade within the territory and under the protection of the sovereignty of a nation other than his own is to be considered as having cast in his lot with the subjects or citizens of the State in which he resides and carries on business. Whilst on

the one hand he enjoys the protection of that State, so far as the police regulations and other advantages are concerned, on the other hand he becomes liable to the political vicissitudes of the country in which he thus has a commercial domicile in the same manner as the subjects or citizens of that State are liable to the same. The State to which he owes national allegiance has no right to claim for him as against the nation in which he is resident any other or different treatment in case of loss by war—either foreign or civil—revolution, insurrection, or other internal disturbance caused by organized military force or by soldiers, than that which the latter country metes out to its own subjects or citizens.

This I conceive to be now the well-established doctrine of international law. The authorities on which it has been so established consist of the writings of publicists and diplomats, the decisions of arbitrators—especially those of mixed commissions—and the text of writers on international law. Without proposing to present an exhaustive array of authorities, I may refer to some of these.

In the case of Anthony Barclay, a British subject, having a commercial domicile in Georgia at the time of the march of General Sherman's army through that country, the mixed commission appointed under the treaty of Washington of May, 1871, disallowed a claim made for wanton destruction of valuable property—books, china, furniture, and works of art—it having been proved that this spoliation was committed by the soldiers of the army not only without authority, but in direct disobedience of the orders of the general commanding. (Papers relating to Arbitration of Washington, vol. 19, p. 50.)

In 1849 there were rebellions and political insurrections in Naples and Tuscany in the course of which British subjects suffered losses for which they claimed indemnity from the governments mentioned, and the British cabinet intervened diplomatically on their behalf to obtain it. It having been insisted by the British agents that Austria, which had furnished succor to the Italian governments, was liable, reclamations were made at Vienna, which were promptly refused. In his note in reply to the British Government, Prince Schwartzenberg insisted on the principle which seems to apply to the present case. That diplomat expressed his opinion as follows:

Lorsqu'un étranger se fixe dans une contrée autre que la sienne et qui vient à être en proie aux horreurs de la guerre civile, cet étranger est tenu d'en subir les conséquences. Le Prince ajoutait que, quelque disposées que pussent être les nations civilisées d'Europe à étendre les limites du droit de protection, jamais cependant elles ne la seraient au point d'accorder aux étrangers des privilèges que les lois territoriales ne garantissent pas aux nationaux.

The question did not, however, rest here. The Government of Great Britain applied to Russia to act as arbitrator of the claim, but that power refused to accept the office of arbitrator, inasmuch as to do so would be to cast doubt upon what it considered to be a plain and well-established principle of international law generally accepted by civilized nations; and the Russian chancellor, Count Nesselrode, expressed himself in the same terms as the Austrian minister. (Calvo, ed. 5, vol. 3, p. 144.)

The expression of this rule of law by the Austrian and Russian Governments in the Tuscany case was approved by Mr. Seward, Secretary of State, in a dispatch to the Austrian minister to the United States of

the 16th of November, 1865, from which the following passage is extracted:

It is believed to be a received principle of public law that the subjects of foreign powers domiciled in a country in a state of war are not entitled to greater privileges or immunities than the other inhabitants of the insurrectionary district. If for a supposed purpose of the war one of the belligerents thinks proper to destroy neutral property, the other can not legally be regarded as accountable therefor. By voluntarily remaining in a country in a state of civil war they must be held to have been willing to accept the risks as well as the advantages of that domicile. The same rule seems to be applicable to the property of neutrals, whether that of individuals or of governments, in a belligerent country. It must be held to be liable to the fortunes of war. In this conclusion the undersigned is happy in being able to refer the Austrian Government to many precedents of recent date, one of which is a note of Prince Schwartzberg of the 14th of April, 1850, in answer to claims put forward on behalf of British subjects who were represented to have suffered in their persons and property in the course of an insurrection in Naples and Tuscany. (Wharton, vol. 2, p. 577).

The same doctrine is laid down by another distinguished Secretary of State, Mr. Bayard, in a letter to Mr. O'Connor of the 29th of October, 1885, wherein he says:

However severe may have been the claimant's injuries, it must be recollected that like injuries are committed in most cases where towns are sacked, and that aliens resident in such towns are subject to the same losses as are citizens. It has never been held, however, that aliens have for such injuries a claim on the belligerents by whom they are inflicted. On the contrary, the authorities lay down the general principle that neutral property in belligerent territory shares the liability of property belonging to the subjects of the state. (Wharton, vol. 2, p. 581.)

Again, we find Mr. Marcy, Secretary of State, in 1854 using similar language, as follows:

The undersigned is not aware that the principle that foreigners domiciled in a belligerent country must share with the citizens of the country in the fortunes of war has ever been seriously controverted or departed from in practice.

And this passage is quoted with approval in a letter from the Attorney-General of the United States to the Secretary of State. (Wharton, vol. 2, p. 586.)

These citations might be largely added to, but those already made are sufficient to show that the rule that aliens share the fortunes of citizens in case of loss by military force or by the irregular acts of soldiers in a civil war is firmly established.

It is, however, not to be assumed that this rule would apply in a case of mob violence which might, if due diligence had been used, have been prevented by civil authorities alone or by such authorities aided by an available military force. In such a case of spoliation by a mob, especially where the disorder has arisen in hostility to foreigners, a different rule may prevail. It would, however, be irrelevant to the present case now to discuss such a question. It therefore appears that all we have to do now is to inquire whether citizens of the United States, in the matter of losses incurred by military force or by the irregular acts of the soldiery in the revolution of November, 1898, in Salvador, were treated less favorably or otherwise than the citizens of Salvador.

To this inquiry there can be but one answer: They were not in any way discriminated against, for the legislature of the Republic in providing indemnity for such losses applied the same as well to foreigners as to the citizens of Salvador.

For these reasons I am of opinion that we have no alternative but to reject this claim.

HENRY STRONG, *President.*

I concur.

DON M. DICKINSON.

APRIL 26, 1902.

I concur in your respect-worthy opinion.

JOSÉ ROSA PACAS.

APRIL 26, 1902.

IN ABSENCE OF TREATY STIPULATIONS, LAW OF SALVADOR GOVERNS, WHERE NOT INCONSISTENT WITH INTERNATIONAL LAW, ETC.

Mr. Merry to Mr. Hay.

No. 665.]

LEGATION OF THE UNITED STATES,
San José, January 4, 1902.

SIR: I am informed by Consul-General Jenkins at San Salvador that he has received from the Department of State a volume entitled "Compilations of Treaties in Force, 1899." He notes on page 547 therein that the Government of Salvador has given notice that the extradition treaty with the United States will terminate in 1904. On page 550 it is stated that the "treaty of amity, commerce, and consular privileges," ratified by the United States Senate on March 31, 1871, has been abrogated on May 30, 1893. The consul-general follows these statements with the question if, in the absence of the treaty last named, he shall be governed by Salvador laws. I have not deemed it wise to answer this question affirmatively, although it appears the sequence. I have suggested that Mr. Jenkins proceed in all consular duties precisely as if the treaty were still in operation and place upon the Salvador officials the responsibility of claiming the contrary. * * * But meanwhile I respectfully suggest that the matter is worthy of the attention of the Department of State, unless, indeed, it has already received or is receiving due consideration. It is obvious that my instruction to Consul-General Jenkins is a temporary expedient which may become inoperative at any time, and if the Department has any suggestions to make in that connection I shall be pleased to receive and act upon them to the best of my ability.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

Mr. Hay to Mr. Merry.

No. 446.]

DEPARTMENT OF STATE,
Washington, January 22, 1902.

SIR: I have to acknowledge the receipt of your dispatch, No. 665, of the 4th instant, stating that the consul-general at Salvador has asked you if, in view of the abrogation on May 30, 1893, of the treaty of amity, commerce, and consular privileges between the United States

and Salvador, he should be governed by the laws of Salvador. You report that you have suggested to the consul-general that he proceed in all consular duties precisely as if the treaty were still in force, and that he place upon the Salvadorean officials the responsibility of claiming the contrary.

You submit the matter to the Department's attention.

Notice of the termination of the treaty of amity, commerce, and consular privileges was given in a note of May 30, 1892, from Señor Gallegos, minister of foreign affairs of Salvador, to take effect one year from that date. Acknowledgment of the notice of termination having been duly made by the United States, the treaty terminated May 30, 1893. (See Foreign Relations, 1892, pp. 44, 45.)

In the absence of treaty stipulations, the law of Salvador would govern where it is not inconsistent with international law or usage or the principles of natural right and justice.

Your suggestion to Consul-General Jenkins was therefore erroneous.

I am, etc.,

JOHN HAY.

**TREATY BETWEEN CENTRAL AMERICAN STATES PROVIDING
FOR THE ARBITRATION OF DIFFERENCES.**

Mr. Merry to Mr. Hay.

No. 686.]

LEGATION OF THE UNITED STATES,
San José, February 9, 1902.

SIR: I have the honor to forward herewith printed copy and translation of the treaty entered into by the executives of the republics of Nicaragua, Salvador, Honduras, and Costa Rica, at Corinto, on January 20, 1902, relating to obligatory arbitration, etc. I am informed by President Iglesias, who has just arrived here, that the president of Guatemala has also agreed to sign it and that a fifth copy will be sent him for that purpose. If this convention is duly ratified by the legislative branches of the respective Governments, of which I have no doubt, it will tend to the peace of Central America.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

[Inclosure.—From El Comercio, Managua, Nicaragua, January 30, 1902.—Translation.]

Central American treaty of peace.

The Governments of Nicaragua, Salvador, Honduras, and Costa Rica, desirous of contributing by all the means in their power to the maintenance of the peace and good harmony that exists and should exist among them, have agreed to celebrate a convention of peace and obligatory arbitration, and to that effect have named as their respective plenipotentiaries:

The Government of Nicaragua, his excellency Señor Doctor Don Fernando Sanchez, minister of foreign relations;

The Government of Salvador, his excellency Señor Doctor Don Salvador Rodríguez, subsecretary of foreign relations;

The Government of Honduras, his excellency Señor Doctor Don Cesar Bonilla, minister of foreign relations;

The Government of Costa Rica, his excellency Señor Don Leonidas Pacheco, minister of foreign relations;

Who, after having presented their credentials and the same being found in good and due form, have agreed upon the following covenant:

ARTICLE 1. It is declared that the present convention has for object the incorporation in form of public treaty the conclusions to which have arrived their excellencies, the Presidents, General Don J. Santos Zelaya, General Don Tomas Regalado, General Don Terencio Sierra, and Don Rafael Iglesias, in the several conferences that have been held in this port with the sole object of maintaining and assuring, by all possible means, the peace of Central America.

ARTICLE 2. The contracting Governments establish the principle of obligatory arbitration, in order to adjust every difficulty or question that might present itself between the contracting parties, binding themselves in consequence to submit them to a tribunal of Central American arbitrators.

ARTICLE 3. Each one of the contracting parties shall name an arbitrator and a substitute to constitute the tribunal. The terms of the arbitrators shall be for one year, counting from their acceptance, and then they may be reelected.

ARTICLE 4. The arbitrators of those states among whom exists the disagreement shall not form part of the tribunal for the consideration of the concrete case, this remaining entirely with the arbitrator or arbitrators of the remaining states.

ARTICLE 5. If, through pairing, there should be no decision, the tribunal shall select a third among the substitutes. The third should necessarily adhere to one of the views given out.

ARTICLE 6. As soon as a difficulty or question presents itself between two or more states, their respective Governments shall advise the remaining signers of the present convention.

ARTICLE 7. The contracting Governments establish and recognize the right of each one of them to offer without delay, singly or conjointly, their good offices to the Governments of the states that are in disagreement, even without previous acceptance by them, and though they should not have notified them of the difficulty or question pending.

ARTICLE 8. The friendly offices exhausted without satisfactory result, the government or governments that would have exercised them shall notify the others, declaring at the proper time arbitration proceedings. This declaration shall be communicated with the greatest possible brevity to the member of the tribunal corresponding to the president of same, with the object that within a period not exceeding fifteen days the tribunal that is to know and decide the case comes together. The installation of the tribunal shall be communicated by telegraph to the signing governments, demanding from the contending parties the presentation of their claims within the fifteen days following.

ARTICLE 9. The tribunal shall give its judgment within five days following the expiration of the term which has been spoken of.

ARTICLE 10. The difficulties that may arise through questions of pending limits, or through interpretation, or execution of treaties of limits, shall be submitted by the governments interested to the knowledge and decision of a foreign arbitrator of American nationality.

ARTICLE 11. The Governments of the states in dispute solemnly agree not to execute any hostile act, warlike preparations, or mobilization of forces, with the object of not impeding the arrangement of the difficulty or question through the means established by the present agreement.

ARTICLE 12. The presidency of the arbitration tribunal shall be held alternately for annual periods by each one of the members, following the alphabetical order of the states represented, the first year corresponding to the Costa Rican arbitrator, the second to that of Salvador, and so on.

When, in the event foreseen in article 4, the member filling the presidency of the tribunal shall be prohibited from acting, the temporary presidency for the case in question shall be filled by the arbitrator that may be available according to precedence established in the foregoing paragraph. The tribunal shall be held in the capital of the state to which the arbitrator belongs, who should preside.

ARTICLE 13. The arbitration tribunal shall dictate all those rational dispositions that it considers necessary to fully carry out the high mission which is conferred upon it by this treaty.

ARTICLE 14. With the object of preventing those abuses that might be committed in a state by political emigrants from another against the public peace and tranquillity of this, the contracting Governments agree to send to the frontier those emigrants with respect to whom a petition should be made by the Governments interested.

ARTICLE 15. With the object of harmonizing as much as possible the ideas and tendencies of the Governments of the states signing, in all that relates to the maintenance and strengthening the bonds of Central American friendship and good under-

standing among them, while for such ends there are not established permanent legations among the contracting States, the nomination of consuls-general is recommended from each one in the other States, who shall have at the same time the character of confidential agents from their respective Governments.

ARTICLE 16. The present convention shall be submitted to the ratification of the respective congresses as soon as possible and once ratified by them all will enter into force thirty days after without the need of exchange.

ARTICLE 17. For the installation of the arbitration tribunal established by this agreement, the 15th of September of the current year, anniversary of the independence of Central America, is named.

ARTICLE 18. In the desire that the present convention may unite all the States of the Central American family, the signing Governments shall invite, jointly or separately, the Government of the Republic of Guatemala to adhere to its stipulations if it shall be possible.

In witness whereof we sign four copies of the same tenor in the port of Corinto, Republic of Nicaragua, the 20th day of January, 1902.

FERNANDO SANCHEZ.
SALVADOR RODRIGUEZ.
CESAR BONILLA.
LEONIDAS PACHECO.

The present treaty being drawn up in accordance with instructions to that effect, the president of the Republic resolves to give it his approval.

ZELAYA.

National Palace, Managua, January 28, 1902.
SANCHEZ, *Minister of Foreign Relations.*

Mr. Merry to Mr. Hay.

No. 694.]

LEGATION OF THE UNITED STATES,
San José, March 1, 1902.

SIR: I have the honor to advise the return to San Salvador on February 16 of President Regalado after a brief visit to Guatemala City. * * * I am also informed from Managua that the President of Guatemala has joined in the arbitration treaty signed at the Corinto conference on January 20, 1902, by the Presidents of Nicaragua, Costa Rica, Salvador, and Honduras, in accordance with his promise to President Iglesias. * * * The peace of Central America now appears assured in the near future. * * *

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Merry to Mr. Hay.

No. 726.]

LEGATION OF THE UNITED STATES,
San José, May 31, 1902.

SIR: I have the honor to acknowledge the receipt of your cablegram^a dated May 24.

In accordance therewith I have addressed the Governments named, requesting reply by telegraph from Nicaragua and Salvador. I have pleasure in advising that I have received an official note from the Hon. Leonidas Pacheco, minister of foreign relations of Costa Rica, dated the 28th instant, courteously granting the permission requested. In

accordance therewith I have notified the United States consul at San José, who will at once undertake the service required under your instruction.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

Mr. Merry to Mr. Hay.

No. 733.]

LEGATION OF THE UNITED STATES,
San José, June 18, 1902.

SIR: I have the honor to advise receipt of telegram from Señor Don Dr. Francisco S. Reyes, minister of foreign affairs of the Republic of El Salvador, dated June 17, and reading as follows, translated:

My Government agrees with pleasure that the consuls of the United States shall exercise their good offices in representation of the Cuban Republic, while the latter names its own consular officers. I have in this way the honor to reply to your courteous dispatch dated May 25 last.

I am still awaiting reply from the Government of Nicaragua.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

Mr. Merry to Mr. Hay.

No. 734.]

LEGATION OF THE UNITED STATES,
San José, June 20, 1902.

SIR: I have the honor to advise the receipt of a telegram dated this day from the Hon. Fernando Sanchez, minister of foreign relations of the Republic of Nicaragua, informing me that his Government will be pleased to permit consular officers of the United States to use their good offices on behalf of the citizens of the Republic of Cuba resident in or visiting Nicaragua. Of this I have advised United States consuls in Nicaragua in accordance with your instructions.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

GUARANTY BY UNITED STATES OF TRANSIT ACROSS THE ISTHMUS OF PANAMA UNDER TREATY OF 1846—SO LONG AS RIGHTS OF AMERICAN VESSELS AND CITIZENS ARE NOT INTERFERED WITH THE UNITED STATES CAN NOT INTERVENE.

Mr. Merry to Mr. Hay.

No. 747.]

LEGATION OF THE UNITED STATES,
San José, July 19, 1902.

SIR: I have the honor to forward herewith copy and translation of a telegram from President Zelaya, of Nicaragua, received to-day; also my reply thereto, and my telegram to the consul-general at Panama.

You will note that, providing President Zelaya is correct, the Government of Colombia is preventing the free transit and shipment of the property of the Nicaraguan Government across the Panama Isthmus.

It appears to me that Colombia and Nicaragua being nominally at peace with each other, the former Government is violating her treaty obligations with us in preventing the free passage and reshipment of any class of merchandise belonging to Nicaragua, even though it be arms or munitions of war. If I am correct in this opinion I beg to respectfully suggest that notice may be given to the Colombian authorities at the Panama Isthmus that our guaranty of free transit by which the Isthmus has been kept open to commerce during the revolution which has existed for nearly three years, and which has prevented its revolutionary occupation, must be respected. The action of the Colombian Government herein appears to be a question of some importance as establishing a dangerous precedent applicable to either the Panama Railroad or Canal, for which reason the details thereof are respectfully presented for your information.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

[Inclosure 1.]

President Zelaya to Mr. Merry.

[Telegram.—Translation.]

MANAGUA, July 19, 1902.

My Government has ordered from abroad 16 boxes of revolver cartridges, .38 caliber, for public sale, since this article is a Government monopoly, and it is known that these boxes have been detained in Panama by order of the authorities there.

As the American Government guarantees the neutrality of that route, I beg that you will address the proper quarter in order that the authorities of the Isthmus of Panama do not impede the free transit of said cartridges belonging to my Government.

Anticipating to you thanks, etc.,

J. S. ZELAYA.

[Inclosure 2.]

Mr. Merry to President Zelaya.

[Telegram.]

LEGATION OF THE UNITED STATES,

San José, July 19, 1902.

I have telegraphed the United States consul-general at Panama not to permit detention on the Isthmus of any article that may be the property of your Government, and I have also written to my Government about the matter.

WILLIAM LAWRENCE MERRY.

[Inclosure 3.]

Mr. Merry to Mr. Gudger, consul-general at Panama.

[Telegram.]

LEGATION OF THE UNITED STATES,

San José, July 19, 1902.

I am advised that the shipment of articles belonging to the Government of Nicaragua is prohibited on the Isthmus of Panama for Corinto.

In accordance with the stipulation of our treaty guaranteeing free transit, please effect the prompt dispatch of all such articles.

MERRY, *Minister.*

Mr. Adee to Mr. Merry.

No. 492.]

DEPARTMENT OF STATE,
Washington, August 5, 1902.

SIR: I have to acknowledge the receipt of your dispatch, No. 747, of the 19th ultimo, inclosing a copy of a telegram to you from the President of Nicaragua in which he states that the Government of Colombia has detained 16 boxes of revolver cartridges ordered from abroad by the Nicaraguan Government, and requesting that, pursuant to the stipulations of the treaty between the United States and Colombia, the Government of the United States call upon the Government of Colombia not to prevent the free transit across the Isthmus and shipment of said property.

“Neutrality is the condition of those states which in time of war take no part in the contest.” The neutral character of the Isthmus is guaranteed by clause 1, article 35, of the treaty of 1846 between the United States and Colombia.

Hostilities within the central zone are prohibited by the effect of the guaranty, which in the same breath guarantees “the rights of sovereignty which New Granada has and possesses over said territory.” These rights of sovereignty are restricted only in respect of the conduct by Colombia of hostilities affecting “free transit from the one to the other sea,” which must “not be interrupted or embarrassed.” But the stipulation is to be taken in connection with the preceding one, viz: “That the right of way or transit across the Isthmus of Panama upon any modes of communication that now exist, or that may be hereafter constructed shall be open and free to the Government and citizens of the United States, and for the transportation” of their articles of produce, merchandise, etc., “of lawful commerce belonging to the citizens of the United States.”

Article 35 of the treaty further says:

And in order to secure to themselves the tranquil and constant enjoyment of these advantages, and as an especial compensation for the said advantages, and for the favors they have acquired by the fourth, fifth, and sixth articles of this treaty, the United States guarantee, positively and efficaciously, to New Granada, by the present stipulation, the perfect neutrality of the before-mentioned isthmus, with the view that free transit from the one to the other sea may not be interrupted or embarrassed in any future time while this treaty exists; and, in consequence, the United States also guarantee, in the same manner, the rights of sovereignty and property which New Granada has and possesses over the said territory.

The treaty was made for the benefit of the contracting parties and does not impair the sovereign rights of Colombia to lay any sort of embargo on the traffic and transportation of the goods of other governments or of their citizens or subjects.

While we keep the free and open transit of the Isthmus, it is not done in the interest of other states who have no right to invoke the application of the treaty; and although they may incidentally profit by it, this is a mere incident to the execution of the treaty for the purposes and objects expressly specified.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Merry to Mr. Hay.

No. 757.]

LEGATION OF THE UNITED STATES,
San José, August 31, 1902.

SIR: I have the honor to forward herewith copy and translation of telegram received last evening from President Zelaya, of Nicaragua, and my reply thereto. Since receipt of your No. 492 of August 5 I have awaited information from the United States consul-general at Panama in relation to the merchandise therein alluded to, shipped from New York to Corinto on through bill of lading and seized by Colombian authorities on the Isthmus as the property of the Nicaraguan Government. Consequently I have not as yet communicated to President Zelaya your decision in relation to the transit of such merchandise which, under the present conditions, closes the Isthmus to his Government.

You will note by President Zelaya's telegram herewith inclosed that the 16 boxes of revolver cartridges alluded to have been returned to New York, whence they were shipped. Carefully reading the treaty of 1846 with New Granada it appears to me that, independent of your decision that said treaty "is not in the interest of other states, who have no right to invoke the application of the treaty," article 17 thereof especially exempts the free transit of *munitions of war*, at the option of the Government of New Granada (now Colombia). Possibly this may be a more agreeable argument to present the Nicaraguan Government than that above quoted. Certainly it has been the generally accepted idea in Central and South America that the United States guarantee the free transit across the Panama Isthmus of all classes of merchandise except contraband of war, the property of any nation with which the United States or Colombia may be at war *when such transit is attempted*.

You will notice that this is apparently the opinion of the United States consul-general at Panama, as set forth in his No. 316 of July 21, to the Department, since, had he considered the interference usual or authorized, no report thereof would have been necessary. You will also note that President Zelaya construes the treaty in the same manner, claiming free transit for munitions of war because "*there is no state of war*" between *Nicaragua* and *Colombia*, when both their Governments have recently permitted the use of their armed vessels to commit acts of war against each other. If I am correctly informed, a formal "declaration of war" is not a *necessity* in inaugurating hostilities with another power. * * * Having your instructions in this connection, as set forth in your No. 492, of August 5, I shall be guided thereby, but have deemed it proper to inform you of the second request of President Zelaya, as set forth in his last telegram.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

[Inclosure 1.]

President Zelaya to Mr. Merry.

[Telegram.—Translation.]

PRESIDENTIAL MANSION,
Managua, Nicaragua, August 30, 1902.

I regret to inform you that a box has been detained at Panama, marked "A. C. No. 1," containing a gun, two bayonets, and accessories, consigned to the chief of the

customs, Corinto, that the consul of Nicaragua, Don Albert Gomez, sends to me from Hamburg, a proceeding that the agent of the railroad in Panama asserts has been ordered by the governor of that port. I permit myself to advise you of this, begging you to please interpose your good offices with the United States consul-general in Panama to the effect that this box may be sent me without delay, because the free transit of the railroad of Panama being guaranteed by the American Government, and there being no state of war between our country and Colombia, I fail to find the occasion that can give cause for the infraction of a treaty in force, as has happened before in detaining and returning to New York a certain quantity of revolver cartridges that our minister of hacienda had ordered, of which you have already had advice, and with that which I now advise you regarding the box sent from Hamburg for me. I hope that in attention to my second petition you will also place before the Secretary of State the irregularity committed by the local government of Panama with the merchandise that comes consigned to our country with the object that acts of such notorious injustice shall receive efficacious reparation, since, by the treaty before referred to, it is the American Government upon whom it is incumbent to guarantee the free transit through the Panama Isthmus, as I have reminded you above.

With assurances, etc.,

J. S. ZELAYA.

[Inclosure 2.]

Mr. Merry to President Zelaya.

[Telegram.]

LEGATION OF THE UNITED STATES,
San José, August 31, 1902.

Telegram received. Will immediately address Secretary of State, Washington, in relation thereto. Will write particulars by next mail via Corinto.

MERRY.

Mr. Adee to Mr. Merry.

No. 500.]

DEPARTMENT OF STATE,
Washington, September 12, 1902.

SIR: I have received your dispatch No. 757 of the 31st of August in reply to my instruction No. 492 of August 5 in relation to the reported detention upon the Isthmus by the Government of Colombia of certain munitions of war ordered from abroad by Nicaragua. You state that, as you have been awaiting information from the United States consul-general at Panama in relation to the merchandise in question, which had been shipped from New York to Corinto on through bill of lading and seized by the Colombian authorities on the Isthmus as the property of the Nicaraguan Government, you had not as yet communicated to President Zelaya my decision in relation to the transit of such merchandise, which, you say, "under present conditions closes the Isthmus to his (the Nicaraguan) Government."

Feeling some hesitancy to communicate to President Zelaya the views contained in my instruction of August 5, you suggest that you represent the refusal of Colombia to permit the transit as based upon article 17 of the treaty of 1846 with New Granada, which "especially exempts the free transit of munitions of war at the option of the Government of New Granada, now Colombia," and you add that the declaration of President Zelaya, in his telegram to you of August 30, that "there is no state of war between Nicaragua and Colombia," does not exclude the use of the option conferred by article 17, inasmuch as "a formal declaration of war is not a necessity in inaugurating hostilities with another power."

It is not perceived that the provisions of article 17 of the treaty of 1846 have any application to the present case, as that article refers to the liberty of commerce and navigation to be enjoyed by the vessels of the United States and New Granada during the existence of any war in which either of the contracting parties may be engaged. The liberty of commerce and navigation enjoyed by vessels of the United States is not interfered with by the action of Colombia in refusing to permit the transit across her territory of the arms in question. Neither does such action constitute an infraction of article 35 of the treaty, which provides for the free transit across the Isthmus of produce, manufactures, or merchandise belonging to citizens of the United States. The arms referred to are circumstantially stated to be the property of the Nicaraguan Government.

There appears to be no occasion for this Government to determine whether or not a state of war exists between Nicaragua and Colombia.

My instruction of August 5 was not intended to justify the stoppage of the arms by the Colombian Government, but showed that under our treaty with Colombia we enjoyed no right to remonstrate against the stoppage, and therefore could not intervene in what appeared to be a question solely between Colombia and Nicaragua. It would evidently not be appropriate for this Government to express a judgment as to the merits of the case and take ground adversely to either party by declaring that the stoppage of the arms either was or was not rightful.

I am, etc., .

ALVEY A. ADEE,
Acting Secretary.

ACCIDENT TO PRESIDENT ROOSEVELT.

President Regalado to President Roosevelt.

[Telegram.—Translation.]

SAN SALVADOR, *September 10, 1902.*

I express to Your Excellency the painful sentiments caused me by the occurrence that befell you, and I beg you to accept the expression of my sympathy for that unfortunate event.

TOMAS REGALADO.

President Roosevelt to President Regalado.

[Telegram.]

WHITE HOUSE,
Washington, September 12, 1902.

I thank you for your highly appreciated message of sympathy.

THEODORE ROOSEVELT.

PERSIA.

RAILWAY CONSTRUCTION MONOPOLY IN PERSIA HELD BY RUSSIA.

Mr. Griscom to Mr. Hay.

No. 4.]

LEGATION OF THE UNITED STATES,
Teheran, January 24, 1902.

SIR: I have the honor to inform you that in view of the many inquiries received at this legation in regard to the possibility of obtaining concessions for the construction and operation of railroads in Persia, I have recently put the question to the grand vizier and was informed by him that an agreement exists between the Persian and Russian Governments whereby no railroads shall be constructed in Persia excepting by Russians or the Russian Government for a period of ten years from the accession of the present Shah. This agreement has seven years still to run, wherefore it will be impossible for any of our citizens to obtain a valid railroad concession until the termination of this period.

I have, etc.,

LLOYD C. GRISCOM.

ACCIDENT TO PRESIDENT ROOSEVELT.

The Shah of Persia to President Roosevelt.

[Telegram.—Translation.]

PARIS, *September 4, 1902.*

I am infinitely sorry for the untoward mishap, and happy to hear that injury is slight. Wish Your Excellency speedy recovery.

MOUZAFFER ED-DINE.

President Roosevelt to the Shah of Persia.

[Telegram.]

WHITE HOUSE,
Washington, September 4, 1902.

I thank Your Majesty for your solicitous message.

THEODORE ROOSEVELT.

PERU.

TEXT OF ARBITRATION PROTOCOL BETWEEN PERU AND BOLIVIA.

Mr. Neill to Mr. Hay.

No. 547.]

LEGATION OF THE UNITED STATES,
Lima, Peru, November 27, 1901.

SIR: I have the honor of informing you that the Peruvian minister at La Paz, Bolivia, Dr. Felipe de Osma, has signed a protocol for the purpose of submitting to arbitration the pending questions between Peru and Bolivia.

I have, etc.,

RICHARD R. NEILL.

Mr. Hay to Mr. Neill.

No. 278.]

DEPARTMENT OF STATE,
Washington, January 27, 1902.

SIR: I have been gratified to receive your No. 547, of November 27 last, reporting the signing of a protocol between Peru and Bolivia submitting to arbitration the pending questions between the two countries.

You will send to the Department a copy of the protocol when published.

I am, etc.,

JOHN HAY.

Mr. Neill to Mr. Hay.

No. 572.]

LEGATION OF THE UNITED STATES,
Lima, February 18, 1902.

SIR: Referring to my No. 547 of November 27 last, and also to the Department's instruction No. 278 of January 27 last, I am pleased to transmit herewith, as instructed, a copy of the protocol between Peru and Bolivia submitting to arbitration the pending questions between the two countries.

I have, etc.,

RICHARD R. NEILL

[Inclosure.]

Treaty of arbitration between Bolivia and Peru—Official text.

[From El Tiempo, Lima, December 12, 1901.]

The President of the Republic of Bolivia and the President of the Republic of Peru, being desirous to draw closer the bonds which exist between the two States, by estab-

lishing arbitration in the relations of the two Republics, have for that purpose named as their plenipotentiaries:

His Excellency the President of the Republic of Bolivia, Dr. Federico Diez de Medina, his minister of foreign relations, and His Excellency the President of the Republic of Peru, Dr. Felipe de Osma, his envoy extraordinary and minister plenipotentiary, who have concluded the following treaty of arbitration:

ARTICLE 1. The high contracting parties pledge themselves to submit to arbitration all the controversies which have thus far been pending, and those which, while the present treaty is in force, may arise between them, whatever may be their nature and causes, provided that it has been found impossible to settle them by direct negotiation.

ART. 2. In each case that may arise the contracting parties shall conclude a special agreement with a view to determining the subject-matter of the controversy, to fixing the points that are to be settled, the extent of the powers of the arbitrators, and the procedure to be observed.

ART. 3. In case the high contracting parties do not succeed in agreeing on the points referred to in the foregoing article, the arbitrator shall be authorized to determine, in view of the claims of both parties, the points of fact and of law that are to be decided for the settlement of the controversy, and to establish the mode of procedure to be followed.

ART. 4. The high contracting parties agree that the arbitrator shall be the permanent court of arbitration that may be established in virtue of the decisions adopted by the Pan-American Conference now sitting in the City of Mexico.

ART. 5. For these two cases: (a) If the court referred to in the foregoing article shall not be created, and (b) if there is need of having recourse to arbitration before that court shall be created, the high contracting parties agree to designate as arbitrator the Government of the Argentine Republic, that of Spain, and that of the United Mexican States for the performance of this duty, one to act in case of the disability of the other, and in the order in which they are named.

ART. 6. If, while the present treaty is in force, and in the two contingencies referred to in the foregoing article, different cases of arbitration shall arise, they shall be successively submitted for decision to the aforesaid governments in the order above established.

ART. 7. The arbitrator shall further be competent:

1. To pass upon the regularity of his appointment, the validity of the agreement, and the interpretation thereof.

2. To adopt such measures as may be necessary, and to settle all difficulties that may arise in the course of the debate. Concerning questions of a technical or scientific character that may arise during the debate, the opinion of the Royal Geographical Society of London or that of the International Geodetic Institute of Berlin shall be asked.

3. To designate the time in which he shall perform his arbitral functions.

ART. 8. The arbitrator shall decide in strict obedience to the provisions of international law, and, on questions relating to boundary, in strict obedience to the American principle of "uti possidetis" of 1810, whenever, in the agreement mentioned in article 2, the application of the special rules shall not be established, or in case the arbitrator shall (not ?) be authorized to decide as an amicable referee.

ART. 9. The decision shall decide, definitely, every point in dispute, stating the reasons therefor. It shall be prepared in duplicate, and notice thereof shall be given to each of the parties through its representative before the arbitrator.

ART. 10. The decision, legally pronounced, shall decide, within the limits of its scope, the contest between the parties.

ART. 11. The arbitrator shall fix, in his decision, the time within which said decision is to be executed.

ART. 12. No appeal from the decision shall be allowed, and its execution is intrusted to the honor of the nations that sign this treaty.

Nevertheless, an appeal for revision to the arbitrator who pronounced it shall be admissible, provided that such appeal be taken before the expiration of the time fixed for its execution, in the following cases:

1. If the decision has been pronounced on the basis of a counterfeit document, or of one that has been tampered with.

2. If the decision has been, either in whole or in part, the consequence of a fact resulting from the proceedings or documents of the case.

ART. 13. An appeal for revision shall in no case be required after six months from the time when notice of the decision shall have been given.

ART. 14. The high contracting parties shall appoint their representatives for the proceedings, shall place at the disposal of the arbitrator all the information in their

power, and shall pay their own expenses and one-half of the general expenses of the arbitration.

ART. 15. The same arbitrator who pronounced the decision shall decide concerning such questions as may arise in the execution thereof.

ART. 16. This treaty shall remain in force for ten years, reckoned from the date of the exchange of its ratifications. If no notice shall be given six months before its expiration of a desire for the cessation of its effects, it shall continue in force ten years longer, and so successively.

ART. 17. The ratifications of this treaty shall be exchanged at La Paz or at Lima within one year from the day of its date.

In testimony whereof, the undersigned have signed and sealed this treaty, prepared in duplicate, in the city of La Paz, on the 21st day of the month of November, 1901.

FEDERICO DIEZ DE MEDINA.
FELIPE DE OSMA.

ADOPTION OF GOLD STANDARD IN PERU.

Mr. Neill to Mr. Hay.

No. 550.]

LEGATION OF THE UNITED STATES,
Lima, Peru, December 16, 1901.

SIR: * * * The law creating the gold standard in Peru was passed by Congress, and of which I herewith transmit copies and a translation. This decree also provides that the Government, as it thinks best, shall demonetize up to a million of silver soles and convert their value into Peruvian gold coins. Although this law was promulgated on the 14th instant, to-day, the 16th instant, the banks have not recommenced to pay out gold; perhaps they may do so in a few days.

* * * * *

I have, etc.,

RICHARD R. NEILL.

[Inclosure.—Translation.]

The gold standard.

The President of the Republic:

Whereas Congress has passed the following law:

The Congress of the Peruvian Republic, exercising the attribute conferred by the ninth paragraph of article 59 of the constitution, has passed the following law:

ARTICLE 1. The monetary unit in the Republic is the Peruvian gold pound.

ART. 2. The Peruvian gold pound is a coined disk of twenty-two millimeters in diameter (0.022), composed of eleven parts gold and one of copper, the total weight of which is seven grams nine hundred and eighty-eight milligrams (7.988).

Half-pound pieces shall be coined, which shall be made of the same alloy in disks of nineteen millimeters and three-tenths (0.0193 m.) and of the corresponding weight of three grams nine hundred and ninety-four milligrams (3.994 grs.).

ART. 3. The silver and copper pieces coined according to the law of February 14, 1863, and article 7 of the law of December 30, 1872, existing in the Republic, shall be simply fractional parts of the pound, ten soles to each pound.

ART. 4. The gold coin is the only legal tender for the payment of debts, and no one is obliged to receive more than one hundred soles in silver or more than ten cents in copper coins.

ART. 5. Only the state has the right to coin money. Silver and copper money can only be coined by virtue of a special law which shall determine the amount.

ART. 6. The coinage of gold is unlimited. The national mint shall receive all the gold offered for the purpose of being converted into national money.

ART. 7. The introduction into the territory of the Republic of silver and copper coin whatsoever is prohibited, and persons wishing to import the same can do so by

way of the port of Callao only, the respective manifests to be entered at the custom-house there, in order that the administrator of the said customs may forward the money to the national mint to be smelted into ingots, at the importer's expense, to whom the same shall be returned in the said form.

Passengers are not allowed to bring more than ten soles silver for their personal expenses.

ART. 8. The grade margin permitted is two per one thousand, for the pound and half pound.

The weight margin permitted will be twelve milligrams and ninety-six hundredths of milligrams (0.01296 g.) for the pound, and only nine milligrams and sixty-two hundredths of milligrams (0.00962 g.) for the half pounds.

ART. 9. The loss in weight resulting from the use of gold coin shall unfit its legal circulation whenever it exceeds fifty milligrams (0.050 g.) for coins of one pound, and thirty-three milligrams (0.033 g.) for those of half pounds.

The loss in weight allowable for silver coin can not exceed 5 per cent and that for copper can not exceed 10 per cent of their respective weights.

The mint shall receive Peruvian silver and copper coins light in weight after being in circulation at their normal value and shall exchange them at par for new coins.

ART. 10. Coins with completely obliterated stamps, and such as have been chipped, filed, or pierced shall not come under this head.

The said coins shall lose their monetary character, and shall be considered as merchandise only.

ART. 11. All previous monetary laws are hereby repealed in all such respects as are in opposition to the present law.

TRANSITORY ARTICLES.

First. The Executive shall adopt measures calculated to foment the coining of the greatest possible amount of gold coin.

Second. English pounds and half pounds sterling shall be a legal tender in the Republic, the same as if they were Peruvian pounds and half pounds, respectively.

Third. Obligations contracted previous to the promulgation of the present law, in silver soles, may be canceled with the said coin up to two years from the present date.

After that term all obligations contracted in silver soles shall be canceled with gold coin at the rate of one pound for every ten soles silver.

Fourth. The Executive shall exercise its judgment in the smelting down to one million of silver soles, the value of which shall be replaced by Peruvian gold pounds.

The expense of this operation shall be placed to the demonetization account and chargeable to the extraordinary expenses of the treasury department.

Let this be communicated to the Executive in order that he may take the necessary steps for its promulgation.

Given at the House of Congress, in session at Lima, the 13th day of the month of December, 1901.

M. CANDAMO,
President of the Senate.

MARIANO H. CORNÉGO,
President of the House of Deputies.

I. CAPELO,
Secretary of the Senate.

JOSÉ OLIVA,
Secretary of the House of Deputies.

To His Excellency the CONSTITUTIONAL PRESIDENT OF THE REPUBLIC.

Therefore I order the printing, publishing, circulating, and due carrying out of this law.

Given at the Government house, Lima, on the 14th day of the month of December, 1901.

EDUARDO L. DE RAMAÑA.

Mr. Neill to Mr. Hay.

No. 564.]

LEGATION OF THE UNITED STATES,
Lima, Peru, January 18, 1902.

SIR: In connection with my No. 550, of December 16 last, regarding the passage of the gold-standard law in Peru, I have the honor to announce that on the 17th instant the minister of finance, Señor Adrian

Ward, issued a decree bearing the sanction of the President of the Republic, causing 500,000 soles to be smelted into silver bars at the Lima mint and directing the said bars to be exported to Europe and sold for the purpose of buying gold. Vide fourth article of the transitory measure in decree of December 14, 1901, which says:

The President shall exercise his judgment in the smelting to the amount of 1,000,000 of silver soles, the value of which shall be replaced by Peruvian gold pounds.

I have, etc.,

RICHARD R. NEILL.

[Inclosure.—Translation.]

Demonetization of soles.

TREASURY DEPARTMENT,
Lima, January 17, 1902.

For the due carrying into effect of article 4 of the transitory law of December 14, 1901, it is resolved:

First. The treasury department shall order the smelting into silver bars at the national mint of 500,000 entire soles—silver-coined money.

Second. The said department shall take measures to have these bars exported to Europe and sold there, and shall employ the product of the same in the importation of gold.

Third. The expenses attached to these operations shall be chargeable to item 5495 of the present budget on account of "demonetization."

[The rubric of His Excellency.]

WARD.

Mr. Neill to Mr. Hay.

No. 580.]

LEGATION OF THE UNITED STATES,
Lima, Peru, March 10, 1902.

SIR: Referring to my No. 564, of January 18 last, regarding the demonetization of 500,000 Peruvian silver soles, I have the honor to transmit herewith copies and translation of an arrangement entered into by the Peruvian minister of finance and the banks of Lima for the carrying out of the resolution of January 17 last and as authorized by a supreme decree of March 6, 1902.

I have, etc.,

RICHARD R. NEILL.

[Inclosure.—Translation.]

Demonetization.

The silver soles which by virtue of the following act and decree the Banco del Peru y Londres engaged to deliver for the purpose of converting into bars, which operation is to commence at the mint to-morrow, are already deposited in the vaults of the said institution.

The minister of finance, acting as chairman, the manager of the finance department, the president of the Lima Chamber of Commerce, and the managers of the Peru and London, the Italian, the International, and the Popular banks, respectively, met on the 1st of March, 1902, in Lima, when the minister stated that the Government wished to know if the banks maintained their offer to carry out the demonetization of 500,000 silver soles, in fulfillment of the gold-standard law. After a lengthy discussion, in which the bank managers were disposed to cooperate with the Government in the carrying out of the desired object, the following resolutions were passed:

1. The Italian, the International, and the Popular banks, respectively, will deposit in the Peru and London Bank the number of silver soles that each one may find

convenient to contribute toward the operation proposed, and what may be found wanting to complete the sum of 500,000 soles the Peru and London Bank will add.

2. The Peru and London Bank will deliver at the national mint the said sum of 500,000 soles to be converted into ingots.

3. The Peru and London Bank will forward the said bars to its London agents that they may be sold at the best possible price obtainable for the Government account, free from all expense, excepting the agent's commission of one-half per cent, which is the customary commission for transactions of this nature.

4. After the selling of the bars the agents of the Bank of Peru and London shall remit the sum obtained, in pounds sterling, to the Lima office, and immediately on receipt of the same by the Bank of Peru and London at Lima, it shall place them at the Government's disposal. The Government will refund such part as each bank shall have contributed toward the demonetization, either in pounds sterling at 10 soles to the pound or in entire silver soles, at the election of each of the contributing banks.

5. As soon as the ingots are sold the Peru and London Bank's agents shall telegraph to the Lima office the net yield obtained, and as soon as the loss be known the Government will order the payment of the same by the National Revenue Collecting Company to the Bank of Peru and London.

6. The said payment shall be made by quarterly installments of 30,000 soles or £3,000, at the Government's option, on account of the quarterly profits resulting to the benefit of the Government on the settling of the accounts with the National Revenue Collecting Company, the first amortization to occur on the 30th of next June.

7. The amount the National Revenue Collecting Company pay to the Peru and London Bank on loss account shall draw 8 per cent interest per annum, the amount being proportionately reduced as the extinction of the debt contracted on the 3d of the present month of March until its total cancellation.

8. That part of the 500,000 soles repaid by the Government to the banks in pounds sterling, or be it the product of the sale of the 500,000 soles reduced to bars and sold in London, will be exempt from the payment of interest.

9. The Peru and London Bank engages to deliver to the other banks, free of commission charges, their respective parts, both of the gold obtained from the sales and also that received from the National Revenue Collecting Company.

10. The minister of finance, manager of the finance department, the president of the Lima Chamber of Commerce, and the bank managers all admit the necessity of directing their efforts in such manner as shall bring about the most speedy, complete, and regular circulation of gold possible.

WARD.
HERÁCLIDÉS PÉREZ.
M. CANDAMO.

For the Peru and London Bank:

J. PAYÁN, *Managing Director*.

For the Italian Bank:

JUAN S. FIGARI, *Manager*.

For the International Bank of Peru:

ALFREDO BENAVIDES, *Manager*.

For the Popular Bank of Peru:

A. GARCIA Y LASTRES, *Manager*.

LIMA, *March 6, 1902.*

Whereas the foregoing act:

In execution of the resolution of January 17 last for the demonetization of 500,000 soles, and 100,000 having already been smelted down, in conformity with the ministerial resolutions of February 5 and 13, it is resolved to approve and carry out the agreement made by the minister of this branch of the Government and the managers of the Peru and London, the Italian, the International of Peru, and the Popular banks, the president of the Lima Chamber of Commerce being also present, to effect the demonetization ordered on January 17 last, it being understood that the present smelting down is to be of 400,000 soles.

Let this be registered, made known, published, and placed in the archives.

[The rubric of His Excellency.]

WARD.

Mr. Dudley to Mr. Hay.

No. 611.]

LEGATION OF THE UNITED STATES,
Lima, Peru, June 3, 1902.

SIR: Referring to Mr. Neill's No. 564, of the 18th of January last, I have the honor to transmit herewith two copies and a translation of a resolution of the ministry of finance under which the second 500,000 soles authorized by the law of December 14, 1901, to be converted into bar silver for export in the purchase of pounds sterling are now being melted at the Lima mint. The purpose of these measures, as has been heretofore reported, is to maintain the silver sole at its coinage value of 24 pence, corresponding to an equivalency of 10 soles to the pound.

I have, etc.,

IRVING B. DUDLEY.

[Inclosure.—Translation.]

Demonetization of silver coins.

The following resolution has been issued by the finance department:

LIMA, *May 17, 1902.*

In view of the petition No. 39 in which the Lima bankers, merchants, and agriculturists request another smelting of silver soles; in virtue of the verbal offer of the banks, and the decision taken by the council of ministers, it is resolved:

First. That 500,000 (entire) silver soles shall be demonetized.

Second. The Italian, International, and Popular banks shall deliver to the Peru and London Bank the amount of silver soles it will suit them to contribute toward the said smelting, and the Peru and London Bank shall add from its own funds the necessary amount to complete the sum of 500,000 soles.

The Bank of Peru and London shall deliver to the national mint the said sum of 500,000 silver soles, there to be converted into ingots.

Fourth. The said bars shall be remitted by the Bank of Peru and London to its London agents, to be sold by them for the account of the Government, at the best price obtainable, free of all commission except the half per cent customary in this class of transactions.

Fifth. On the bars being sold the agents of the Bank of Peru and London shall remit to its Lima office the product of the said sale in pounds sterling, and immediately on the arrival of the said remittance at Lima the Bank of Peru and London shall place the same at the disposal of the supreme Government.

The proportion contributed by each bank for the demonetization will be paid by the Government as it desires, either in pounds sterling, at 10 soles for each pound, or in whole silver soles.

Sixth. The London agents of the Bank of Peru and London shall, immediately on effecting the sale of the ingots, telegraph to the Lima office the net product obtained, and as soon as the loss incurred be ascertained the Government will order the reimbursement of the said loss to the Bank of Peru and London by the National Revenue Collection Company.

Seventh. This payment shall be made by quarterly installments of 30,000 soles, or £3,000, at the election of the Government, and shall be charged to the account of the profits shown by the National Revenue Collection Company's quarterly balance sheet in favor of the Government; the first installment to be paid on May 31, 1903.

Eighth. The amount paid by the National Revenue Collection Company to the Bank of Peru and London on loss account shall earn 8 per cent interest per annum, to begin on the 13th of the present month of May, and shall continue until the total extinction of the debt.

Ninth. The part of the 500,000 soles refunded by the Government to the banks, respectively, in pounds sterling—or be it the product resulting from the sale in London of the said 500,000 soles, reduced to ingots—shall earn no interest.

Tenth. The Peru and London Bank shall undertake to pay to the other banks both the proportion of gold resulting from the sale which to each of them may be due, as also of the amounts received from the National Revenue Collection Company, without receiving any commission whatever.

Eleventh. Let the respective expenditure items that will be incurred by this resolution appear in the budget project for the year 1903.

Let this be registered, notice of the same be given to the banks, and their acceptance of the same be expressed; let this be made known, published, and deposited in the archives.

[Rubric of His Excellency.]

WARD.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Dudley to Mr. Hay.

No. 612.]

LEGATION OF THE UNITED STATES,
Lima, Peru, June 9, 1902.

SIR: I have the honor to acknowledge the receipt of your telegram^a instructing me to ask this Government to permit United States consular officers within its jurisdiction to use their good offices in representation of the interests of Cuba and of its citizens until Cuban consuls shall have been appointed.

I have brought the matter to the attention of Dr. Chacaltana, the Peruvian foreign minister, both verbally and by a note to which, after submitting the question to the President, he has replied, communicating the assent of his Government to the arrangement.

Copies of our notes, including a verbal note I felt constrained to send the minister as a reminder, are herewith inclosed.

I have notified Consul Herdliska at Callao of the granting of the permission, and have requested him to notify the consular agents of the United States under his jurisdiction.

I have, etc.,

IRVING B. DUDLEY.

[Inclosure 1.]

Mr. Dudley to Señor Chacaltana.

No 227.]

LEGATION OF THE UNITED STATES,
Lima, May 26, 1902.

MR. MINISTER: At the request of the President of Cuba, the Secretary of State of the United States has instructed me by cable to ask the Government of Peru to permit United States consular officers within its jurisdiction to use their good offices in representation of the interests of Cuba and of its citizens until Cuban consuls shall have been appointed.

In respectfully preferring this request, I beg to express the hope that it may be found practicable to grant it, and have the honor also to avail myself, etc.,

IRVING B. DUDLEY.

[Inclosure 2.]

Mr. Dudley to Señor Chacaltana (note verbale).

LEGATION OF THE UNITED STATES,
Lima, June 7, 1902.

The envoy extraordinary and minister plenipotentiary of the United States of America presents his compliments to his excellency the minister for foreign relations of Peru, and most respectfully begs to remind him of his several offers to make

answer, in each case the following day, to the former's note No. 227 of May 26, 1902, addressed to the ministry pursuant to telegraphic instructions from Washington, and relating to the use by United States consular officers in Peru of their good offices in representation of the interests of Cuba and Cuban citizens.

The immediate receipt of the promised answer would be very greatly appreciated, and enable the writer to fulfill his instructions.

Irving B. Dudley has the honor to tender to Dr. Don Cesáreo Chacaltana the assurance of his high and distinguished consideration.

[Inclosure 3.—Translation.]

Señor Chacaltana to Mr. Dudley.

No. 17.]

FOREIGN OFFICE, *Lima, June 6, 1902.*

MR. MINISTER: I have had the honor to receive your excellency's note No. 227 of the 26th of May last, in which you request in the name of your Government that the consular officers of the United States be permitted to use their good offices in representation of the interests of Cuba and its citizens until the new Republic has appointed its consuls.

In reply I am pleased to state to your excellency that this department sees no impediment to the granting of the said request, and on this date I have addressed the necessary communication to the minister of the interior, in order that the local authorities should give every assistance to the said consular officers in the discharge of their temporary duties as mentioned.

I remain, etc.,

CESÁREO CHACALTANA.

Mr. Dudley to Mr. Hay.

No. 621.]

LEGATION OF THE UNITED STATES,

Lima, Peru, June 28, 1902.

SIR: Referring to the permission recently granted by this Government to United States consular officers within its jurisdiction to use their good offices ad interim in representation of the interests of Cuba and of Cuban citizens (see my No. 612 of the 9th instant), I have the honor to inclose herewith copy of a letter I have written Mr. José Payán, the head of the principal bank at Lima, and the most prominent Cuban in Peru, in reply to his request that he and the members of his colony at Lima be allowed to register their names in this legation.

I would respectfully request your instruction upon the point, and trust that I have not erred seriously, if at all, in the view I have taken of it.

I have, etc.,

IRVING B. DUDLEY.

[Inclosure.]

Mr. Dudley to Mr. Payán.

No. 339.]

LEGATION OF THE UNITED STATES,

Lima, Peru, June 27, 1902.

MY DEAR MR. PAYÁN: Referring to our conversation of a few mornings ago, and in fulfillment of the promise I then made, I beg to say that in a circular instruction addressed to the diplomatic and consular officers of the United States under date of May 2, 1899, the honorable Secretary of State directed that during the temporary occupation of Cuba under the administration of the military authorities of the United States, the native inhabitants of the island sojourning abroad might, under certain conditions, be protected through the exercise of good offices by the diplomatic and consular representatives of the United States; in which cases, for the purpose of such temporary protection, those representatives were by the terms of the instruction expressly authorized to register the names of native inhabitants of Cuba who might be temporarily sojourning within their jurisdiction. The military occupation ended

with the inauguration of an independent government on the 20th ultimo under the Presidency of His Excellency Señor Don Tomás Estrada Palma; and upon that date, therefore, the instruction, which had been the sole authorization for the registration of Cubans in Peru, became *functus officio*. No instruction treating of their registration has since been received at this legation.

On the 24th ultimo, at the request of the President of Cuba, I was instructed by telegraph to ask the Government of Peru to permit United States consular officers within its jurisdiction to use their good offices in representation of the interests of Cuba and of its citizens until Cuban consuls should have been appointed. The permission has been granted and our consular officers in Peru have been notified.

Unless this action may be construed to confer impliedly, as the instruction of May 2, 1899, did expressly, authorization to register, it is apparent that the registration of which we spoke is at present unsanctioned, especially by this legation, since the instruction now in force refers only to consular officers.

I do not fail to perceive that under both the new and the old instruction registration is a means to the same end, facilitating in identical manner the execution of analogous instructions. Therefore, pending an expression from the Department of State, to whom I will at once submit the question, I am willing to receive provisionally applications for registration upon the proof required by the circular instruction, assuring you at the same time that the right of Cubans under the recent arrangement to the benefit of the good offices of United States representatives will be carefully and most gladly respected.

Faithfully, yours,

IRVING B. DUDLEY.

Mr. Hill to Mr. Dudley.

No. 286.]

DEPARTMENT OF STATE,
Washington, July 24, 1902.

SIR: I have to acknowledge the receipt of your No. 621 of the 28th ultimo, reporting that you had received the request by members of the Cuban colony in Lima to be allowed to register their names in your legation, and that you had allowed them to register provisionally pending an expression of the Department's views.

Your action is approved.

It is not the Department's intention, and it is presumed not to have been the wish of the Cuban Government, to exclude legations from the exercise of good offices for Cuban citizens in case of need, to the same extent as requested and authorized in the case of our consular officers. They may be registered.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

EXTRACTS FROM MESSAGE OF PRESIDENT OF PERU TO PERUVIAN CONGRESS.

Mr. Dudley to Mr. Hay!

No. 637.]

LEGATION OF THE UNITED STATES,
Lima, Peru, July 30, 1902.

SIR: The ordinary session of the Peruvian Congress was inaugurated on the 28th instant by President Romaña in a message distinguished for its spirit of conciliation in the presence of a bitter partisanship which is likely to make itself unpleasantly felt during the next three months.

I transmit to the Department, under separate cover, two copies in pamphlet form of the message, and herewith inclose translation of passages of more especial interest, relating respectively to the late

Pan-American Congress at Mexico City; the Acre concession by Bolivia to an American syndicate; * * the Tacna-Arica question, a constant source of irritation to the signatories of the treaty of Ancon; the status of Peru's finances and foreign commerce; the St. Louis Exposition, and the Panama Canal, whose completion is eagerly anticipated as conducing the immigration and increased commerce by bringing Peru nearer to our Atlantic seaboard and to Europe.

I have, etc.,

IRVING B. DUDLEY.

[Inclosure.—Translation.]

Extracts from message of President of Peru to Congress.

PAN-AMERICAN CONGRESS.

Abounding in the sentiments of justice, of our own dignity, and of the most cordial harmony with friendly nations, we took part in the Pan-American Conference held in the City of Mexico in the month of October last, and in which were represented all the nations of North, Central, and South America.

In the aforesaid assembly were adopted twenty-two resolutions designated to establish bonds of fellowship between the various nations of this continent, and to obtain for all new elements of peace and prosperity.

As regards arbitration, the most opposite ideas were expressed relative to the character with which it should be invested, and finally two simultaneous resolutions were accepted. One of them, sustained by the vote of the majority, consisted in the adoption of an ample and obligatory treaty of arbitration. The other one, upheld by the vote of the delegates, was the signing of a protocol of adhesion to the convention of The Hague.

The Peruvian delegates, in accordance with the instructions of their Government, which were in harmony with our traditional policy, displaying the resources of their power of initiating and of their patriotism, warmly and nobly upheld the principle of obligatory arbitration uniformly with the delegates of other nations, until they succeeded in obtaining a favorable vote of the majority.

The International Congress of Mexico, forerunner of others of a similar nature, will bring about most beneficial and important results for the nations therein represented as soon as the principal resolutions become definitely sanctioned.

ACRE CONCESSION.

In view of a vast concession made by Bolivia to a foreign syndicate, in which is included territory which we consider our own, we have found it proper to formulate the necessary protests for safeguarding our rights. We have at the same time caused our protest to be made known to the Governments of the nations to whom the capitalists interested in the negotiations belong, and also to the managers or representatives of the enterprise.

TACNA-ARICA QUESTION.

My Government has constantly had in view the solution of our pending questions with Chile, especially with reference to the present situation and the future destiny of the provinces of Tacna and Arica. The state of the negotiations which followed the disapproval of the Billinghurst-La Torre protocol has not permitted their further prosecution.

Peru, as appears in various documents, has proposed divers equitable and friendly solutions, including arbitration, all of which have been rejected by Chile. It was consequently incumbent upon that Government to point out the bases upon which an arrangement should be made, but so far none have been suggested. The best spirit will be found among us for discussing them and the utmost willingness to assent to anything within the bounds of justice and the rule established by the treaty of Ancon. Peru has only refused, and will always refuse, to subscribe voluntarily to its own dismemberment. It is impossible and wrong to smother in that manner the aspirations of the entire nation, and especially of the Peruvians of the provinces mentioned, whose patriotism and abnegation are exceptionally marked. My Government, on the other hand, will not avoid taking the initiative anew in this matter if convinced of the possibility of arriving at a solution equitable and satisfactory for both countries without detriment to the dignity of either.

FINANCES.

	Soles.
The general revenues for 1901 were estimated at.....	13, 853, 200. 00
The amount of same actually collected being.....	14, 988, 180. 98
Being an excess over and above the estimated amount of the revenues of	1, 134, 980. 98
The estimated amount of the general expenses, as shown in the budget for 1901, was.....	14, 248, 195. 43
While the actual disbursements for that year only amounted to	13, 450, 419. 81
Or an expenditure less than the estimated amount by.....	797, 775. 62
To which add the excess of the revenues actually received	1, 134, 980. 98
Making a total of.....	1, 932, 756. 60
But as the unprovided-for expenses, amounts chargeable to the treasury, and the deficit of the budget make a total amount of	5, 403, 173. 93
There results a difference during the year of.....	3, 470, 417. 33
To which difference has been applied the excess in the actual over the estimated revenues, and the credit balances due the treasury, in all.....	3, 747, 397. 31
Leaving a net balance of.....	276, 979. 98
Which exists in the treasuries, custom-houses, and other fiscal offices, as is shown in the general statement.	

One of the most flattering indications of our economical condition has been the progressive and constant increase in our general revenues since the year 1896, an increase no less notable in the year 1901, whose receipts amounted to 14,988,180.98 soles, those of 1900 amounting to 12,989,828.14 soles, or an increase in 1890 of 1,998,352.84 soles.

Custom-house statistics show a result equally satisfactory in the general commerce of the Republic, according to the following figures:

	Soles.
Imports	27, 582, 239. 31
Exports	42, 983, 788. 74
Total.....	70, 566, 028. 05
In 1900 these amounted to	68, 151, 501. 78
Or an increase in 1901 of.....	2, 414, 526. 27

Upon comparing one year with the other, it is seen that the importations have been greater by 4,410,732.92 soles, while the exports, due to the fall in the price of sugar, have diminished by 1,966,206.71 soles.

The exportations of minerals amounted to 17,508,484.55 soles, exceeding by 557,926.20 soles those of the preceding year, notwithstanding the decline in the price of copper.

The increase in the exportation of articles of national manufacture is likewise interesting. Calicos, which in 1900 barely reached 10,000 soles, were exported in 1901 to the value of 146,951 soles.

Guano, which had ceased to figure in the items of exportation, produced the amount of 266,409 soles, and medical leaves the sum of 255,126 soles.

A decrease has been felt principally in sugar, borax, coffee, cotton seed, and gold.

Worthy of note has been the increase in the receipts of the Callao custom-house, 2,268,345 soles, and from that of Mollendo, 961,416 soles, over those of the preceding year.

On the other hand, there has been a notable decrease in the receipts from all the sugar-shipping ports.

* * * * * *	
The statement of the ordinary budget for 1903 is as follows:	
	Soles.
Income	15, 396, 682. 00
Expenditures	14, 562, 323. 38
Surplus	834, 358. 62

And of the extraordinary budget:

	Soles.
Expenditure.....	1, 235, 146. 77
Surplus of the ordinary budget.....	834, 358. 62
Deficit.....	400, 787. 15

The deficit above indicated will be more than met by the two bills which have been pending before Congress since last year, the first reestablishing the stamp tax on tobacco, and the second modifying the customs schedules at Iquitos.

It is to be borne in mind that the ordinary budget of expenditures amounts to 14,562,323.38 soles, while in the budget for 1902 it amounted only to 13,375,410.92 soles, being an increase in the ordinary expenditures of 1903 of 1,186,912.46 soles. The difference is explained in part by the increase in the salaries of the judiciary and the army, pensions to the survivors of our national war, pensions to widows, and other recently granted benefactions.

ST. LOUIS EXPOSITION.

There can not possibly be any necessity for me to show the great advantages which must accrue to Peru from its taking part in the approaching exposition of St. Louis, but in order to do this you must provide the Government with funds to defray the heavy expense entailed in order to make a respectable showing.

PANAMA CANAL.

The early opening of the Panama Canal will disclose new prospects for the nation. With our rich mines and petroleum deposits at a short distance from the coast, and with bays like those of Paita, Chimbote, and Callao, we may most assuredly expect that the stream of commerce which that route must foster will naturally benefit to a large extent our seacoast trade, and that no country can reap from it greater benefits than Peru.

It would therefore seem prudent to prepare for such an excellent opportunity, and to see that there should not be wanting at least some of the most necessary advantages which the foreign shipping coming to our shores has a right to expect. Among these I make free to suggest the idea of offering most liberal concessions for the construction of a dry dock of sufficient dimensions to admit vessels of the largest size in Callao or on the island of San Lorenzo and for that of a floating dock in the port of Paita.

ACCIDENT TO PRESIDENT ROOSEVELT.

Señor Calderon to Acting Secretary of State.

[Telegram.]

PERUVIAN LEGATION,
Gloucester, Mass., September 4, 1902.

While deeply deploring the accident met with by His Excellency President Roosevelt, I beg you to convey to him the hearty congratulations of the President and the people of Peru, as well as my own, for his felicitous escape.

MANUEL ALVAREZ CALDERON.

Mr. Adee to Señor Calderon.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 5, 1902.

The President charges me to thank you for the congratulations you offer him on behalf of the President and people of Peru.

ALVEY A. ADEE,
Acting Secretary.

PORTUGAL.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Loomis to Mr. Hay.

LEGATION OF THE UNITED STATES,
Lisbon, May 30, 1902.

SIR: I beg leave to acknowledge the receipt of your telegram^a of May 24.

The permission was asked and granted within six hours, and the consuls have been notified.

I have, etc.,

FRANCIS B. LOOMIS.

ACCIDENT TO PRESIDENT ROOSEVELT.

[Telegram.—Translation.]

The King of Portugal to President Roosevelt.

VILLA VICOSA, *September 4, 1902.*

Have just heard of accident. I express to you my full sympathy and most sincere wishes for your complete recovery.

THE KING OF PORTUGAL.

President Roosevelt to the King of Portugal.

[Telegram.]

WHITE HOUSE,
Washington, September 5, 1902.

I highly esteem Your Majesty's sympathy.

THEODORE ROOSEVELT.

^a Printed, page 6.

ROUMANIA.

FINANCIAL CONDITIONS IN ROUMANIA.

Mr. Francis to Mr. Hay.

No. 20, Roumanian series.]

LEGATION OF THE UNITED STATES,
Athens, March 10, 1902.

SIR: During the last ten years all the young Balkan States have become involved in financial difficulties. Greece, Servia, and Bulgaria have been compelled to accept the principle of foreign control. Roumania alone has not yet bowed to the yoke. Each of these communities have initiated a costly scheme of public works which, for the present, furnishes no return commensurate with the outlay incurred. Each has established an elaborate educational system which has resulted in an increasing number of those who, disdaining manual labor, expect to be supported in the public service. The Government is thus compelled to maintain a host of unnecessary functionaries. * * * The enormous military expenditure is also one of the gravest causes of economic exhaustion; but in military matters the junior members of the European family are not always free agents. * * *

The inevitable result has been excessive borrowing abroad. The temptation to resort to the foreign money markets is all the greater owing to the high rate of interest at home. Except in Greece, private liberality has done little to aid in providing schools, hospitals, barracks, prisons, etc. The circulation of foreign capital creates a certain artificial prosperity liable to sudden interruption by a crisis in the European money market or by some serious catastrophe at home. A combination of these factors has led to the present critical situation in Roumania.

To judge by the figures of successive budgets the economic progress of Roumania has been almost phenomenal. Under the rule of King Charles that country has made gigantic strides. But it would be unsafe to take the budget figures as an accurate index of increasing prosperity without making allowance for the inflation produced by a succession of foreign loans. On the other hand, the extraordinary expenditures incurred within this period must be considered, as well as the heavy drain on the national resources resulting from an accumulation of external debt. Of the extraordinary expenditures the principal outlay has been on public works, railways and rolling stock, on harbors, docks and roads, on bridges, schools, and various public buildings. A large proportion may be regarded as ultimately productive, and therefore justifiable, but many of the constructions might have waited, and the practice of defraying ordinary working expenses from extraordinary revenue appears to be indefensible. The remainder of the debt has been devoted to military expenditure, or to cover budgetary deficits. For the military outlay there is something to show.

The army compares favorably in the perfection of its equipment with any other of its size in Europe. An elaborate line of defenses extends from Fokchani to Galatz, and Bucharest has been made a great fortified center. These results, however, have been achieved by an extraordinary expenditure, exceeding 266,000,000 lei, or francs. For this immense outlay the best excuse is the precarious position of Roumania, the dangers from without, and her uncertain future. The amount required to meet various deficits is given as 159,000,000, but this far from represents the extent to which every kind of current expenditure was made good from the proceeds of special loans.

Meanwhile the charge for the service of the foreign debt continued to increase, and in 1900 it was nearly 40 per cent of the expenditure in a budget of 238,000,000. In a community with a variety of internal resources such a proportion might be regarded as serious, though not disquieting. But Roumania is purely an agricultural country, practically dependent on the harvest. Should this fail, she commands no other source of revenue. The balance of trade has been adverse; from 1877 to 1898 the value of imports exceeded that of exports by an annual average of 80,000,000. Roumanians of the upper classes travel much abroad and spend, it has been estimated, 20,000,000 lei (francs) annually in foreign countries. It must have been clear to responsible statesmen and observers that the outward show of prosperity was illusory, and that any serious check to agricultural production must be attended by a financial crisis. A policy of thrift is peculiarly imperative in the case of Roumania where climatic conditions and the configuration of the country expose the soil to recurrent droughts and floods. Warnings were frequent: In 1887 drought destroyed the maize crops, which led to peasant uprisings and some financial reforms; in 1894 another drought produced an acute crisis similar to the present, but Berlin financiers came to the rescue; in 1897 the lowland crops were destroyed by inundations and the grain stores at Galatz were swept away by flood. Then came the drought of 1899. Crops were ruined, pastures withered up, cattle died, and in a few months peasants were starving. As the bulk of the urban population derives its sustenance directly or indirectly from the grain trade, an acute commercial crisis followed. The banks did what was possible to mitigate the stress of the situation, but the banks became straitened because of a new factor—a crisis in the European money market. The Roumanian banks were subjected to pressure from without, and Roumanian merchants were called upon to make good their debts. Retail dealers could not sell their goods, and the result was enormous decrease of importation and loss to the Treasury under the head of indirect taxation. There was a corresponding decline in other branches of the revenue. The traditional foreign loan was no longer available except on terms compromising the future of the state.

Such was the origin of the serious crisis which afflicts Roumania. The situation, however, is not beyond remedy, though it would be a grave error to suppose the trouble is of a transitory character, and that a few good harvests will put everything to rights. Before stating measures which have been taken to cope with the serious situation in this country, it is well to mention that in certain respects Roumania compares favorably with other States of the Peninsula. The revenue, for instance, is satisfactorily collected, the huge arrears found in Servian and Grecian budgets being absent. Again, the adoption, in 1889, of the gold standard, was a wise measure.

The budget of 1898-99 showed a surplus of 11,500,000 lei, but the state of the exchequer not being satisfactory, and the Government being unable to effect a foreign loan, it was obliged to issue treasury bonds at short terms amounting to 64,500,000 lei. Then came the failure of the harvest, and a resort to a fresh issue of treasury bonds. Negotiations resumed with Berlin proving unsuccessful, the situation became grave. The financial group with which negotiations had been conducted finally agreed to accept treasury bonds for 175,000,000 nominal, at a net price of 89½, the bonds bearing 5 per cent interest and redeemable on December 31, 1904. How this large amount of floating debt is to be disposed of in the allotted time is the problem of the present situation. Under the arrangement, the State may not contract any new foreign obligation until the bonds have been redeemed or consolidated, and even an internal loan is forbidden except in case of war.

A new situation had to be faced in 1900-1901 demanding retrenchment and increased taxation. The estimate for both expenditures and receipts was greatly in excess of all previous estimates, the Government being unwilling to take the receipts of an exceptionally unfortunate year as a basis for its figures. The enduring effects of such a crisis on the taxable capacity of the population appears to have been inadequately realized. A surplus of 7,000,000 was anticipated, but the budget closed with a deficit of 27,500,000 lei.

When in July, 1900, Mr. Carp became president of the council and minister of finance great hopes were founded on combinations he was expected to effect. Like his predecessors, he had faith in additional taxation and he aimed at developing sources of revenue hitherto untapped. A new method of assessing the tax on tzuica, a kind of liquor extracted from plums, was the cause of serious riots in the country. Aiming to reach the wealthier classes who escape their due share of the public burdens in Roumania, Mr. Carp imposed additional direct taxation of 5,500,000 lei, contributions being proportional to the incomes of taxpayers. Receipts were put down more than 18,000,000 below the estimates of the preceding year, the expenditures being placed at the same amount, 227,203,000 lei. This was a step in the right direction, but had it been applied would have resulted in a deficit. Mr. Carp and his friends were averse to economies on the ground that "economies are not compatible with the dignity of Roumania." Moreover, an aggregate deficit of 43,000,000 had still to be provided for. To meet this they fell back on proposals to alienate state property, including the sale of the cigarette paper monopoly for thirteen years, the surrender of Government shares in the national bank, the sale of state forests, and the lease to the American Standard Oil Company of petroleum-bearing under-soil. The first two have been carried out, the third is under consideration, but the fourth has been abandoned. A proposal for the sale of the merchant marine was discussed, but no action was taken. Liberal politicians attacked the whole programme, which they denounced as the "liquidation of Roumania."

At an extraordinary session of the national legislature, Mr. Carp introduced his budget. The great land proprietors, who form the core of the old conservative party, gave evidence of hostility which culminated in an attack on the ministry's proposal to increase the tax on licenses for trades and professions. Mr. Carp appealed to the

Chamber of Deputies for a vote of confidence. This being refused by a majority of one, he resigned and a brief interregnum followed until on February 27, 1901, the King recalled to power Mr. Sturdza, the present president of the council of ministers.

The veteran Liberal leader at once inaugurated a policy of retrenchment. The figures of Mr. Sturdza's budget, which has been in application since April 13, 1901, are worthy of special attention, as they mark the beginning of a new system, on the success of which the financial future of Roumania depends. Conservatism in the preparation of estimates of revenue, and economy in expenditure are apparently the guiding principles of Mr. Sturdza's administration.

The receipts are estimated at 218,500,000 lei, as compared with 245,750,000 previously anticipated, as follows:

	Lei.
Direct taxes.....	44, 015, 000
Indirect taxes.....	56, 410, 000
State monopolies.....	52, 380, 000
Ministry of domains.....	20, 200, 000
Ministry of public works.....	21, 520, 000
Ministry of interior.....	10, 345, 000
Ministry of finance.....	3, 334, 000
Ministry of war.....	1, 253, 000
Ministry of foreign affairs.....	202, 000
Ministry of public instruction.....	600, 000
Ministry of justice.....	431, 000
Various.....	7, 810, 000
Total.....	218, 500, 000

In accordance with the policy of the Sturdza administration, new contributions to the extent of 5,500,000 are to be in the main derived from augmentation of direct taxes, as indicated:

	Lei.
Increase of the tax on real property.....	1, 000, 000
Increase of 10 per cent on direct taxes.....	3, 185, 000
Increase of 1 per cent on direct inheritances.....	600, 000
Increase of 1 lei on the 2 per cent registration tax.....	715, 000
Total.....	5, 500, 000

But the most noteworthy feature of Mr. Sturdza's budget is the great series of economies enforced, aggregating over 25,500,000 lei, compared with last year's estimates, and are the following:

	Lei.
Reducing number of employees in departments.....	8, 796, 112
Saving in materials.....	5, 885, 505
Reductions in salaries of state employees.....	6, 838, 883
Saving effected in railway department.....	5, 065, 610
Total.....	26, 586, 110

Expenditures have been fixed at the same amount in the aggregate as the estimated receipts, and all disbursements each month are kept within specified limits.

It is announced that the receipts for the last six months have considerably exceeded expenditures, and foreign interest coupons have been promptly met from ordinary revenue. Should the reign of economy continue, should the European money market be favorable,

and should the harvests of the next few years prove of average productiveness, there is reason to hope that the loan of 175,000,000 lei in treasury bonds can be converted into a consolidated loan, on fairly favorable terms. Failing to accomplish this, the only assistance from abroad available will be in the form of possibly a guarantee loan with conceded revenues and foreign supervision. To avert this the greatest sacrifices would unquestionably be made. Few states possess a proportionally greater reserve of productive property than Roumania. It would be premature, however, to outline at the present time any scheme of liquidation that would assure a desired result.

Apart from the measures called for by the existing crisis in Roumania, much remains to be done in order to enable the country to stand the stress of similar misfortunes in the future. Not only must provision be made against the recurrence of bad seasons, but to save the agricultural interests from the disastrous effects of foreign competition. Roumania possesses few manufacturing industries. To promote these, capital must be attracted from abroad. More scientific methods of cultivation should be introduced for the improvement of agriculture, and horticulture should be no longer neglected. The Roumanian peasant is thriftless and unenterprising, and it will be difficult to induce him to abandon his conservative ways. The land-owning class has certainly neglected its duties, many living abroad, with little thought for the toilers at home. What could be done to stimulate new industries, to improve agriculture and to better the condition of the masses of the people may best be seen on the royal estates, which present a model of enlightened and beneficent administration. Should this example be followed a great development of the national resources of Roumania will be the result.

I have, etc.,

CHARLES S. FRANCIS.

**PROTECTION OF CUBAN INTERESTS BY UNITED STATES
CONSULAR OFFICIALS.^a**

Mr. Wilson to Mr. Hay.

No. 27, Roumanian } LEGATION OF THE UNITED STATES,
series. } *Athens, June 16, 1902.*

SIR: I have the honor to inform you that permission has been granted by the Roumanian Government for the United States consular officers in that country to use their good offices in the representation of Cuba and of its citizens until Cuban consuls shall have been appointed, and I have notified the United States vice-consul-general at Bucharest to that effect.

I am, etc.,

CHARLES S. WILSON,
Chargé d'affaires ad interim.

^aSee instruction, printed, page 6.

JEWES IN ROUMANIA—DISCUSSION OF PROPOSED NATURALIZATION CONVENTION BETWEEN THE UNITED STATES AND ROUMANIA: DISCRIMINATIONS, IN THE LATTER COUNTRY, AGAINST JEWS, CONDITION OF HELPLESSNESS TO WHICH THEY ARE REDUCED, AND OBJECTION OF UNITED STATES GOVERNMENT TO IMMIGRATION OF SUCH PERSONS.^a

Mr. Hay to Mr. Wilson.

[Confidential.]

No. 14, Roumanian series.]

DEPARTMENT OF STATE,
Washington, July 17, 1902.

SIR: Your legation's dispatch No. 19,^b of the 13th February last, reported having submitted to the Roumanian Government, through its diplomatic representative in Greece, as the outcome of conferences had by Mr. Francis with him on the subject, a tentative draft of a naturalization convention, on the lines of the draft previously submitted to the Servian Government, and Mr. Francis added that his excellency the Romanian minister had informed him of his hearty approval of the project, which he had forwarded to his Government with his unqualified indorsement. Minister Francis was instructed on March 4 that his action was approved. No report of progress has since been received from your legation, but it is presumed that the matter is receiving the consideration due to its importance.

For its part the Government of the United States regards the conclusion of conventions of this character as of the highest value, because not only establishing and recognizing the right of the citizens of the foreign state to expatriate themselves voluntarily and acquire the citizenship of this country, but also because establishing beyond the pale of doubt the absolute equality of such naturalized persons with native citizens of the United States in all that concerns their relation to or intercourse with the country of their former allegiance.

The right of citizens of the United States to resort to and transact affairs of business or commerce in another country, without molestation or disfavor of any kind, is set forth in the general treaties of amity and commerce which the United States have concluded with foreign nations, thus declaring what this Government holds to be a necessary feature of the mutual intercourse of civilized nations and confirming the principles of equality, equity, and comity which underlie their relations to one another. This right is not created by treaties; it is recognized by them as a necessity of national existence, and we apply the precept to other countries, whether it be conventionally declared or not, as fully as we expect its extension to us.

In some instances, other governments, taking a less broad view, regard the rights of intercourse of alien citizens as not extending to their former subjects who may have acquired another nationality. So far as this position is founded on national sovereignty and asserts a claim to the allegiance and service of the subject not to be extinguished save by the consent of the sovereign, it finds precedent and warrant which it is immaterial to the purpose of this instruction to discuss. Where such a claim exists, it becomes the province of a naturalization

^a See also under Austria, page 42.

^b Not printed.

convention to adjust it on a ground of common advantage, substituting the general sanction of treaty for the individual permission of expatriation and recognizing the subject who may have changed allegiance as being on the same plane with the natural or native citizens of the other contracting state.

Some States, few in number be it said, make distinction between different classes of citizens of the foreign State, denying to some the rights of innocent intercourse and commerce which by comity and natural right are accorded to the stranger, and doing this without regard to the origin of the persons adversely affected. One country in particular, although maintaining with the United States a treaty which unqualifiedly guarantees to citizens of this country the rights of visit, sojourn, and commerce of the Empire, yet assumes to prohibit those rights to Hebrew citizens of the United States, whether native or naturalized. This Government can lose no opportunity to controvert such a distinction, wherever it may appear. It can admit no such discrimination among its own citizens, and can never assent that a foreign State, of its own volition, can apply a religious test to debar any American citizen from the favor due to all.

There is no treaty of amity and commerce between the United States and Roumania, but this Government is pleased to believe that Roumania follows the precepts of comity in this regard as completely and unreservedly as we ourselves do, and that the American in Roumania is as welcome and as free in matters of sojourn and commerce and legal resorts as the Roumanian is in the United States. We hear no suggestion that any differential treatment of our citizens is there imposed. No religious test is known to bar an American from resorting to Roumania for business or pleasure. No attempt has been made to set up any such test in the United States whereby any American citizen might be denied recourse to the representatives of Roumania in order to authenticate documents necessary to the establishment of his legal rights or the furtherance of his personal interests in Roumania. And in welcoming negotiations for a convention of naturalization Roumania gives proof of her desire to confirm all American citizens in their inherently just rights.

Another consideration of cognate character presents itself. In the absence of a naturalization convention, some few states hold self-expatriation without the previous consent of the sovereign to be punishable, or to entail consequences indistinguishable from banishment. Turkey, for instance, only tacitly assents to the expatriation of Ottoman subjects so long as they remain outside Turkish jurisdiction. Should they return thereto their acquired alienship is ignored. Should they seek to cure the matter by asking permission to be naturalized abroad, consent is coupled with the condition of nonreturn to Turkey. It is the object of a naturalization convention to remedy this feature by placing the naturalized alien on a parity with the natural-born citizen and according him due recognition as such. This consideration gives us added satisfaction that negotiations on the subject have been auspiciously inaugurated with Roumania. If I have mentioned this aspect of the matter, it is in order that the two Governments may be in accord as to the bases of their agreement in this regard, for it is indispensable that the essential purpose of the proposed convention should not be impaired or perverted by any coupled condition of banishment imposed independently by the act of either contracting party.

The United States welcomes now, as it has welcomed from the foundation of its Government, the voluntary immigration of all aliens coming hither under conditions fitting them to become merged in the body politic of this land. Our laws provide the means for them to become incorporated indistinguishably in the mass of citizens, and prescribe their absolute equality with the native born, guaranteeing to them equal civil rights at home and equal protection abroad. The conditions are few, looking to their coming as free agents, so circumstanced physically and morally as to supply the healthful and intelligent material of free citizenship. The pauper, the criminal, the contagiously or incurably diseased are excluded from the benefits of emigration only when they are likely to become a source of danger or a burden upon the community. The voluntary character of their coming is essential; hence we shut out all immigration assisted or constrained by foreign agencies. The purpose of our generous treatment of the alien immigrant is to benefit us and him alike—not to afford to another state a field upon which to cast its own objectionable elements. A convention of naturalization may not be construed as an instrument to facilitate any such process. The alien, coming here voluntarily and prepared to take upon himself the preparatory and in due course the definitive obligations of citizenship, retains thereafter, in domestic and international relations, the initial character of free agency, in the full enjoyment of which it is incumbent upon his adoptive State to protect him.

The foregoing considerations, whilst pertinent to the examination of the purpose and scope of a naturalization treaty, have a larger aim. It behoves the State to scrutinize most jealously the character of the immigration from a foreign land, and, if it be obnoxious to objection, to examine the causes which render it so. Should those causes originate in the act of another sovereign State, to the detriment of its neighbors, it is the prerogative of an injured State to point out the evil and to make remonstrance; for with nations, as with individuals, the social law holds good that the right of each is bounded by the right of the neighbor.

The condition of a large class of the inhabitants of Roumania has for many years been a source of grave concern to the United States. I refer to the Roumanian Jews, numbering some 400,000. Long ago, while the Danubian principalities labored under oppressive conditions which only war and a general action of the European powers sufficed to end, the persecution of the indigenous Jews under Turkish rule called forth in 1872 the strong remonstrance of the United States. The treaty of Berlin was hailed as a cure for the wrong, in view of the express provisions of its forty-fourth article, prescribing that "in Roumania the difference of religious creeds and confessions shall not be alleged against any person as a ground for exclusion or incapacity in matters relating to the enjoyment of civil and political rights, admission to public employments, functions, and honors, or the exercise of the various professions and industries in any locality whatsoever," and stipulating freedom in the exercise of all forms of worship to Roumanian dependents and foreigners alike, as well as guaranteeing that all foreigners in Roumania shall be treated, without distinction of creed, on a footing of perfect equality.

With the lapse of time these just prescriptions have been rendered nugatory in great part, as regards the native Jews, by the legislation and municipal regulations of Roumania. Starting from the arbitrary and controvertible premise that the native Jews of Roumania domiciled

there for centuries are "aliens not subject to foreign protection," the ability of the Jew to earn even the scanty means of existence that suffice for a frugal race has been constricted by degrees, until nearly every opportunity to win a livelihood is denied; and until the helpless poverty of the Jew has constrained an exodus of such proportions as to cause general concern.

The political disabilities of the Jews in Roumania, their exclusion from the public service and the learned professions, the limitations of their civil rights, and the imposition upon them of exceptional taxes, involving as they do wrongs repugnant to the moral sense of liberal modern peoples, are not so directly in point for my present purpose as the public acts which attack the inherent right of man as a breadwinner in the ways of agriculture and trade. The Jews are prohibited from owning land, or even from cultivating it as common laborers. They are debarred from residing in the rural districts. Many branches of petty trade and manual production are closed to them in the overcrowded cities where they are forced to dwell and engage, against fearful odds, in the desperate struggle for existence. Even as ordinary artisans or hired laborers they may only find employment in the proportion of one "unprotected alien" to two "Roumanians" under any one employer. In short, by the cumulative effect of successive restrictions, the Jews of Roumania have become reduced to a state of wretched misery. Shut out from nearly every avenue of self-support which is open to the poor of other lands, and ground down by poverty as the natural result of their discriminatory treatment, they are rendered incapable of lifting themselves from the enforced degradation they endure. Even were the fields of education, of civil employment, and of commerce open to them as to "Roumanian citizens," their penury would prevent their rising by individual effort. Human beings so circumstanced have virtually no alternatives but submissive suffering or flight to some land less unfavorable to them. Removal under such conditions is not and can not be the healthy, intelligent emigration of a free and self-reliant being. It must be, in most cases, the mere transplantation of an artificially produced diseased growth to a new place.

Granting that in better and more healthful surroundings the morbid conditions will eventually change for good, such emigration is necessarily for a time a burden to the community upon which the fugitives may be cast. Self-reliance and the knowledge and ability that evolve the power of self-support must be developed, and at the same time avenues of employment must be opened in quarters where competition is already keen and opportunities scarce. The teachings of history and the experience of our own nation show that the Jews possess in a high degree the mental and moral qualifications of conscientious citizenship. No class of emigrants is more welcome to our shores when coming equipped in mind and body for entrance upon the struggle for bread and inspired with the high purpose to give the best service of heart and brain to the land they adopt of their own free will. But when they come as outcasts, made doubly paupers by physical and moral oppression in their native land, and thrown upon the long-suffering generosity of a more-favored community, their migration lacks the essential conditions which make alien immigration either acceptable or beneficial. So well is this appreciated on the Continent that, even in the countries where antisemitism has no foothold, it is difficult for these fleeing Jews to obtain any lodgment. America is their only goal.

The United States offers asylum to the oppressed of all lands. But its sympathy with them in nowise impairs its just liberty and right to weigh the acts of the oppressor in the light of their effects upon this country, and to judge accordingly.

Putting together the facts, now painfully brought home to this Government, during the past few years, that many of the inhabitants of Roumania are being forced by artificially adverse discriminations to quit their native country; that the hospitable asylum offered by this country is almost the only refuge left to them; that they come hither unfitted by the conditions of their exile to take part in the new life of this land under circumstances either profitable to themselves or beneficial to the community, and that they are objects of charity from the outset and for a long time—the right of remonstrance against the acts of the Roumanian Government is clearly established in favor of this Government. Whether consciously and of purpose or not, these helpless people, burdened and spurned by their native land, are forced by the sovereign power of Roumania upon the charity of the United States. This Government can not be a tacit party to such an international wrong. It is constrained to protest against the treatment to which the Jews of Roumania are subjected, not alone because it has unimpeachable ground to remonstrate against the resultant injury to itself, but in the name of humanity. The United States may not authoritatively appeal to the stipulations of the treaty of Berlin, to which it was not and can not become a signatory, but it does earnestly appeal to the principles consigned therein, because they are the principles of international law and eternal justice, advocating the broad toleration which that solemn compact enjoins and standing ready to lend its moral support to the fulfillment thereof by its cosignatories, for the act of Roumania itself has effectively joined the United States to them as an interested party in this regard.

Occupying this ground and maintaining these views, it behooves us to see that in concluding a naturalization convention no implication may exist of obligation on the part of the United States to receive and convert these unfortunates into citizens, and to eliminate any possible inference of some condition or effect tantamount to banishment from Roumania, with inhibition of return or imposition of such legal disability upon them by reason of their creed, as may impair their interests in that country or operate to deny them the judicial remedies there which all American citizens may justly claim in accordance with the law and comity of nations.

I am, sir, your obedient servant,

JOHN HAY.

Mr. Wilson to Mr. Hay.

Confidential: Roumanian series.]

LEGATION OF THE UNITED STATES,
Athens, August 8, 1902.

SIR: I have the honor to acknowledge the receipt of your No. 14, Roumanian series, dated July 17, 1902, relative to the proposed naturalization treaty between the United States and Roumania.

Since the draft of the treaty approved by the Department was submitted to the Roumanian minister for foreign affairs nothing further has been accomplished, as the Roumanian Government refused to consider the project favorably.

Upon the receipt of your dispatch, I called upon the Roumanian minister to Greece, who has within a few days returned from Roumania, and asked him if his Government, after examination, had found the draft of the naturalization treaty submitted to it acceptable.

Mr. Ghica told me that just before leaving Bucharest he had a long audience with the King, during most of which relations with the United States were discussed. His Majesty told Mr. Ghica that he considered a naturalization treaty between the United States and Roumania unnecessary, and that he did not favor considering the matter at all. Upon my endeavoring to point out to Mr. Ghica that, in our opinion, such a treaty would be of great advantage to both countries, he said that he would be perfectly frank with me and tell me the real objection that the King had expressed against the proposed treaty.

According to His Majesty's opinion, a naturalization treaty would be most injurious to Roumania for the reason that it would complicate the already troublesome Jewish question in that country.

As you stated in your dispatch on this subject, on account of discrimination against them a large number of Roumanian Jews are driven from Roumania and a majority of them take refuge in America. If, therefore, there was a naturalization treaty, these Jews would return to Roumania and as American citizens claim rights and privileges to which they were not before emigration entitled. The King also fears that with a naturalization treaty between the two countries an even larger number of Jews would emigrate to America, and for the express purpose of returning to Roumania and claiming protection as American citizens.

I expressed to Mr. Ghica my regret that the United States and Roumania had been unable to conclude any of the proposed treaties, and expressed the hope that he would use his efforts to bring about a favorable consideration of the naturalization treaty, but as he assured me that the ministry and members of the Government shared the unwillingness of the King to consider such a treaty, I have not communicated with the Roumanian minister for foreign affairs, and shall await further instructions from the Department before so doing. * * *

I am, etc.,

CHARLES L. WILSON,
Chargé d'Affaires ad interim.

Mr. Adee to Mr. Wilson.

No. 15, Roumanian series.]

DEPARTMENT OF STATE,
Washington, August 22, 1902.

SIR: Referring to the Department's No. 14 of the 17th ultimo, Roumanian series, on the subject of the treatment of Jews in Roumania, I inclose for your confidential information a copy of an instruction^a which has been sent to the diplomatic representatives of the United States in the countries parties to the treaty of Berlin of July 13, 1878, in the hope that it may seem wise to those powers to take measures to persuade the Government of Roumania to accord to the indigenous Jews the generous and equal treatment prescribed for them by the Berlin treaty.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

RUSSIA.

MUTUAL EMBARRASMENTS OF UNITED STATES AND RUSSIAN OFFICIALS AT NIUCHWANG—CONFLICT BETWEEN UNITED STATES SEAMEN AND RUSSIAN OFFICIALS—DELAYS IN TRANSMISSION OF TELEGRAMS, ETC.^a

Count Cassini to Mr. Hay.

[Translation.]

RUSSIAN EMBASSY,
Washington, December 28, 1901.

DEAR MR. HAY: Having been since yesterday indisposed afresh, and it being impossible for me to leave the house, it becomes necessary for me to have recourse to the pen in order to lay before you a matter which has been made the subject of a telegram I have just received from Count Lamsdorff.

Information which has recently been received by the imperial ministry from Niuchwang is to the effect that the consul of the United States in that city is raising constant and irritating difficulties with the Russian authorities; that he is taking under his protection Chinese subjects of a more than doubtful reputation; that he refuses to recognize the competence of the Russian tribunals and of the Russian authority upon whom rest provisionally, during the occupation of the country, the responsibility for the maintenance of order and tranquillity. These facts, being in flagrant contradiction with the cordial assurances based upon the reciprocal confidence which I have had the honor to hear from your excellency's lips on frequent occasions, and which I have hastened to bring to the knowledge of my Government, can not but painfully impress the Imperial Government, while, however, giving it the impression that they are the result of the personal and not very prudent activity of a consular agent little acquainted with the situation and with the excellent relations established upon a solid footing between our two Governments. Therefore I venture to hope, dear Mr. Hay, that, taking into consideration what I have communicated to you, you would be so kind as to furnish, as soon as possible, to the consul at Niuchwang explicit instructions to the end that he shall be careful to avoid acts and proceedings which are in absolute contradiction with all that I have seen and heard since I have been in this country.

Permit me to hope that you will complete your kindly intervention in this matter by enabling me to communicate your response, which I venture to hope will be entirely satisfactory, to Count Lamsdorff.

Be pleased to accept, etc.,

CASSINI.

^a See also under China, page 145.

Mr. Hay to Count Cassini.

DEPARTMENT OF STATE,
Washington, December 30, 1901.

DEAR COUNT CASSINI: I have had the pleasure to receive your letter of the 28th instant in relation to the course of our consul at Niuchwang, and, appreciating the kindly spirit of friendship and the desire to continue and fortify the good understanding between our two countries which it discloses, I hasten to reply in the same vein.

For our part, we have received from the consul at Niuchwang complaints of his treatment by the Russian authorities there and the difficulties he has at times found in following the general and special instructions of the Department which are applicable for the guidance of all United States consuls abroad, and are in no sense especial to that particular post. I have not, however, thought it expedient to bring these matters to the attention of your Government, either through you or through instructions to the United States ambassador at St. Petersburg. I have constantly had in mind the somewhat abnormal character of the state of things at Niuchwang, and have been disposed to make every allowance for the difficulties and embarrassments which must naturally attend the merely provisional administration of the Russian military and civil agents, during the temporary occupation of that port and its vicinity, in their efforts to maintain the order and tranquillity for which they are responsible until the proximate withdrawal of Russian control shall restore the normal conditions.

It is, nevertheless, painful to me to learn from your communication that the embarrassments of this provisional order of things have their reciprocal effect, as is perhaps natural, and that the Russian agents at Niuchwang have on their side ground to complain of the course of the United States consul in the exercise of powers and the discharge of functions common to all United States consuls. I can readily understand that our consul's discretion may at times be at fault in applying to the peculiar situation which surrounds him the general rules of consular intercourse, and that he may not fully comprehend the degree of latitude he may use in modifying those ordinary rules to fit the special case which confronts him. That errors of judgment in this regard can in any way suggest a less friendly disposition of this Government toward that of Russia is an inadmissible proposition. You are right in assuming that the course of which you complain is not directed by this Department. It certainly does not reflect any sentiment here entertained. On the contrary, it is our desire to carry out the policy of which we have conspicuously given proof, to leave Russia unembarrassed in the provisional execution of a purpose forced upon her by the troubles in China, which equally affected other nations, and to regard the temporary occupation of Niuchwang as a measure contributory to the end we all sought of restoring order and good government in China and securing to the interested powers equal safeguards, opportunities, and rights in their intercourse with the Empire.

In order to give the desires of this Government full effect, I shall instruct the consul at Niuchwang to use due circumspection in his official acts, to bear in mind the difficulties that naturally environ the situation, and to use every endeavor to adapt himself to circumstances and avoid all occasion of friction with the agents of Russia with whom he is called to deal in the discharge of his official duties. I do not doubt

that similar motives will inspire the course of the Russian officials, and that in this way mutual expression will be given to the friendly desires of both Governments.

I am, etc.,

JOHN HAY.

Mr. Hill to Mr. Tower.

No. 269.]

DEPARTMENT OF STATE,
Washington, December 31, 1901.

SIR: For your information I have to inclose herewith copies of correspondence^a with the Russian ambassador at this capital in reference to the reported acts of the United States consul at Niuchwang; also copy of the Department's instruction to Mr. Miller in the matter.

I have, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Tower to Mr. Hay.

No. 517.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, January 13, 1902.

SIR: I have the honor to acknowledge the receipt of your dispatch No. 269 of the 31st of December, 1901, in which you inclose to me copies of the correspondence with the Russian ambassador at Washington in regard to a recent conflict between certain American sailors and the Russian police at Niuchwang, in which connection the acts of the United States consul at that port became the subject of official consideration at the Department of State; also copies of Count Casini's note of the 28th of December and of your reply to him dated the 30th of December, and of Mr. Peirce's dispatch of the 31st of December to the consul at Niuchwang.

As I had heard of this matter through the telegraphic reports to the European newspapers, I referred to it informally at an interview which I recently had with Count Lamsdorff, imperial minister for foreign affairs, and asked him whether he had any information as to the reported difficulty, or whether I could be of service in any communication that he might desire to make to the Government of the United States.

Monsieur de Lamsdorff replied that he had received from Niuchwang a full report of the encounter which had taken place; that the trouble arose between some sailors on shore and the Russian police, who are responsible for public order in the city, and that it might have been composed immediately if the American consul to whose attention the question was brought had been willing to lend his aid toward the reestablishment of public order, but that, upon his refusal so to act, communication had been had with Mr. Conger, at Peking, who responded immediately and took such steps as were necessary under the circumstances.

M. de Lamsdorff said further that the Imperial Government considers this incident to be one of purely local importance which affects in no wise the cordial international relations between the United States and Russia.

I have, etc.,

CHARLEMAGNE TOWER.

Mr. Hay to Mr. Tower.

No. 275.]

DEPARTMENT OF STATE,
Washington, February 6, 1902.

SIR: I send for your information copy of a communication addressed by the United States consul at Niuchwang to minister Conger at Peking.

While this dispatch throws light upon the causes of the friction which has to some extent lately existed between the consular and naval representatives of the United States and the Russian authorities, the only part to which I desire to draw your attention, with a view to making appropriate representations to the Government of Russia, is in relation to the closing of telegraphic communication except by the Russian line through Manchuria and Russia and the interruptions of the mail service between Niuchwang and China.

It is presumed that the interruption of the mail to which Mr. Miller refers had been in some manner remedied and that he was able to communicate by that channel with his superior officer at Peking, inasmuch as his letter is addressed to Mr. Conger. Telegraphic communication, however, appeared to have been still interrupted as lately as the 27th of December, on which date Mr. Miller writes that he and the commanding officer of the *Vicksburg* were cut off from telegraphic communication, and he adds that "postal connection is slow and bad."

It is quite inconceivable that the Imperial Government should adopt any policy by which the regularly commissioned and accredited consular representative of the United States should be precluded from means of direct and immediate communication with his superior officer at Peking or with his directing consular superior at Shanghai.

It may be that some roundabout channel of intercourse is open, as from some Russian station connecting by other routes with the cables to Shanghai and the lines to Peking. If so, it would be desirable to know what the existing facilities are to take the place of those which have been cut off by the closing of the Chinese Eastern Railroad telegraph station at Niuchwang.

You will make this instruction the subject of inquiry and if the facts elicited thereby warrant it, in your discretion, remonstrance against any limitation of the facilities for communication between the minister at Peking and the consul at Niuchwang, or which may be calculated to interpose delay in the communication of the commanding officer of the *Vicksburg* with the Navy Department.

You will also inquire the nature and expeditiousness of the present postal service between Niuchwang and the outside world.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Tower.

No. 278.]

DEPARTMENT OF STATE,
Washington, February 15, 1902.

SIR: Referring to the Department's No. 275, of the 6th instant, regarding defective telegraphic and postal communications at Niuchwang, I inclose copy of a letter from the secretary of the American Asiatic Association complaining of the restrictions put by the Russian authorities upon telegraphic communication with Niuchwang.

You will bring the complaint to the attention of the foreign office.

I am, etc.,

JOHN HAY.

[Inclosure.]

*American Asiatic Association to Mr. Hay.*NEW YORK, *February 12, 1902.*

DEAR SIR: At the request of the executive committee of this association I beg to transmit to you the following complaint received from the American Association of China, under date of Shanghai, January 18, in regard to the conditions affecting the telegraph service to and from Niuchwang:

"In common with the general destruction of property throughout North China during the summer of 1900, the lines of the Imperial Chinese telegraph administration suffered to a considerable extent. With the exception, however, of a break of about 50 miles between Shanhaikwan and Niuchwang the damage was speedily repaired, but this section of the service has not yet been restored. It is said that the continuance of this important break has not been voluntarily acquiesced in by the authorities of the telegraph administration. They have repeatedly sent out parties to rehabilitate the line only to have them intercepted and driven off by the armed forces of the power now in temporary occupation of Manchuria.

"The Russian field service which, in the absence of the Chinese line, provides the only telegraphic communication with Niuchwang, has recently placed restrictions on the traffic that are highly detrimental to our trade. Messages for Niuchwang are transmitted by the commercial lines via Chefoo and Port Arthur, whence they are necessarily transferred to the Russian field service. This service has not only been inadequate and subject to much delay, but recently it has attempted to require that all messages transmitted by it shall be in plain language, excluding all such as are contained in code or cipher. When attempts have been made to forward messages in the latter form they have either failed to reach their destination or been made subject to a delay, in some instances of as much as five or six days. The last information from Niuchwang is that a commercial message tendered in code has been positively refused. There are no conditions existing which present any necessity for such a regulation, and as a great proportion of American business with Niuchwang is transacted by means of the telegraph, the restriction is a very injurious one and acts as a direct preventive of trade."

I am requested to second the appeal of the American Association of China that every effort be made to secure the early restoration of the Chinese telegraph service and of normal conditions generally in Manchuria.

* * * * *
I have, etc.,

JOHN FOORD, *Secretary.**Mr. Hay to Mr. Tower.*

No. 280.]

DEPARTMENT OF STATE,
Washington, February 21, 1902.

SIR: In continuation of my dispatch No. 275, of February 6, 1902, I now inclose for your information a copy of a dispatch and its inclosures from the United States consul-general at Shanghai.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Goodnow to Mr. Peirce.*CONSULATE-GENERAL OF THE UNITED STATES,
Shanghai, January 21, 1902.

SIR: I hand you herewith copy of my No. 375, of this date, to the United States minister at Pekin, being a report "Telegraphic communication between this port and Niuchwang."

I am, etc.,

JOHN GOODNOW, *Consul-General.*

[Subinclosure 1.]

Mr. Goodnow to Mr. Conger.

No. 375.]

CONSULATE-GENERAL OF THE UNITED STATES,
Shanghai, January 21, 1902.

SIR: I beg to hand you herewith copies of two letters received from the American Trading Company, with inclosures, and a letter from the American Association of China, with regard to the telegraphic communication between Shanghai and Niuchwang.

On January 3 I wired Consul Miller in cipher, simply asking him to acknowledge receipt of my telegram. On the 9th he acknowledged the receipt, also in cipher, which I received on the 10th. The Chinese telegraph line refused to receive even a Government message in cipher for Niuchwang.

Yesterday I was enabled to find out the full history of the cable troubles there, which I send you for your information and such action as you deem proper. The Chinese telegraph and the Great Northern each has its own line to Chefoo. Thence to Port Arthur they both use the cable operated by the Great Northern. After the trouble in 1900 the messages were sent from Port Arthur to Niuchwang by the railway telegraph with only the condition that cipher messages from Chinese would not be transmitted. About six months ago the Great Northern was notified that the service from Port Arthur to Niuchwang would be done by the field telegraph, a military institution, and that the railway telegraph would be no longer allowed to take any other than railway telegrams. The field telegraph at once notified the other telegraph companies that no cipher messages would be transmitted from any source. The Great Northern Telegraph Company at once protested to St. Petersburg, and now has been informed that the field telegraph will transmit Governmental cipher dispatches, but will not transmit dispatches in cipher from any other than Government officials. So the matter stands at present.

I desire to call your attention to the inconvenience thus occasioned to our merchants who do an extensive trade at Niuchwang. It also seems to our people here that this emphasizes the Russian occupation of Niuchwang.

I am, etc.,

JOHN GOODNOW, *Consul-General.*

[Subinclosure 2.]

*The American Trading Company to Mr. Goodnow.*SHANGHAI, *January 7, 1902.*

SIR: We beg to inclose herewith a press copy of a letter written by us to the Joint Telegraph Company, Shanghai, and we also inclose their reply (original). From the last paragraph of the Joint Telegraph Company's reply you will note that messages in cipher are not accepted by the field telegraph administration. This at the present moment, we understand, is an entirely Russian service. We have it on the very best authority that no telegrams to Niuchwang are received by the Chinese telegraph service unless written in plain English. As we are not aware that Niuchwang is Russian territory, we are anxious to know by what right the Russian authorities, who now control, so we understand it, the telegraph service at that port, refuse to accept telegrams in cipher or secret code. We may say that this censorship of telegrams is extremely detrimental to our trade as American merchants, and we would kindly ask you to assist in the relieving us from the present unfortunate position.

In a word, the present situation seems to be this: That telegrams are not allowed to leave or be received at Niuchwang unless written in a form acceptable to the Russian authorities.

Respectfully requesting your assistance in this matter, we remain, etc.,

THE AMERICAN TRADING COMPANY,
FRANK P. BALL, *Acting Agent.*

[Subinclosure 3.]

American Trading Company to the Joint Telegraph Company.

JANUARY 6, 1902.

DEAR SIR: In reply to your memorandum of January 6, we note that our message of the 3d instant, addressed "Napoleon, Niuchwang," has been undelivered. Will you kindly send a service message changing the name of "Napoleon" to "American Trading Company?"

We have been using this address for our Niuchwang office for several years and we dispatched a wire on the 24th December, 1901, and although the receipt of the message has not yet been acknowledged by letter, we believe it must have been delivered as you have not advised us to the contrary.

On the 25th of November, 1901, we dispatched a telegram addressed "Napoleon, Niuchwang," which has been duly received.

We will be greatly obliged if you will fully inform us regarding the present telegraphic service at Niuchwang, and whether any restrictions have been placed on messages sent from Niuchwang, and, furthermore, if the Russian authorities are exercising any control on messages sent or received at that port.

Thanking you in advance for any information you can give us, we remain, etc.,

THE AMERICAN TRADING COMPANY,
FRANK P. BALL, *Acting Agent.*

[Subinclosure 4.]

The Joint Telegraph Company to the American Trading Company.

SHANGHAI STATION, *January 6, 1902.*

DEAR SIR: In reply to your letter of even date I beg to say that a service has now been sent, at your cost, explaining that your telegram of the 3d instant, addressed "Napoleon, Niuchwang," is intended for "The American Trading Company."

As regards the delivery of your telegram of the 25th of November, and the non-delivery of your telegram of the 3d instant, the explanation is probably that on the 1st of December last the administration of the telegraph line beyond Port Arthur was transferred from the Russian railways to the field telegraphs.

As to restrictions placed to and from Niuchwang, I am only aware of the fact that messages in cipher, i. e., containing groups of figures with secret meaning, are not acceptable by the field telegraph administration.

I am, etc.,

J. BERNER, *Manager.*

[Subinclosure 5.]

The American Trading Company to Mr. Goodnow.

SHANGHAI, *January 13, 1902.*

MY DEAR MR. GOODNOW: Following up my respects to you of the 7th instant, I now beg to hand you copy of letter received from the Joint Telegraph Company, which may prove of interest.

I remain, etc.,

FRANK P. BALL.

[Subinclosure 6.]

The Joint Telegraph Company to the American Trading Company.

SHANGHAI, January 10, 1902.

DEAR SIR: We beg to inform you that we have received a service advice to the effect that your telegram of the 3d instant, addressed "Napoleon, Niuchwang," was delivered yesterday at 4 p. m. to the American Trading Company. The delay in delivery is due to an interruption of the Russian field telegraph line.

Yours, etc.,

O. N., for *Manager*.

[Subinclosure 7.]

The American Association of China to Mr. Goodnow.

SHANGHAI, January 14, 1902.

SIR: The attention of this association has been called to the fact that telegrams destined to or emanating from Niuchwang are not accepted for transmission by the Imperial Chinese telegraph administration when the messages are tendered in cipher or secret code.

So far as we have knowledge, Niuchwang is the only Chinese treaty port with reference to which such a regulation is in force, and it is not only very objectionable to our commercial institutions, but to a certain and very perceptible extent acts in restraint of trade. We therefore earnestly request that you will be so good as to represent the matter to Minister Conger and to the director-general of the Imperial Chinese telegraphs, with a view to the early restoration of a normal service.

It is the understanding of this association that the Chinese lines between Shanhaikwan and Niuchwang have been inoperative ever since the outbreak in 1900, and that the present telegraphic route to Niuchwang is via Chefoo, Port Arthur, and thence by Russian field service. To the latter we owe the present situation. Not only has this service refused to transmit messages except they be in plain language, but the delays occasioned by it have been both vexatious and expensive; important messages in some instances having been as much as a week in transmission between Shanghai and Niuchwang.

This very unsatisfactory state of the present service might be easily rectified by the restoration of the Chinese lines. With the exception of 40 or 50 miles beyond Shanhaikwan the entire Chinese service is in good working order between this port and Niuchwang. We are advised, however, that when the Chinese administration has sent out workmen to repair the line they have been repeatedly prevented by the armed forces of the power now in temporary occupation of Manchuria.

It is therefore the earnest wish of this association that every effort be made to secure the early restoration of the Chinese telegraphic service between the ports above mentioned.

The manner in which the telegraphic service has been dealt with by those who now control it in Manchuria is suggestive as indicating the subtlety of action which would doubtless be ceaselessly encountered were the present Russian occupation to result in permanent control.

Assured that the importance of American interests in the province of Manchuria will commend this matter to your careful consideration and action,

I am, etc.,

V. G. LYMAN, *Secretary*.*Mr. Tower to Mr. Hay.*

No. 540.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, March 4, 1902.

SIR: I have the honor to acknowledge the receipt of your dispatches, No. 275 of the 6th of February and No. 278 of the 15th of February, both relating to complaints made recently by the United States consul at Niuchwang, as well as by merchants engaged in business at

that port, of interruptions to telegraphic communication arising from restrictions prescribed by the Russian authorities at Niuchwang.

In compliance with your instructions I have brought this subject to the attention of the Russian minister for foreign affairs in a personal interview with him, and I have also written him a note setting forth the case, a copy of which is hereto attached. He informed me that he had lately received complaints of a similar nature from other sources, and that he believed the interruption had arisen from purely mechanical causes. At my request he promised, however, to make an inquiry as to the facts in detail and to communicate the result of it to me.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure.]

Mr. Tower to Count Lamsdorff.

EMBASSY OF THE UNITED STATES,
St. Petersburg, March 4, 1902.

MR. MINISTER FOR FOREIGN AFFAIRS: In compliance with the request made to me at the personal interview which I had the honor recently to have with your excellency, I beg leave to recall to your attention the complaints made by the United States consul at Niuchwang, as well as by merchants engaged in commerce at that port, of interruptions to telegraphic communication between Niuchwang and other ports of China, and with foreign countries. The consul of the United States, in particular, declares to the Department of State at Washington that the restrictions which have been prescribed by the Imperial Russian authorities at Niuchwang are of such a nature as to render it exceedingly difficult, if not quite impossible, for him to communicate by telegraph with his official chief, the American minister at Pekin.

I am instructed, therefore, to bring these facts to the attention of your excellency with the request that free and direct communication may be permitted by telegraph at all times between the United States consul at Niuchwang and the United States minister to China; and also that American citizens engaged in the pursuit of commercial undertakings at Niuchwang may be given the facilities for telegraphing to their correspondents in any part of the world which the pursuit of their business affairs may require.

I avail, etc.,

CHARLEMAGNE TOWER.

Mr. Tower to Mr. Hay.

No. 543.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, March 13, 1902.

SIR: I have the honor to acknowledge the receipt of your dispatch No. 280, of the 21st of February, with its inclosures relating to the obstructions to telegraphic communication at Niuchwang.

At an interview which I had with Count Lamsdorff, Imperial minister for foreign affairs, yesterday, I called his attention again to this question and informed him of the complaints that reach the Department of State from American merchants in China as to the inconveniences and delay caused by the restrictions recently imposed by the local authorities at Niuchwang to the sending and receiving of telegraphic messages, particularly when these are in cipher.

Reminding Count Lamsdorff of the necessity of permitting a foreign consul to communicate freely by telegraph with his official chief, and of the requirement of merchants to reach in a similar manner their

various correspondents, I earnestly requested him to have such regulations adopted at Niuchwang as would remove the causes of complaint.

Monsieur de Lamsdorff listened attentively to these representations and promised me that he should endeavor to secure as soon as possible the relief asked for by the complainants.

I have, etc.,

CHARLEMAGNE TOWER.

Mr. Tower to Mr. Hay.

No. 547.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, March 19, 1902.

SIR: In supplement to my dispatch, No. 543, of the 13th of March, in regard to the interruptions complained of in the telegraphic service at Niuchwang, I have the honor to inclose to you herewith copy of a note dated the 2d (15th) of March from Count Lamsdorff, Imperial Russian minister for foreign affairs, replying to the note upon that subject which I addressed to him, under instructions from you, on the 4th of March."

Monsieur de Lamsdorff says that there has been but one instance since the 18th of last December when foreign telegrams were sent from Niuchwang by mail to Liaoian to be forwarded from there by telegraph. This was done, he adds, because the line was interrupted and the Russian authorities wished to expedite the messages.

The minister for foreign affairs assures me, however, that in consequence of my recent interview with him at which this subject was discussed, he has made further and renewed inquiries in regard to it, the result of which he will communicate to me.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure.—Translation.]

Count Lamsdorff to Mr. Tower.

MINISTRY FOR FOREIGN AFFAIRS,
FIRST DEPARTMENT,
St. Petersburg, March 2 (15), 1902.

MR. AMBASSADOR: In reply to your excellency's note of the 19th of February (March 4) relating to irregularities in the telegraphic communication at Niuchwang, I have the honor to inform you from reports now in the possession of the ministry for foreign affairs that since the date at which the reception of international telegrams by the field-telegraph bureau at that place was authorized—that is to say, since the 18th of last December—there has been but one case in which nine international telegrams were sent by post to Liaoian to be forwarded from there by telegraph. These messages were thus sent by reason of a break in the telegraph line and because the Russian telegraph authorities wished to employ every means to forward messages without delay.

Nevertheless, in view of the facts presented by you, the ministry of foreign affairs has communicated again upon this subject with the proper authorities and will not fail to inform your excellency of their reply as soon as it shall have been received.

Please accept, etc.,

COUNT LAMSDORFF.

Mr. Riddle to Mr. Hay.

No. 565.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, April 12, 1902.

SIR: Referring to Mr. Tower's dispatches, No. 543 of March 13 and No. 547 of March 18, 1902, I have the honor to transmit to you herewith a translated copy of a note received from the ministry for foreign affairs concerning irregularities in the transmission of telegrams with Niuchwang.

It would appear from the present note that no further ground for complaint exists.

I have, etc.,

J. W. RIDDLE,
Chargé d'Affaires ad interim.

[Inclosure.—Translation.]

Prince Obolensky to Mr. Tower.

No. 1565.]

MINISTRY FOR FOREIGN AFFAIRS,
FIRST DEPARTMENT,
St. Petersburg, March 26 (April 8), 1902.

MR. AMBASSADOR: In supplement to the ministerial note of the 2d (15th) of March last under No. 1050, concerning irregularities in the transmission of telegrams with Niuchwang, I have the honor to inform your excellency that in accordance with a communication of the American consul at Inkow transmitted to the imperial ministry through the administration of Russian posts and telegraphs, the only complaint made upon this subject came from an American trading company, and was presented to the minister of the United States at Peking in the month of December last. That complaint was made at the time of the installation at Inkow of the field telegraph when the reception of telegrams was temporarily suspended for two weeks. At the present moment, according to the reports transmitted by the local authorities, the consular representative above referred to is entirely satisfied with the Russian telegraph and recommends it to his fellow countrymen as being cheaper and working with as much regularity as all other telegraph lines.

Please receive, etc.,

PRINCE BOLENSKY.

**CONVENTION AND ARRANGEMENT BETWEEN RUSSIA AND
CHINA RESPECTING MANCHURIA.^a**

Mr. Hay to Mr. Tower

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 1, 1902.

(Mr. Hay states that a telegram has been received from the United States minister to China to the effect that Prince Ching has agreed to sign the convention with Russia relative to Manchuria, as well as a separate convention with the Russian-Chinese Bank concerning exclusive privileges of industrial development in Manchuria.

That the Government of the United States can view only with concern an agreement by which China concedes to a corporation the exclusive right to open mines, construct railways, or other industrial privilege: That such monopoly would distinctly contravene treaties of China with foreign powers, affect rights of citizens of the United States

^a See under China, page 271, and Austria-Hungary, page 26.

by restricting rightful trade, and tend to impair sovereign rights of China and diminish her ability to meet international obligations; that other powers will probably seek similar exclusive advantages in other parts of the Chinese Empire, which would wreck the policy of absolutely equal treatment of all nations in regard to navigation and commerce in the Chinese Empire; and that, moreover, for one power to acquire exclusive privileges for its nationals conflicts with assurances repeatedly given to the Government of the United States by the Russian ministry for foreign affairs of firm intention to follow the policy of the open door in China as advocated by the United States and accepted by all the powers having commercial interests in China.

That the Government of the United States, animated now, as heretofore, by the sincere desire to insure to the whole world full and fair intercourse with China on equal footing, submits the foregoing considerations to the Governments of Russia and China, with confidence that due weight will be given to them and such measures be adopted as will relieve the just and natural anxiety of the United States.

Mr. Tower is directed to communicate the sense of the above to the Russian minister for foreign affairs.)

Mr. Tower to Mr. Hay.

[Telegram.—Paraphrase.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, February 3, 1902.

(Mr. Tower reports that he has communicated the contents of the Department's telegram of February 1, relating to Manchuria, to the Russian Government.)

Mr. Tower to Mr. Hay.

No. 523.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, February 3, 1902.

SIR: I have the honor to confirm your telegram of the 1st instant in regard to a report made by the United States minister in China of certain exclusive privileges about to be granted by the Chinese Government to the Russo-Chinese Bank; also my telegram to you of this date.

In accordance with your instructions I addressed at once a note to the Count Lamsdorff, Imperial Russian minister for foreign affairs, communicating to him the text of your telegram, and I now respectfully inclose to you herewith a copy of that note.

I have, etc.

CHARLEMAGNE TOWER.

[Inclousure.]

*Mr. Tower to Count Lamsdorff.*EMBASSY OF THE UNITED STATES,
St. Petersburg, February 3, 1902.

MR. MINISTER FOR FOREIGN AFFAIRS: In obedience to instructions which I have received from the Government of the United States, I have the honor to inform your excellency that the American minister to China has reported, in a telegram recently received at Washington, that Prince Ching has agreed to sign the Manchurian convention and also a separate convention with the Russo-Chinese Bank under which exclusive privileges of industrial development in Manchuria are to be granted to that bank.

I am instructed to say that the Government of the United States could look only with concern upon any arrangement by which China should extend to a corporate company the exclusive right within its territory to open mines, construct railways, or to exert other industrial privileges.

It is the belief of the Government of the United States that by permitting or creating a monopoly of this character, China would contravene the treaties which it has already entered into with foreign powers and would injure the rights of American citizens by restricting legitimate trade; also that such action would lead to the impairment of Chinese sovereignty and tend to diminish the ability of China to meet its obligations. Other powers as well might be expected to seek similar exclusive advantages in different parts of the Chinese Empire, which would destroy the policy of equal treatment of all nations in regard to navigation and commerce throughout China.

I am further instructed to convey to your excellency the sentiment of the United States Government that the acquiring by any one power of exclusive privileges in China for its own subjects or its own commerce would be contradictory to the assurances repeatedly given by the Imperial Russian ministry for foreign affairs to the United States of the intention of the Russian Government to maintain the policy of the open door in China as that policy has been advocated by the United States and accepted by all the powers who have commercial interests within the Chinese Empire.

I am to assure your excellency that the Government of the United States is now, as it has always been heretofore, animated by the desire to secure for all nations entirely equal intercourse with China, and I am instructed to present to your excellency the request that the Imperial Russian Government will give due attention to the foregoing considerations, which have also been addressed to the Chinese Government, and to express to your excellency the hope that such measures of procedure may be adopted as will allay the apprehensions of the Government of the United States.

I avail myself, etc.,

CHARLEMAGNE TOWER.

Mr. Tower to Mr. Hay.

No. 529.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, February 12, 1902.

SIR: I have the honor to inclose to you herewith a copy of the reply of Count Lamsdorff, Imperial minister for foreign affairs, dated the 9th of February, to the note which I addressed to him, under telegraphic instructions from you, on the 3d of February, in regard to the report that exclusive concessions in Manchuria were about to be granted by China to the Russo-Chinese Bank.

As this reply is of so great moment, and as the inquiry made by you has elicited the very important declaration, in writing, that Russia firmly intends to withdraw her troops from Manchuria and return that province to China as soon as arrangements for the evacuation can be made and precautions taken to guard against a fresh outbreak, I telegraphed it to you in very full detail in my cipher dispatch of the 10th

of February, a copy of the text of which is respectfully attached hereto.^a

In order that the Count Lamsdorff's note may be brought as fully as possible before you, I inclose herewith copies of the original Russian text^a of the French translation of it,^a which accompanied it from the Imperial ministry for foreign affairs, and of an English translation made at this embassy.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure.—Translation.]

Count Lamsdorff to Mr. Tower.

No. 96.]

MINISTRY FOR FOREIGN AFFAIRS,
First Department, January 27 (February 9), 1902.

MR. AMBASSADOR: The Imperial Government, always desirous of cultivating and developing the best relations with the United States of America, is fully disposed to remove the anxiety which the proposed arrangements between Russia and China appear to have caused the Cabinet at Washington, but it feels itself bound at the same time to declare that negotiations carried on between two entirely independent States are not subjects to be submitted to the approval of other powers.

There is no thought of attacking the principle of the "open door" as that principle is understood by the Imperial Government of Russia, and Russia has no intention whatever to change the policy followed by her in that respect up to the present time.

If the Russo-Chinese Bank should obtain concessions in China, the agreements of a private character relating to them would not differ from those heretofore concluded by so many other foreign corporations. But would it not be very strange if the "door" that is "open" to certain nations should be closed to Russia, whose frontier adjoins that of Manchuria and who has been forced by recent events to send her troops into that province to reestablish order in the plain and common interest of all nations? It is true that Russia has conquered Manchuria, but she still maintains her firm determination to restore it to China and recall her troops as soon as the conditions of evacuation shall have been agreed upon and the necessary steps taken to prevent a fresh outbreak of troubles in the neighboring territory.

It is impossible to deny to an independent State the right to grant to others such concessions as it is free to dispose of, and I have every reason to believe that the demands of the Russo-Chinese Bank do not in the least exceed those that have been so often formulated by other foreign companies, and I feel that under the circumstances it would not be easy for the Imperial Government to deny to Russian companies that support which is given by other governments to companies and syndicates of their own nationalities.

At all events, I beg your excellency to believe that there is not, nor can there be, any question of the contradiction of the assurances which, under the orders of His Majesty the Emperor, I have had occasion to give heretofore in regard to the principles which invariably direct the policy of Russia.

Please accept, etc.,

COUNT LAMSDORFF.

**DECLARATION OF RUSSIA AND FRANCE CONCERNING DEFENSIVE
AGREEMENT BETWEEN GREAT BRITAIN AND JAPAN.^b**

Mr. Hay to Mr. Tower.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 1, 1902.

(Mr. Hay states that Mr. Tower may say to Count Lamsdorff that the negotiations between Great Britain and Japan, which resulted in

^a Not printed.

^b See also under Great Britain, page 513.

the treaty of January 30, 1902, were absolutely unknown to the Government of the United States until the day of the publication of the treaty; and that neither the British nor the Japanese Government was consulted in regard to the Department of State's memorandum of February 1, 1902, in regard to negotiations between the Russian and Chinese Governments respecting Manchuria; that the fact of the proximity of the dates of the treaty and memorandum referred to was purely accidental.)

Mr. Tower to Mr. Hay.

[Telegram.—Paraphrase.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, March 3, 1902.

(Mr. Tower acknowledges the receipt of the Department's telegraphic instruction of March 1, which has been communicated to the Russian minister for foreign affairs.)

Mr. Tower to Mr. Hay.

No. 541.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, March 4, 1902.

SIR: I have the honor to acknowledge the receipt of your telegram of March 1.

I communicated the contents of this dispatch to the Count Lamsdorff, Imperial Russian minister for foreign affairs, as instructed by you to do, in a note dated the 3d of March, which I handed to him at a personal interview on that day. A copy of that note is respectfully inclosed herewith.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure.]

Mr. Tower to Count Lamsdorff.

EMBASSY OF THE UNITED STATES,
St. Petersburg, March 3, 1902.

MR. MINISTER FOR FOREIGN AFFAIRS: I have the honor to inform your excellency that I have been instructed by a telegram from the honorable Secretary of State of the United States of America to communicate to you the fact that the negotiations carried on between Great Britain and Japan, which have terminated in the treaty recently entered into by those two powers, were absolutely unknown to the Government of the United States until the day when the terms of that treaty were made public.

I am also to say to your excellency that neither the Government of Great Britain nor that of Japan was consulted by the United States Government in regard to the memorandum of the 1st of February, 1902, upon the subject of the Russo-Chinese Bank. The proximity of date between that memorandum and the British-Japanese treaty was entirely accidental.

I avail, etc.,

(CHARLEMAGNE TOWER.)

Memorandum handed to the Secretary of State March 19, 1902.

[Translation.]

IMPERIAL EMBASSY OF RUSSIA IN WASHINGTON.

The allied Governments of Russia and France having received communication of the Anglo-Japanese convention of January 30, 1902, concluded for the object of assuring status quo and general peace in the Far East as well as of maintaining the independence of China and Korea, which countries must remain open to the commerce of all nations, have found therein, with full satisfaction, the affirmation of the essential principles that they themselves have repeatedly declared to be and remain the foundation of their policy. The two Governments consider the observance of those principles to be at the same time a guaranty for their special interests in the Far East. Being, however, under the necessity of taking into account, for their own part, the contingency of either the aggressive action of third powers or renewed disturbances in China, by which the integrity and free development of that power would be put in doubt, becoming a menace, for their own interests the two allied Governments reserve to themselves the right eventually to devise suitable means to insure their protection.

ST. PETERSBURG, *March 3 (16), 1902.*

Memorandum.

DEPARTMENT OF STATE,
Washington, March 22, 1902.

The Government of the United States has pleasure in taking note of the declaration of the allied Governments of Russia and France that, having received communication of the Anglo-Japanese convention of January 30, 1902, which was concluded for the purpose of assuring the status quo and general peace in the Far East as well as maintaining the independence of China and Korea, which countries should remain open to the commerce and industry of all nations, they have found full satisfaction in seeing therein the affirmation of the essential principles which they have themselves on repeated occasions declared to form and continue to be the bases of their policy.

The Government of the United States is gratified to see in this declaration of the allied Governments of Russia and France, as in the Anglo-Japanese convention, renewed confirmation of the assurances it has heretofore received from each of them regarding their concurrence with the views which this Government has from the outset announced and advocated in respect to the conservation of the independence and integrity of the Chinese Empire as well as of Korea, and the maintenance of complete liberty of intercourse between those countries and all nations in matters of trade and industry.

With regard to the concluding paragraph of the Russian memorandum the Government of the United States, while sharing the views therein expressed as to the continuance of the "open-door" policy against possible encroachment from whatever quarter, and while equally solicitous for the unfettered development of independent China, reserves for itself entire liberty of action should circumstances unexpectedly arise whereby the policy and interests of the United States in China and Korea might be disturbed or impaired.

Mr. Tower to Mr. Hay.

No. 552.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, March 22, 1902.

SIR: I have the honor to inclose to you herewith, for your information, a copy of the declaration^a of the 3d (16th) of March, made by Russia and France in regard to the maintenance of the status quo in the Far East, as the same was published in the official part of the *Journal de St. Pétersbourg* on Thursday, the 7th (20th) of March, 1902.

Although this declaration was officially communicated to the Government of the United States by the representatives in Washington of the signatory powers, its publication here was accompanied by a memorandum issued in regard to it by the imperial Russian minister for foreign affairs, which may not have accompanied the official communication of the declaration itself. I forward this copy of it to you, therefore, because of its value in interpreting the purposes of the declaration and also for the particularly interesting confirmation which it contains of the statements of policy heretofore made by Russia in regard to the open door in China.

This statement is that:

The principles which have guided the policy of Russia since the outbreak of the disorders in China have always been and still are unchanged. Russia insists upon the independence and the integrity of China, a neighboring and friendly country, as well as upon those of Korea. Russia desires the maintenance of the status quo and of the general peace in the Far East. By the construction of the Great Siberian Railway, with its branch line through Manchuria to a harbor always free from ice, Russia favors the extension within those regions of the commerce and industry of the whole world.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure.]

From the Journal de St. Pétersbourg of Thursday, March 7 (20), 1902—Official.

ST. PETERSBURG, *March 6, 1902.*

The convention concluded in January last between England and Japan has given rise to the most contradictory interpretations and to the most varied suppositions, principally by reason of the fact that by that instrument two of the eleven powers which had quite recently signed the Peking protocol, after bringing their collective action in China to an end, seemed to separate themselves from the other cabinets and to place themselves in a special situation in respect to the Celestial Empire, in which, thanks to the efforts of them all, the traditional order of things had been reestablished and the legitimate central authority had been restored.

The Imperial Government, having duly considered the friendly communications sent to Russia by the Japanese and British Governments on this subject, viewed the conclusion of the said arrangement with the utmost calmness. The principles which have guided the policy of Russia since the beginning of the disorders in China have remained, and still remain, unchanged. Russia insists upon the independence and integrity of China, a friendly and neighboring country, as it does upon those of Korea. Russia desires the maintenance of the status quo and of general peace in the Far East. By the construction of the Great Siberian Railway, with a branch line running through Manchuria to a port which is at all times free from ice, Russia favors the extension of the commerce and industry of the entire world in those regions. Would it be to her interest to place obstacles in their way now?

The intention expressed by England and Japan to contribute to the attainment of the objects which have invariably been had in view by the Russian Government can not fail to meet with the sympathy of Russia in spite of the comments which have

emanated from certain political spheres and from sundry organs of the foreign press, which have endeavored to present the impassible attitude of the Imperial Government in a quite different light as regards a diplomatic instrument which, in its eyes, in no wise changes the general situation of the political horizon.

Now, in view of the ever-persistent agitation concerning the Anglo-Japanese arrangement, the allied Governments of Russia and France have deemed it necessary distinctly to formulate their views on this subject in an identical declaration addressed to the powers whose representatives, conjointly with the plenipotentiaries of Russia and France, signed the Pekin protocol of August 25 (September 7), 1901.

Mr. Hay to Mr. Tower.

No. 293.]

DEPARTMENT OF STATE,
Washington, April 3, 1902.

SIR: I have to acknowledge the receipt of your No. 552 of the 22d ultimo, transmitting a copy of the declaration of March 16, made by Russia and France relative to the maintenance of the status quo in the Far East, as it appeared in the official part of the Journal de St. Pétersbourg.

I inclose for your information copy of the declaration,^a which I have received from the allied governments of France and Russia, through their embassies at Washington, relative to the maintenance of the status quo and general peace in the Far East, and a copy of the reply^a of the Government of the United States.

I am, etc.,

JOHN HAY.

**PROTECTION OF CUBAN INTERESTS BY UNITED STATES
CONSULAR OFFICIALS.**

Mr. Riddle to Mr. Hay.

No. 580.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, June 14, 1902.

SIR: I have the honor to acknowledge the receipt of your telegram^b of May 24.

I inclose herewith the reply of the Russian Government to my request made in accordance with your instructions.

I have communicated the substance of this note to the consul-general in this city, instructing him to inform all the consular representatives under him.

I have, etc.,

J. W. RIDDLE,
Chargé d'Affaires ad Interim.

[Inclosure.—Translation.]

Prince Obolensky to Mr. Riddle.

MINISTRY FOR FOREIGN AFFAIRS,
St. Petersburg, June 10, 1902.

MR. CHARGÉ D'AFFAIRES: In reply to your note of May 13 (26), I have the honor to inform you that the Imperial Government sees no objection to the interests of Cuba and its citizens being represented by consular officers of the United States residing in Russia, as requested by the President of the Republic of Cuba.

Please receive, etc.,

OBOLENSKY.

VISIT OF RUSSIAN GRAND DUKE BORIS WLADIMIROVITCH TO
THE UNITED STATES.

Count Cassini to Mr. Hay.

[Translation.]

IMPERIAL RUSSIAN EMBASSY,
Bar Harbor, July 19, 1902.

MR. SECRETARY OF STATE: His Imperial Highness Monseigneur Grand Duke Boris Wladimirovitch sailed from Yokohama on July 15 on board the steamship *Coptic*, bound for San Francisco. The Grand Duke travels incognito, with a suite of five persons.

I have to ask that your excellency will cause the necessary steps to be taken for the granting of the customary courtesies in such cases to the baggage of the Grand Duke and his suite. I should also wish that a boat be placed at the disposal of the consul of Russia at San Francisco, so that he may meet the *Coptic*, take the orders of His Imperial Highness, and convey the Grand Duke and his suite to the shore.

I should be deeply thankful, Mr. Secretary of State, if you would provide such police arrangements in San Francisco, as well as during the whole trip of His Imperial Highness, as will insure the Grand Duke's safety. According to information at hand, Monseigneur proposes to spend five days in San Francisco, after which he will visit several States of the Union.

I shall lose no time in communicating to your excellency further particulars of His Imperial Highness' trip as soon as they reach me.

Warmly thanking you in advance, etc.,

CASSINI.

Mr. Adee to Count Cassini.

DEPARTMENT OF STATE,
Washington, August 9, 1902.

MY DEAR MR. AMBASSADOR: Referring to previous correspondence regarding the visit of His Imperial Highness the Grand Duke Boris to the United States, I beg to say that the Acting Secretary of the Navy has communicated to this Department a report from Rear-Admiral Miller, commandant of the Mare Island Navy-Yard and Station, in which he states:

I sent my aid, Lieutenant-Commander Parker, to confer with the Russian consul at San Francisco in relation to the visit of His Imperial Highness the Grand Duke Boris Wladimirovitch, and to tender him the services of a tug to meet the steamer and convey the Grand Duke and his suite to the shore, and also to inform the consul that we would be pleased to be of any further service, and in case the Grand Duke would desire to visit this yard, would place the yard tug at his service.

The consul returned his thanks for the courtesies tendered and stated that he had already made arrangements with the customs officials for a vessel to convey the Grand Duke from the steamer, and that his impression was that the visit to San Francisco would be a short one.

I am, etc.,

ALVEY A. ADEE.

Count Cassini to Mr. Adee.

[Telegram.—Translation.]

IMPERIAL RUSSIAN EMBASSY,
Bar Harbor, Me., September 16, 1902.

His Imperial Highness Grand Duke Boris will leave Newport to-morrow, Wednesday, at 1 o'clock, going directly by sea on Mr. Vanderbilt's yacht on board *La Lorraine*, which sails from New York on the 18th instant.

The Grand Duke charges me to express to the Department of State his sincere thanks for all the courtesies and attentions shown to him during his trip in the United States. I join my warmest thanks to those of His Highness.

CASSINI.

Count Cassini to Mr. Adee.

[Translation.]

IMPERIAL RUSSIAN EMBASSY,
Bar Harbor, September 12 (25), 1902.

MR. ASSISTANT SECRETARY OF STATE: I wish to complete the telegram I had the honor to address to you under date of September 16, and to express to you once more my best thanks for the courtesy and prompt attention of which His Imperial Highness Grand Duke Boris was the recipient at the hands of the Federal Government during his recent trip in the United States.

His Imperial Highness carries with him the most pleasant and grateful remembrance of his sojourn in this great country. The cordial reception extended to the Grand Duke at Sagamore Hill by the President of the United States has particularly touched him, and the Grand Duke has been glad of the opportunity thus offered of meeting and paying his respects to the eminent statesman who presides over the destinies of this country. The broad and generous hospitality His Highness has enjoyed in the United States, and especially at Newport—such hospitality, let it be said in passing, as is only found in our two countries, has deeply touched His Highness and contributed to the indelible impression made on his memory by his sojourn in this country, Russia's friend.

* * * * *

I am therefore glad, Mr. Assistant Secretary of State, to be in a position to reiterate to you the assurance that His Imperial Highness has left the United States deeply impressed by the reception extended to him, and, I say it again, earnestly grateful for the courtesies and attentions shown him by the Department of State.

Be pleased, etc.,

CASSINI.

Mr. Adee to Count Cassini.

No. 212.]

DEPARTMENT OF STATE,
Washington, October 1, 1902.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 25th ultimo, expressing your thanks for the courtesies paid

by the Federal Government to His Imperial Highness the Grand Duke Boris during his visit to the United States.

I have the honor to say in reply that I have taken pleasure in communicating your note to the President, who is gratified to learn that His Imperial Highness entertains an agreeable and grateful remembrance of the courtesies paid to him and the hospitalities enjoyed by him during his visit.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

PARTIAL REMOVAL OF RESTRICTIONS ON TRAVEL AND RESIDENCE IN CENTRAL ASIA.

Mr. Riddle to Mr. Hay.

No. 592.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, July 30, 1902.

SIR: I have the honor to inclose herewith, for the information of future travelers, copy and translation of a note from the minister for foreign affairs, announcing that special permission is no longer required to travel on the Trans-Caspian Railway.

I have, etc.,

J. W. RIDDLE,
Chargé d'Affaires ad interim.

[Inclosure.—Translation.]

Count Lamsdorff to Mr. Riddle.

No. 3843.]

MINISTRY FOR FOREIGN AFFAIRS,
First Department, July 15 (28), 1902.

MR. CHARGÉ D'AFFAIRES: In reply to your note of the 1st (14th) July, I have the honor to inform you that foreigners desiring to visit our possessions in Central Asia are no longer obliged to obtain special permission, and that travelers may, in consequence, freely sojourn in those regions, with the exception of the towns of Koushk, Termez, and Kerki, and the custom-house stations situated on the Amu Daria above Kerki.

Tchikichliar, Tchatly, the military posts on the Atrek and on the line from Koushk to Ak-rabat, as well as the railway from Merv to Koushk, are likewise closed to travelers.

I take this occasion, etc.,

COUNT LAMSDORFF.

JEWES IN ROUMANIA—DISCRIMINATIONS AGAINST, CONDITION OF HELPLESSNESS TO WHICH THEY ARE REDUCED, AND OBJECTION OF UNITED STATES GOVERNMENT TO IMMIGRATION OF SUCH PERSONS.

Mr. Tower to Mr. Hay.

No. 601.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, September 17, 1902.

SIR: I have the honor to acknowledge the receipt of the unnumbered dispatch of Mr. Adee, Acting Secretary of State, dated the 12th of August, 1902, in which he inclosed to me your circular letter^a dated

the 11th of August, in regard to the condition of Jews in Roumania, with two additional printed copies of that letter.

In compliance with your instructions I sought an interview with Count Lamsdorff, Imperial Russian minister for foreign affairs, to whom I presented the subject, and to whom, upon his request, I handed one of the printed copies of your circular letter.

I have, etc.,

CHARLEMAGNE TOWER.

Mr. Tower to Mr. Hay.

No. 609.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, October 2, 1902.

SIR: I have the honor to inform you that at a personal interview which I had yesterday with the Count Lamsdorff, Imperial minister for foreign affairs, I asked him whether he had any reply to make to your note of the 11th of August in regard to the treatment of Jews in Roumania, a copy of which I had previously left with him according to your instructions.

M. de Lamsdorff answered that he had not as yet been able to formulate a reply, but he wished me to acknowledge to you the receipt by him of a copy of your note and to say that he is giving it his consideration.

I have, etc.

CHARLEMAGNE TOWER.

SERVIA.

TREATY BETWEEN THE UNITED STATES AND SERVIA FOR THE MUTUAL EXTRADITION OF FUGITIVES FROM JUSTICE.^a

Signed at Belgrade, October 25, 1901.
Ratification advised by the Senate, January 27, 1902.
Ratified by the President, March 7, 1902.
Ratified by Servia, March 17, 1902.
Ratifications exchanged at Belgrade, May 13, 1902.
Proclaimed May 17, 1902.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Treaty between the United States of America and Servia providing for the extradition of fugitives from justice was concluded and signed by their respective Plenipotentiaries at Belgrade on the twenty-fifth (twelfth) day of October, one thousand nine hundred and one, the original of which Treaty, being in the English and Servian languages, is word for word as follows:

The United States of America and His Majesty the King of Servia, being desirous to confirm their friendly relations and to promote the cause of Justice, have resolved to conclude a treaty for the extradition of fugitives from justice between the United States of America and the Kingdom of Servia, and have appointed for that purpose the following Plenipotentiaries:

The President of the United States of America, Charles S. Francis, Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of Servia.

His Majesty the King of Servia, M. Michel V. Vouitch, President of His Council of Ministers, Minister for Foreign Affairs, Senator, Grand Officer of the Order of Milosh the Great, Grand Cross of the Order of Takovo, Officer of the Order of the White Eagle etc. etc., 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 Servia mutually agree to deliver up persons who, having been charged with or convicted of any of the crimes and offenses specified in the following article, committed within the jurisdiction of one of the high 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

^aThe Servian text, in Russian characters, is necessarily omitted in print.

or person so charged shall be found, would justify his or her apprehension and commitment for trial if the crime or offense had been committed there.

ARTICLE II.

Extradition shall be granted for the following crimes and offenses:

1. Murder, comprehending assassination, parricide, infanticide, and poisoning; attempt to commit murder; manslaughter, when voluntary.

2. Arson.

3. Robbery, defined to be the act of feloniously and forcibly taking from person of another money or goods, by violence or putting him in fear; burglary, defined to be the act of breaking, and entering by night, into the dwelling house of another, with intent to commit felony; housebreaking or shopbreaking.

4. Forgery, or the utterance of forged papers; the forgery or falsification of official acts of government, of public authorities, or of courts of justice, or the utterance of the thing forged or falsified.

5. The counterfeiting, falsifying or altering 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 banknotes, or the utterance or circulation of the same; or the counterfeiting, falsifying or altering of seals, dies or stamps of state; of postage and revenue stamps.

6. Embezzlement by public officers; embezzlement by persons hired or salaried, to the detriment of their employers; larceny; obtaining money, valuable securities or other property by false pretenses, or receiving money, valuable securities or other property, knowing the same to have been embezzled, stolen or fraudulently obtained, 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 or received, is not less than two hundred dollars or one thousand francs in gold.

7. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, or other person acting in a fiduciary capacity, or director or member or officer of any company, when such act is made criminal by the laws of both countries and the amount of money or the value of the property misappropriated is not less than two hundred dollars or one thousand francs in gold.

8. Perjury; subornation of perjury.

9. Rape; abduction; kidnapping.

10. Wilful and unlawful destruction or obstruction of railroads which endangers human life.

11. Crimes committed at sea:

a. Piracy, by statute or by the law of nations.

b. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

c. Wrongfully sinking or destroying a vessel at sea, or attempting to do so.

d. Assaults on board a ship on the high seas with intent to do grievous bodily harm.

12. Crimes and offenses against the laws of the United States of America for the suppression of slavery and slave trading.

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 felony and in Servia as crime or offense as before specified.

ARTICLE III.

Requisitions for the surrender of fugitives from justice shall be made by the Governments of the high contracting parties through their diplomatic agents, or in the absence of such through their respective superior consular officers.

If the person whose extradition is requested shall have been convicted of a crime or offense, a duly authenticated copy of the sentence of the Court in which he has been convicted, or if the fugitive is merely charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime has been committed, and of the depositions or other evidence upon which such warrant was issued, shall be produced.

The extradition of fugitives under the provisions of this Treaty shall be carried out in the United States and in Servia, respectively, in conformity with the laws regulating extradition for the time being in force in the State on which the demand for surrender is made.

ARTICLE IV.

Where the arrest and detention of a fugitive in the United States are desired on telegraphic or other information in advance of the presentation of formal proofs, complaint on oath, as provided by the statutes of the United States, shall be made by an agent of the Government of Servia before a judge or other magistrate authorized to issue warrants of arrest in extradition cases.

In the Kingdom of Servia the diplomatic or consular officer of the United States shall apply to the Foreign Office, which will immediately cause the necessary steps to be taken in order 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 criminality, has not been produced under the stipulations of this Treaty, within two months from the date of his provisional arrest and detention.

ARTICLE V.

Neither of the high contracting parties shall be bound to deliver up its own citizens or subjects under the stipulations of this Treaty.

ARTICLE VI.

A fugitive criminal shall not be surrendered if the offense in respect of which his surrender is demanded be of a political character, or if he proves that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offense of a political character.

No person surrendered by either of the high contracting parties to the other shall be triable or tried, or be punished, for any political crime or offense, or for any act connected therewith, committed previously to his extradition.

If any questions 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 VII.

Extradition shall not be granted, in pursuance of the provisions of this Treaty, 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 VIII.

No person surrendered by either of the high contracting parties to the other shall, without his consent, freely granted and publicly declared by him, be triable or tried or be punished for any crime or offense committed prior to his extradition, other than that for which he was delivered up, until he shall have had an opportunity of returning to the country from which he was surrendered.

ARTICLE IX.

All articles seized which are in the possession of the person to be surrendered at the time of his apprehension, whether being the proceeds of the crime or offense charged, or being material as evidence in making proof of the crime or offense, shall, so far as practicable and in conformity with the laws of the respective countries, be given up to the Country making the demand, when the extradition takes place. Nevertheless, the rights of third parties with regard to such articles shall be duly respected.

ARTICLE X.

If the individual claimed by one of the high contracting parties, in pursuance of the present Treaty, shall also be claimed by one or several other powers on account of crimes or offenses committed within their respective jurisdictions, his extradition shall be granted to the State whose demand is first received: Provided, that the Government from which extradition is sought is not bound by treaty to give preference otherwise.

ARTICLE XI.

The expenses incurred in the arrest, detention, examination, and delivery of fugitives under this Treaty shall be borne by the State in whose name the extradition is sought: Provided, that the demanding Government shall not be compelled to bear any expense for the services of such public officers of the Government from which extradition is sought as received a fixed salary; and, provided, that the charge for the services of such public officers as receive only fees or perquisites shall not exceed their customary fees for the acts or services performed by them had such acts or services been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

The present Treaty shall take effect on the thirtieth day after the date of the exchange of ratifications and shall not act retroactively.

The ratifications of the present Treaty shall be exchanged at Belgrade as soon as possible, and it shall remain in force for a period of six months after either of the contracting Governments shall have given notice of a purpose to terminate it.

In witness whereof, the respective Plenipotentiaries have signed this Treaty in duplicate and have hereunto affixed their seals.

Done at Belgrade this twenty-fifth (twelfth) day of October in the year of our Lord one thousand nine hundred and one.

CHARLES S. FRANCIS. [SEAL.]
DR MICHEL VOÛTCH [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 Belgrade, on the thirteenth day of May, one thousand nine hundred and two;

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 seventeenth day of May in the year of our Lord one thousand nine hundred and two, and of the Independence of the United States the one hundred and twenty-sixth.

[SEAL]

THEODORE ROOSEVELT

By the President:

JOHN HAY

Secretary of State.

SIAM.

QUESTION AS TO WHETHER A UNITED STATES OFFICIAL MAY ISSUE A PASSPORT TO A UNITED STATES CITIZEN RESIDING IN THE DISTRICT OF ANOTHER UNITED STATES OFFICIAL—APPLICATION OF HENRY S. WETHERBEE.

Mr. King to Mr. Hay.

No. 111.]

LEGATION OF THE UNITED STATES,
Bangkok, February 6, 1902.

SIR: Is a consular or diplomatic officer who is duly authorized to issue United States passports permitted to issue a passport to a citizen of the United States who is at the time of application residing in the jurisdiction of another official so authorized?

The statutes and instructions are not clear on this point, but seem to imply that he is not. Will the Department please interpret?

I have, etc.,

HAMILTON KING.

Mr. Hay to Mr. King.

No. 83.]

DEPARTMENT OF STATE,
Washington, March 19, 1902.

SIR: I have to acknowledge the receipt of your dispatch, No. 111, of the 6th ultimo, asking if a consular or diplomatic officer of the United States, who is duly authorized to issue passports, is permitted to issue one to a citizen of the United States residing at the time of application in the jurisdiction of another officer so authorized.

“Instructions to the Diplomatic Officers of the United States” and the “Regulations Prescribed for the Use of the Consular Service of the United States,” do not prohibit an officer from issuing a passport to a citizen who is residing in some other officer’s district. Extraordinary circumstances may be conceived where he should do so, as, for instance, when a passport, being imperatively needed, communication with the officer in his district might be impracticable or impossible to a citizen.

But it is obvious that, except in a most unusual case, application should be made to the diplomatic or consular officer of the applicant’s district, and that an officer issuing a passport to a citizen residing in another officer’s district would be infringing upon the latter’s prerogatives and interfering with his legitimate functions of office.

An officer is supposed to know, or have means of knowing, whether a citizen in his district is entitled to receive a passport, and if an applicant, being refused by one officer, could apply to another, there would be confusion and injustice.

You are instructed to report circumstantially to the Department any instance known to you of the issuance of passports by a diplomatic or consular officer to citizens of the United States residing in the district of another diplomatic or consular officer.

I am, etc.,

JOHN HAY.

Mr. King to Mr. Hay.

No. 122.]

LEGATION OF THE UNITED STATES,
Bangkok, July 10, 1902.

SIR: Replying to diplomatic dispatch No. 83, March 19, 1902, my question arose from the fact that last February I received from one Henry S. Wetherbee a request for a passport, which request was accompanied by the necessary papers. Mr. Wetherbee, as inclosure 1 will show, was in the jurisdiction of the consul-general at Calcutta, and, interpreting the matter in the same way the Department does in its dispatch No. 83 to me, I forwarded the request to Hon. Robert F. Patterson, United States consul-general, Calcutta, India, and explained my action in a letter to Mr. Wetherbee.

I have, etc.,

HAMILTON KING.

[Inclosure 1.]

Mr. King to Mr. Wetherbee.

LEGATION OF THE UNITED STATES,
Bangkok, February 5, 1902.

SIR: By last mail I received your communication in reference to a passport. Burmah is under the jurisdiction of the consul-general at Calcutta, Hon. Robert F. Patterson, and I have forwarded your correspondence as it came to me directly to him, with the hope that this might save you some little time in a quest that seems to have cost you a good deal of time and trouble. You will no doubt hear from Mr. Patterson very shortly after you receive this.

* * * * *

Yours, sincerely,

HAMILTON KING.

[Inclosure 2.]

Mr. King to Mr. Patterson.

LEGATION OF THE UNITED STATES,
Bangkok, February 5, 1902.

DEAR SIR: I inclose a sheaf of correspondence from one Henry S. Wetherbee, who desires to secure a United States passport. Mr. Wetherbee is in Yenang Yaung, Upper Burmah, India, and under your jurisdiction. Hence I forward this material to you. I interpret paragraph 147, Consular Regulations, and Revised Statutes, section 4075, as exclusive as well as inclusive. The fee to which Mr. Wetherbee refers did not appear in his letter. I inclose, however, three postage stamps which he sent, and will to-day write him that I have turned this matter over to his consul-general, Hon. Robert F. Patterson, Calcutta, India.

Yours, sincerely,

HAMILTON KING.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. King to Mr. Hay.

LEGATION OF THE UNITED STATES,
Bangkok, June 17, 1902.

SIR: On May 25 the following cable ^a was received and transmitted at once to the foreign office.

I have to-day received a reply to the same, a copy of which I inclose. I have, etc.,

HAMILTON KING, *Minister Resident.*

[Inclosure.]

The Minister for Foreign Affairs to Mr. King.

FOREIGN OFFICE,
Bangkok, June 13, 1902.

MONSIEUR LE MINISTRE: I have the honor to acknowledge receipt of your letter of the 3d instant, in which you inform me that on May 20 the United States withdrew all its forces, both civil and military, from the island of Cuba, and on that date Cuba was declared independent nation under a republican form of government.

And you further inform me of the message which you received from your Government to the effect that you are instructed, at the request of the President of Cuba, to ask the Government of Siam to permit United States consular officers within its jurisdiction to use their good offices in representation of the interests of Cuba and of its citizens until Cuban consuls shall have been appointed.

In taking note of your above communication, I beg to state that there is no treaty between this country and Cuba, so that no right of extraterritoriality is granted, but His Majesty's Government have no objection against United States consular officers using their good offices in the interests of the Cuban citizens, so far as recognized generally by the law of nations.

I avail, etc.,

DEVAWONGSE, *Minister for Foreign Affairs.*

VISIT OF THE CROWN PRINCE OF SIAM TO THE UNITED STATES.

Mr. Akharaj to Mr. Hay.

SIAMESE LEGATION,
Washington, July 31, 1902.

SIR: In confirmation of my previous verbal intimations, I have the honor to inform you that the Crown Prince of Siam, having completed his education and travels in Europe, desires to extend his knowledge of foreign countries and their institutions by visiting the United States en route to Siam.

Owing to unforeseen circumstances, His Royal Highness's departure from Europe has been delayed until September 24, on which date he will leave Cherbourg by the German mail steamer *Kaiser Wilhelm der Grösse*, which is due to reach New York on or about October 1, and will follow the route indicated in the inclosed itinerary.

It is the desire of the Prince to pay his respects to the President

^a Printed, page 6.

whenever convenient to him, and I would beg your kind offices in making an appointment for that purpose. Permit me to explain that the dates for being in Washington, as given in the itinerary, were suggested by the knowledge that the President would be there about that time, but in any case the Crown Prince would be most happy to hold himself at the President's disposal in the arrangement of time and place.

I beg further to inclose a list of His Royal Highness's party for your information.

I have, etc.,

AKHARAJ VARADHARA.

[Inclosure 1.]

Programme of the private tour of His Royal Highness the Crown Prince of Siam through the United States.

Arriving by the German mail steamer *Kaiser Wilhelm der Grösse*, from Cherbourg September 30 or October 1, will spend three days in New York, including West Point; visit Newport October 4, thence to Boston October 5 and 6 to see Harvard and inspect factories in the vicinity; arrive at Washington in the morning of October 7; at the service of the President on October 7 and 8; proceed to Philadelphia October 9 for six days, including a personal visit to Mr. William Potter. On October 16 start on the main tour in a special train to visit in order the following cities and places of interest: Buffalo, Niagara Falls, Pittsburg, Indianapolis, St. Louis, Chicago, St. Paul, Yellowstone Park, Butte copper mines, Salt Lake City, Glenwood Springs, Colorado Springs, Pikes Peak, Cripple Creek gold mines, Santa Fe, the Indian pueblos of New Mexico, Grand Canyon of the Colorado, Los Angeles, Pasadena wineries, San Diego, Coronado Beach, Santa Barbara, Del Monte, San José, Lick Observatory, San Francisco, and Yosemite Valley. In all probability the Prince will sail from San Francisco.

Siamese Legation, Washington, July 30, 1902.

[Inclosure 2.]

List of the Crown Prince of Siam's party who will visit the United States.

His Royal Highness the Crown Prince of Siam.
Colonel Phya Rajavallobh, first aid-de-camp.
Captain Lusang Sarasiddhi, second aid-de-camp.
Mom R. Anuvatra, private secretary.
His Royal Highness Prince Chakrabongse, brother of the Crown Prince.
An aid-de-camp or an officer in attendance.
Siamese Legation, Washington, July 30, 1902.

Mr. Adee to Mr. Akharaj.

No. 7.]

DEPARTMENT OF STATE,
Washington August 6, 1902.

SIR: I have the honor to acknowledge the receipt of your note of the 31st ultimo advising this Department of the approaching visit of His Royal Highness the Crown Prince of Siam to the United States.

In reply I beg to say that I have forwarded copies of your note and its inclosures to the President for an expression of his pleasure in regard to the date of his reception of the Crown Prince.

Accept, etc.,

ALVEY A. ADEE.

His Majesty Chulalongkorn to President Roosevelt.

[Telegram.]

BANGKOK, *October 13, 1902.*

I learned with pleasure the cordial reception you have kindly accorded to my son, the Crown Prince, in your country. Pray accept my warmest thanks and the assurance of my sincere friendship.

CHULALONGKORN, R.

President Roosevelt to the King of Siam.

[Telegram.]

WHITE HOUSE,
Washington, October 15, 1902.

It has been a great pleasure to me to meet your son, not only on account of my regard and esteem for Your Majesty, but also because of the attractive character of the Crown Prince.

THEODORE ROOSEVELT.

The Crown Prince of Siam to President Roosevelt.

[Telegram.]

SUMAS, WASH., *November 30, 1902.*

Having completed a most interesting tour through the United States, I now beg to take leave of Your Excellency, and to express my heartiest appreciation and gratitude for the very hospitable reception so kindly accorded to me by you and by the officials and the citizens of this friendly country. I assure you that I bear home with me the happiest memories of America and the Americans.

MAHA VAJIRAVUDH.

Mr. Hay to Mr. King.

No. 96.]

DEPARTMENT OF STATE,
Washington, December 5, 1902.

SIR: I inclose herewith for your information a copy of a telegram,^a dated at Sumas, State of Washington, November 30, 1902, addressed by His Royal Highness the Crown Prince of Siam to the President, expressing his thanks for the hospitalities shown him during his recent visit to the United States.

You will say to the Siamese Government that the President cordially appreciates and reciprocates the kind sentiments expressed by His Royal Highness.

I am, etc.,

JOHN HAY.

^a Printed, ante.

ACCIDENT TO PRESIDENT ROOSEVELT.*Mr. Akharaj to Mr. Hay.*

SIAMESE LEGATION,
East Gloucester, Mass., September 4, 1902.

SIR: Permit me to express to you, on behalf of my Government and the members of the legation, their sincere gratification at the President's most happy escape from serious injury in yesterday's alarming accident. We heartily regret that he should have received even slight injury, and sincerely hope that he will speedily recover from the effects of the shock he must have experienced on that regrettable occasion.

I have, etc.,

AKHARAJ VARADHARA.

Mr. Adee to Mr. Akharaj.

No. 8.]

DEPARTMENT OF STATE,
Washington, September 11, 1902.

SIR: Acknowledging the receipt of your note of the 4th instant, I have the honor to inform you that I am charged by the President to say that he appreciates sincerely the gratification which the Government of Siam and the members of the Siamese legation have expressed at his recent escape from serious injury.

He directs me to express his thanks for the kind sentiments expressed in your note.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

SPAIN.

MILITARY-SERVICE CASE OF ANTONIO GISBERT Y BAYOT.

Mr. Storer to Mr. Hay.

No. 634.]

LEGATION OF THE UNITED STATES,
Madrid, February 26, 1902.

SIR: Owing to the fact that I have been personally confined to my room for ten days, I have not reported as yet a matter as to which my advice had been asked by the consul-general at Barcelona, which I have the honor now to do.

It seems that on the 27th day of November, 1901, Mrs. Carmen Bayot, together with her son, Mr. Antonio Gisbert y Bayot, addressed themselves to the consulate-general, with each of them a "cedula," issued by the authorities of the United States, of the province of Manila, on the 1st day of January, 1900. The young man is correctly described therein as having been born in Manila, as 18 years of age, single, occupation that of a mechanic, residing in Cabilde, Manila. Both of these "cedulas" were issued by the first lieutenant of the Thirty-seventh Infantry, collector of internal revenues—the name is not distinguishable.

The young man was also bearer of his birth certificate, duly authenticated; and on the 27th November, 1901, demanded to be registered as a United States citizen at the consulate-general. The consul-general, in view of your instruction No. 283,^a dated January 16, 1901, declined to consider himself authorized to do more than to visé the "cedula" and the birth certificate, which he then did under the seal of the consulate-general. Notwithstanding this, the Spanish authorities, in the last drawing of the conscription list for service in the Spanish army, insisted on including the name of the young man; and he has, I am informed, been definitely drawn and will be held for service.

The consul-general wrote me, asking instructions by telegraph from me, as to whether he should make a formal protest within the time fixed by the Spanish law for the filing of such protest; and I was able to do no more, under the circumstances narrated, than telegraph him so to do. He informs me that he has made such a protest; that no answer thereto has been received, but that he learned that the Spanish authorities do not contest in any way the fact of the birth and citizenship of the young man, but will claim that as he was not "registered at the consulate as an American citizen" they were not obliged to exempt him.

I report this case as it up to this time has been made known to me, and will inform the Department at once of the official ground which

^aSee Foreign Relations, 1901, page 462.

may be taken by the Spanish Government in their reply to the protest of the consul-general. In the meantime, * * * I think I had better receive from the Department instructions either to proceed directly through the ministry of state in this matter or to await further developments, as your judgment may decide.

I have, etc.,

BELLAMY STORER.

Mr. Storer to Mr. Hay.

No. 642.]

LEGATION OF THE UNITED STATES,
Madrid, March 3, 1902.

SIR: Continuing the report to the Department made by myself in my dispatch No. 634, bearing date February 26, 1902, concerning the action of the Spanish authorities in the case of Mr. Antonio Gisbert y Bayot, I have the honor to transmit herewith copy of an official letter received this morning from the consul-general at Barcelona.

* * * * *

I have, etc.,

BELLAMY STORER.

[Inclosure.]

Mr. Lay to Mr. Storer.

CONSULATE-GENERAL OF THE UNITED STATES,
Barcelona, March 1, 1902.

SIR: Referring to my letters of the 10th and 14th ultimo, relating to the case of enlistment in the Spanish army of Antonio Gisbert y Bayot, I have now the honor to report the receipt of two letters of the 27th and 28th February from the "Comision Mixta" of Barcelona, informing me that until Gisbert and his mother can show their actual place of residence on the 11th April, 1899, the date of ratification of the treaty of peace, the said Gisbert can not leave Barcelona without depositing 1,500 pesetas with the civil governor.

Although Gisbert has diplomas and registers from the schools and colleges in Manila showing that he attended these colleges regularly between 1892 and March, 1900, and the certificate of registration issued by the United States military authorities in Manila to his mother and himself, his mother does not seem to be able to produce satisfactory evidence that she resided in Manila on the above-mentioned date. She sails to-day for Manila and will send from there the necessary proofs of residence to her son here, who expects they will reach him in time to get away in three months.

I have, etc.,

JULIUS G. LAY.

Mr. Hay to Mr. Storer.

No. 423.]

DEPARTMENT OF STATE,
Washington, March 10, 1902.

SIR: I inclose a copy of No. 208, of the 18th ultimo, from the United States consul-general at Barcelona.

It appears from this dispatch that one Antonio Gisbert y Bayot, a native inhabitant of the Philippine Islands, presented on November 27 last to the consul-general a certificate of registration issued to him on January 1, 1900, by the United States military authorities at Manila.

This certificate was viséed by the consul-general, and a certificate (Form A of the dispatch) was issued to Gisbert, stating that he was a native of the Philippine Islands, under the protection of the United States. This latter certificate was presented at the office of the civil governor of Barcelona by Gisbert, where it was stamped and noted and his name registered there as a foreigner.

Notwithstanding these precautions, Gisbert was notified in January last that he was called in this year's draft for the Spanish army. On his inquiry he was informed that he could not be considered as a foreigner, as he was not registered at the United States consulate as an American citizen. Thereupon the consul-general protested to the local authorities, who had not at the date of his dispatch made a reply.

You may bring the matter to the attention of the Spanish Government and point out that, while under existing conditions Gisbert can only be regarded as a native inhabitant of the Philippine Islands under the protection of the United States, he can not now, in view of the terms and stipulations of the treaty of peace, be regarded as a subject of Spain, liable for military service.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Lay to the Department of State.

No. 208.]

CONSULATE-GENERAL OF THE UNITED STATES,
Barcelona, February 18, 1902.

SIR: I have the honor to inform the Department that after obtaining the approval of the minister at Madrid I have protested to the authorities here against the enlistment in the Spanish army of one Antonio Gisbert y Bayot, a native inhabitant of the Philippine Islands.

The facts in the case are as follows: On November 27, 1901, Antonio Gisbert y Bayot presented at this consulate-general a "certificate of registration," issued by the United States military authorities at Manila on January 1, 1900, to said Gisbert y Bayot, and a similar certificate issued to his mother on the same date, both countersigned by the captain of the port of Manila; also a certificate duly authenticated showing that Gisbert was born in the Philippines on August 7, 1881. The certificates of registration were both viséed by me on November 27, 1901, and in order to comply with the regulations of the civil governor of this province a certificate in the form inclosed was issued on the 27th November, 1901, at this office. This certificate was presented at the office of the civil governor by Gisbert, where it was stamped and noted, and his name registered there as a foreigner.

In the first part of January of this year Gisbert was notified that his name was included in the lists of those young men obliged to serve in the Spanish army in this year's draft. I advised Gisbert to request an explanation from the authorities for their action, to which they replied in a letter addressed to Gisbert that, although he was born in the Philippine Islands and did not arrive in Spain until May 1, 1900, as shown by the records of the captain of the port of Barcelona, he could not be considered as a foreigner, as he was not registered at the consulate-general of the United States here as an American citizen. Before this letter to Gisbert was written, in reply to a request from the authorities for information regarding the registration of Gisbert, I informed them that he was not registered as an American citizen, but that he held a "certificate of registration" viséed by me, issued by the military authorities in the Philippine Islands. I did not feel justified in doing more in view of existing regulations on the subject from the Department. Furthermore, the important part of permanent residence in the Philippines and temporary stay here had not been established except by Gisbert's statements to me. When, however, the Spanish authorities made no contention respecting residence, which might have implied previous obligations, but denied his claim to anything but Spanish nationality, I requested the approval of the minister to protest against Gisbert's enlistment. Having received the approval of the minister to do so, I have protested and will transmit a copy of the decision of the local authorities in the case when received.

This case is interesting as showing the attitude of the Spanish Government regarding the status of native inhabitants of the Philippine Islands temporarily residing here less than two years.

I have, etc.,

JULIUS G. LAY, *Consul-General.*

[Subinclosure.—Translation.]

Certificate furnished by the consulate-general to Mr. Gisbert.

This is to certify that Mr. Antonio Gisbert has to-day presented himself at this consulate-general, and, according to documents, is a native inhabitant of Manila, is under the protection of the United States, his present residence being at 85 Calle Bailen, of this city.

JULIUS G. LAY, *Consul-General of the United States.*

Signature of bearer:

ANTONIO GISBERT.

BARCELONA, *November 27, 1901.*

Mr. Hay to Mr. Sickles.

No. 424.]

DEPARTMENT OF STATE,
Washington, March 18, 1902.

SIR: I have to acknowledge the receipt of Mr. Storer's No. 634 of the 26th ultimo, reporting the case of Mr. Antonio Gisbert y Bayot, a native of the Philippine Islands, under the protection of the United States, who has been called by the military authorities for service in the Spanish army.

You are referred to the Department's No. 423 of the 10th instant, which indicated a course to be pursued by the legation.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Sickles.

No. 427.]

DEPARTMENT OF STATE,
Washington, March 21, 1902.

SIR: I have to acknowledge the receipt of Mr. Storer's No. 642, of the 3d instant, reporting the position assumed by the Spanish authorities in the case of Antonio Gisbert y Bayot.

In reply I have to say that the Department is of opinion that it is perhaps not unreasonable for those authorities to require Mr. Gisbert to show the place of his residence on April 11, 1899, the date of the exchange of ratifications of the treaty of peace.

As his mother has gone to Manila to obtain the necessary evidence, no further action seems to be required at this time.

I am, etc.,

JOHN HAY.

Mr. Sickles to Mr. Hay.

No. 667.]

LEGATION OF THE UNITED STATES,
Madrid, June 12, 1902.

SIR: With reference to Department's instruction No. 423, bearing date March 10, concerning one Antonio Gisbert y Bayot, a native

inhabitant of the Philippine Islands, who had been called upon by the military authorities of Spain to serve in the Spanish army, I have the honor to inform you that the protest made by this legation to the ministry of state of Spain, in compliance with the above mentioned instruction, has produced the desired result, the young man in question, as will be seen by a translation of a letter addressed to the consulate-general at Barcelona from the recruiting office in that city, copy of which I beg to inclose, having been exempted from military service in this country.

Mr. Gisbert, the consul-general informs me, expects to sail for Manila this month.

I have, etc.,

STANTON SICKLES.

[Inclosure.—Translation.]

Comision Mixta to United States Consul-General, Barcelona.

No. 4797.]

COMISION MIXTA DE RECLUTAMIENTO,
Province of Barcelona.

After seeing the particulars relating to the protest put forward by the consul of the United States at Barcelona against the decision of the "Sección de Quintas" of the Fourth District of this city, which declared that no reason existed for excluding the individual Antonio Gisbert y Bayot from enlistment for the present year;

Whereas the same show the said individual to be a native of the Philippine Islands; that he presented himself on the 2d of February last before the above-mentioned "Sección" praying that he should be exempted from enlistment, and handed in a certificate issued by you and registered at the office of the civil governor of this province, stating that he was a native citizen of the Philippine Islands and was under United States protection; that the "Sección" in session decided to call for particulars in order to decide the case, in virtue of which decision a certificate given by the commandant of marine of this port was attached to the "expediente" (proceedings) to the effect that the individual in question arrived at this port from Manila on the 8th of May, 1900, on board the steamer *Leon XIII*, also a written statement from your consulate stating that the certificate issued by the military authorities in the Philippine Islands to the young man in question on the 1st of January, 1900, was viséed at your office on the 7th of November, 1901, he not being registered there as an American citizen, and that the "Sección" had on the 8th of February last decided that there was no reason for excluding the said young man from enlistment, on the grounds that although he arrived in this city after the date mentioned in Article IX of the treaty of peace between Spain and the United States, his status as a foreigner was not established in the form required by Article XII of the royal decree of November, 1852;

Whereas you protested against the above-named decision in your communication to this committee dated the 20th February, stating that although the young man is not registered at your consulate as an American citizen, nevertheless, in compliance with the regulations of his excellency the civil governor of this province, relating to foreigners temporarily residing in this city, you issued to him a certificate which is attached to the "expediente," to the effect that the young man in question is a native of the Philippines and a citizen of Manila, which document is registered at the office of the civil governor of this province;

Whereas this committee in its session held on the 27th of the same month of February determined to require the young man to prove within the shortest possible time his place of residence, as well as that of his mother, on the 11th of April, 1899, the date of the ratification of the treaty of peace between Spain and the United States, whereupon the young man presented a document dated the 22d of last May, being the sworn statements of three citizens of Manila, made before the notary of that city, Don José Ma. Rosado, proving that Doña Maria del Carmen Bayot, widow of Don Antonio Gisbert, mother of the young man Antonio, and he himself, resided in the said city on that date; furthermore, that they resided there during the whole of the year 1899;

Whereas the "expediente" further includes:

1. A statement from you that the mother is a native and a citizen of Manila, under the protection of the United States, which document was registered at the office of the civil governor of this province; and

2. A certified copy of the local census sheet of this city, taken on the 31st of December, 1900, in which it is stated that on that date both the mother and the young man had resided in this city for several months; and

3. A copy of the decision arrived at;

Whereas, it being proved that both the young man and his mother are natives of the Philippines, and that they resided in the said islands on the 11th of April, 1899, the date of the exchange of the ratifications of the treaty of peace between Spain and the United States, it is considered that they thus lost their status as Spaniards by virtue of Article I of the royal decree of the 11th May, 1901;

Whereas the status of foreigners held by the young man and his mother is proved by the documents issued by you on the 27th of November, 1901, in respect of the young man and on the 25th of February last in respect of his mother, which are registered at the office of the civil governor of this province, according to notes made therein, upon the dates when they were respectively issued;

Whereas foreigners are exempt from military service in Spain, and must not therefore be included in the annual enlistments;

In view of the recruiting law, the regulations for its execution, the royal decree of May 11, 1901, and other regulations in force bearing upon the matter;

This committee, in session of the 28th May last, decided to revoke the decision of the "Sección de Quintas" of the Fourth district of this city of the 8th of February last, which declared that there were no grounds for excluding the young man Antonio Gisbert y Bayot from enlistment for the current year, and in its place it is decided to exempt him from that enlistment, seeing that having lost Spanish nationality he is not under obligation of military service in Spain, and that said decision be communicated to you, as I have herewith the honor of doing, for you to act as you deem best.

May heaven protect you many years.

Barcelona, June 4, 1902.

THE PRESIDENT OF THE COMISION MIXTA.

Mr. Hay to Mr. Storer.

No. 447.]

DEPARTMENT OF STATE,
Washington, July 1, 1902.

SIR: The Department has been gratified to receive Mr. Sickles's No. 667, of the 12th ultimo, reporting that the recruiting office of Barcelona had exempted Mr. Antonio Gisbert y Bayot from military service in Spain.

It appears to the Department that no other conclusion was possible, as Mr. Gisbert was a native inhabitant of the Philippines, under the protection of the United States, whose status is, according to the second paragraph of Article IX of the treaty of peace, determinable by Congress.

I am, etc.,

JOHN HAY.

CELEBRATION OF MAJORITY OF ALFONSO XIII.

Mr. Hay to Mr. Curry.

No. 1.]

DEPARTMENT OF STATE,
Washington, February 13, 1902.

SIR: The President having determined upon the appointment of a special ambassador extraordinary to represent the Government of the United States upon the occasion of the coming of age of King Alfonso XIII of Spain on May 17 next, and you having indicated your accept-

ance of the same, I inclose herewith your commission as ambassador extraordinary of the United States on special mission for that purpose.

I also inclose a letter of credence and a letter of felicitation (with office copies) addressed to His Majesty. You will forward the office copies to the minister for foreign affairs and deliver the originals in the manner most agreeable to His Majesty.

Upon your arrival in Madrid it is expected that you will freely consult with Mr. Storer, the minister of the United States there, who will, no doubt, be able to fully advise you and be pleased to render you such further assistance and cooperation as may be necessary.

It is the President's desire to show by this mission the friendly regard he has for the Government and people of Spain, and he feels confident that its duties will be discharged by you in a manner to strengthen the cordial relations now happily subsisting between the two countries.

I am, etc.,

JOHN HAY.

Mr. Curry to Mr. Hay.

SPECIAL EMBASSY OF THE UNITED STATES,
Madrid, May 31, 1902,

SIR: The President of the United States, on the 13th of February, 1902, sent me a commission as ambassador extraordinary on special mission as the representative of the Government on the occasion of the coming of age of Alfonso XIII of Spain, "with all the privileges and authorities of right appertaining to this commission." With Mr. Charles Ritchie Simpkins, who had been appointed secretary of the embassy, and whose diplomatic experience in South America, general culture, and prompt and intelligent discharge of every duty made him a valuable auxiliary, on the 13th of May, the day after my arrival in Madrid, I was received at the foreign office by the Duke de Almodóvar del Rio, the minister of state, when I informed him officially of my appointment and presented copies of my letter of credence and the letter of felicitation. After a pleasant interview, in which I was reminded of the congratulations of the American and the Spanish press at the appointment, under peculiar circumstances, of myself as ambassador, he was emphatic in expressing his pleasure at the action of the United States in consenting to take part in the interesting ceremony which would occur when the King would take the prescribed oath and be installed as a ruler. I was informed that on the succeeding day, between 10 and 12, I would be received in the palace by Their Majesties. The general reception of all special envoys, except those of royal blood, had been fixed for the same hour and place. The papal nuncio had precedence, and then I was presented to the Queen Regent and to the King. The Queen gave an extremely cordial welcome, and was much pleased when she was assured that the President gladly availed himself of that method of showing the friendly regard which he had for the Government and the people of Spain and of expressing his confidence that the mission would strengthen the cordial relations now subsisting between the two countries. After placing in her hands the official copies of the letters I took the liberty of saying that I hoped it would not be considered improper for me to add that by her personal

and official conduct Her Majesty had bound the intelligent and the good of all other peoples with strong bonds of admiration and regard. The Queen, most gracious in her demeanor, throughout the necessarily brief interview listened with an expression of extreme pleasure and then recalled my previous residence in Madrid as the American minister and the cordial relations which then existed with the court. She made special and flattering inquiry about Mrs. Curry and hoped to see her on to-morrow. To the King, standing beside his mother, I made my acknowledgments. I was surprised to find him so well grown and nearly as tall as Her Majesty. He was easy and dignified in manner, self-possessed, alert in speech, and made a decidedly favorable impression. His first utterance was, "I am glad to see you. You were here when I was born." In an adjoining room waited the Princess of Asturias, the King's eldest sister, to whom I was presented. She kindly said she remembered Mrs. Curry. Her husband was with her.

The 17th, the natal day, was the day fixed by the constitution of 1876 for the coming of age of the King and the taking of the oath. Elaborate preparations had been made for the occasion and the ceremonial. The procession from palace to Chamber of Deputies, through streets beautifully decorated with ancient tapestries and splendid hangings, was a reproduction of the most magnificent of mediæval cavalcades and displays. Royal coaches, drawn by eight horses, attended by mace bearers, outriders, royal guards, bore the Queen and King and Princess of Asturias to the Chamber. Twelve senators and twelve deputies received Their Majesties at the steps and conducted them to the Chamber, around which were benches filled by deputies, senators, and ministers, members of the Government, and many distinguished men and women in dazzling uniforms and decorations. The foreign princes and special envoys were seated immediately to the right of a platform which had been specially constructed and on which were four gilded chairs occupied by the King and Queen Regent and Princess and Prince of Asturias. As the King took his place upon the throne he was given a most enthusiastic reception, which he gracefully acknowledged. On the left of the King was a table on which was a Bible with a silver crucifix beside it. On the right was another table with a golden crown studded with jewels and a scepter. The common belief that there was to be a coronation was an error, as Alfonso was born King and needed not an official coronation.

The president of the Chamber, addressing the King, said:

Señor, the Cortes convoked by your august mother are assembled to receive from Your Majesty the oath which, in accordance with the constitution, you come to take to maintain the constitution and laws.

His Majesty, rising and facing the assembly, placed his hand on the Bible and said in distinct, audible tones and in most impressive manner:

I swear by God upon the Holy Bible to maintain the constitution and laws. If so I do, may God reward me. If I do not, may He call me to account.

The ceremony of the transformation from the regency to the King, of the transference of rule from mother to son, and of the investiture, according to the constitution, with the rights and prerogatives of a King in his own separate right was exceedingly simple and intelligible. The boy King's manner was dignified and self-possessed, and nothing occurred to suggest opposition or a probable antagonism to the change of government. After this ceremony of taking the oath the King

and royal party proceeded to the San Francisco Cathedral, where a solemn Te Deum was celebrated. On his return to the palace the King issued his first proclamation to the people, expressing the hope that he would receive from them the inspiration which time has not yet taught and that they will continue to him the support they had accorded to his august mother. The Queen, in a noble, pathetic letter to the Spanish people, expressed her unchangeable gratitude for the proofs of affection she had received, and stated that the most complete recompense for a mother for a life devoted to the fulfillment of her duties during a long regency and the bitter trials to which Providence had subjected her would be that her son might be preserved to emulate the glories of his predecessors and to procure peace and prosperity for the noble people he was called to govern.

Among the most significant and warmly approved early actions of the new King was the royal decree giving to the Queen Mother the rank, honors, and preeminence of a reigning consort queen. Her fidelity to her son and ability as a ruler merited this act of filial regard and sound policy. A translation of this paper may well be preserved.

Wishing to give to my august mother a testimony of the great affection and, at the same time, of the love and gratitude with which the noble nation directed by her during sixteen years will keep memory of her great services, and especially the fidelity with which she followed the traditions of my unfortunate father, King Alfonso XII, in the noble task of maintaining closely united the desires of the people with the ideals of the throne, I hereby order that during all her life she shall preserve the rank, honors, and preeminence as reigning consort queen, occupying, therefore, at official acts and ceremonies, the same place as before, or the immediate one to my wife, in case I should contract marriage.

Although the official functions, those essential to the installation of the King and the transference of executive power, were closed, yet for several days and nights a series of banquets, receptions, illuminations, including a military review of different branches of service by the King, laying of the corner stone of the monument to his father, opening of an academy of arts, a battle of flowers, etc., was kept up with great interest. At all these festivities the royal family was present, and most convenient arrangements were made for the foreign representatives and the general public. Everything was prearranged with taste and art and skill, so that no hitch nor accident nor postponement occurred, and the displays and performances were singularly impressive. Such official and popular fêtes, such brilliant ceremonies, the capital had never seen, for they surpassed in éclat and splendor all that had preceded. The artificial exhibitions illustrated the hearty enthusiasm and contentedness of the people. The provinces swelled by 100,000 the usual population of the city, and the thronging crowds of both sexes and all ages, in most picturesque costumes, without disorder or drunkenness, were patient, cheerful, good-humored, and loyal.

The prompt and cheerful response of so many Governments in the inauguration of His Majesty was regarded as a new era—a hopeful sign of Spanish resumption of an honorable position among the nations. Not only all Spain but all the world contributed to give joyous acclaim to the young prince. It was an impressive and a significant fact that eleven foreign princes of royal blood, with numerous suites, and twenty-four extraordinary representatives from Europe and the New World, and imposing deputations from China, Japan, Siam, and Morocco, should, formally and with appropriate expressions of interest, have

come to assure Spain of sympathy and regard, and to wish for the new sovereign the blessings of peace and prosperity. The presence and cheer of so many international associates must have been encouraging and inspiring.

As the presence of an American ambassador and the preferential distinctions shown excited no inconsiderable attention and remark, a fuller mention may be pardoned. The President, with humane intuitions, knowing that the heart is often a better logician than the head, assured that the expression of the desire for thorough reconciliation would have a ready response, sent the embassy for the completer reestablishment of friendship and good will. He rendered an excellent service for both countries and placed his own in the forefront for magnanimity and international concord. That was true philosophy which said the sympathies of peoples with peoples, the sense of a common humanity between nations, the aspirations of nationalities for freedom and independence, are real political forces, and owning them as such places one on the right side, and disowning them, on the wrong. It was manifestly most gratifying for the royal family, the Government, and the people that the President should have shown such delicate and generous consideration, and that the United States should share in the great historical occasion. In no stinted words was their pleasure expressed, and in many ways, by many marks of distinction and favor, to the President, the Government, and the ambassador, was this satisfaction clearly exhibited. Queen, King, Infantas, members of the Government, and colleagues seemed to have been impressed by the unique fact, and therefore often spoke of it, that I was present in the palace when the King was born. The coincidence of his advent and inauguration, marked by the official presence of myself, was what the President happily called "poetic fitness," and it touched the Spanish heart.

* * * * * * *

While the treatment of all guests was in the highest style of Spanish hospitality, it would be unjust not to make specific and grateful mention of what was generously and courteously accorded to your representative, not as personal to him, but to show in marked manner an appreciation of the kindly act of the President and of the Government. At the railway station we were met by a royal carriage, which conveyed us to our house and remained night and day at our disposition while we were in Madrid. Under courteous guidance we were conducted to a handsome residence, over which floated the stars and stripes, where everything had been provided in most liberal manner for our maintenance and comfort. Nothing could have been more thoughtful and considerate, and with a delicacy which was the fruitage of the highest civilization. All these kindnesses were shown and continued without ostentation or interference. After the precedence extended to the foreign representatives of "blood royal" and to the papal nuncio, the American ambassador had the place of honor at the oath taking in the Cortez, at royal banquet, at official receptions, at the celebration of the Te Deum, at the military review, at all ceremonies and functions.

The Marquis de Villalobar was assigned by Their Majesties to the embassy as special friend and adviser, and greatly to our profit and pleasure he remained until the hour of our departure. Having lived

several years in our country, being a thorough gentleman, of much culture, familiar with court etiquette and the requirements of all the functions and ceremonies, in hearty sympathy with the object of the President in appointing the embassy, he discharged his duties as liberally interpreted and his privileges as friendship dictated, in the most acceptable manner. Our Government and the embassy could not have had one more sympathetic, more capable, more willing, more efficient.

In the absence of the Hon. Bellamy Storer, our regular minister at Madrid, Mr. Stanton Sickles, the secretary, was acting as chargé d'affaires, and I have much pleasure in acknowledging his kind attentions and his courteous and useful services.

I have, etc.,

J. L. M. CURRY.

Mr. Hill to Mr. Curry.

No. 3.]

DEPARTMENT OF STATE,

Washington, June 26, 1902.

SIR: I have to acknowledge the receipt of your dispatch of May 31, 1902, reporting your reception as ambassador extraordinary of the United States on a special mission to attend the ceremonies on the occasion of the coming of age of Alfonso XIII.

The Department is gratified to learn of the appreciative reception accorded to you, as a forecast of the good will which this Government trusts will ever prevail between the United States and Spain.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

ASSUMPTION OF POWER BY ALFONSO XIII.

Mr. Sickles to Mr. Hay.

No. 662.]

LEGATION OF THE UNITED STATES,

Madrid, May 20, 1902.

SIR: I have the honor to inclose herewith a copy, together with a translation, of a note that has been received from the ministry of state in connection with the taking of oath of His Majesty King Alfonso XIII, informing this legation in official form of that act.

I have, etc.,

STANTON SICKLES.

[Inclosure.—Translation.]

The Duke of Almodóvar del Rio to Mr. Sickles.

MINISTRY OF STATE, *Madrid, May 17, 1902.*

MY DEAR SIR: It is with extreme satisfaction that I announce to you that His Majesty the King my august sovereign, who has arrived at his majority, has just taken oath to the constitution of the state in the form prescribed by the fundamental law of Spain, and that the Spanish Monarchy reigns from to-day.

In giving you official news of such a memorable and happy event, I repeat the assurance, etc.

THE DUKE OF ALMODÓVAR DEL RIO.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Sickles to Mr. Hay.

No. 665.]

LEGATION OF THE UNITED STATES,
Madrid, June 5, 1902.

SIR: I have the honor to acknowledge the receipt of your cable instruction, that was received here in the early morning of May 26, and which I have deferred from acknowledging until I could inform the Department of the action that the Spanish Government intended to take in the matter.

An answer to the note that I addressed to the Spanish ministry of state immediately on receipt of your cablegram, although bearing date May 31, was only received to-day, and I beg to inclose herewith a copy of the same and a translation.

I have informed this morning, by telegraph, the consul-general of the United States at Barcelona, Mr. Julius G. Lay, of the contents of your cablegram and of the reply of the Spanish Government in this connection, instructing him to use his good offices in the representation of the interests of Cuba and of its citizens until Cuban consuls shall have been appointed, and requesting him to likewise instruct all our consular officers in Spain.

I have, etc.,

STANTON SICKLES.

[Inclosure.—Translation.]

The Duke of Almodóvar del Rio to Mr. Sickles.

MINISTRY OF STATE, *Madrid, May 31, 1902.*

MY DEAR SIR: I have the honor to inform you, in reply to your courteous note of the 26th instant, that the Government of His Majesty, yielding to the wishes of the President of the island of Cuba, and of the Cabinet at Washington, that were therein conveyed, accedes with pleasure to the request that the consular agents of the United States in Spain represent the interests of the said island and of its citizens until Cuban consuls be appointed to that end.

I take this opportunity to renew, etc.,

THE DUKE OF ALMODÓVAR DEL RIO.

ACCIDENT TO PRESIDENT ROOSEVELT.

Señor Ojeda to Mr. Adee.

[Telegram.]

LEGATION OF SPAIN,
New York, September 24, 1902.

I beg you to convey to His Excellency my deep sorrow for the untoward accident, and my earnest wishes for his prompt and complete recovery.

OJEDA.

Mr. Adee to Señor Ojeda.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 25, 1902.

Your sympathetic telegram has been communicated to the President, who charges me to thank you.

ALVEY A. ADEE,
Acting Secretary.

JURISDICTION OVER VESSELS AND THEIR CREWS—COMPLAINT THAT LOCAL OFFICIALS OF PENSACOLA, FLA., MADE ARRESTS ABOARD A SPANISH VESSEL WITHOUT NOTICE TO SPANISH CONSUL.

Señor Ojeda to Mr. Hay.

[Translation.]

LEGATION OF SPAIN,
Washington, November 5, 1902.

MR. SECRETARY: I have the honor to forward to your excellency a copy of a communication addressed to me by the consul-general of Spain in New York with which he transmits a dispatch from the honorary vice-consul of our country in Pensacola, Fla., complaining of the outrage perpetrated on the person of Don V. Bustinza, captain of the Spanish steamship *Leonora*, and of the forcible searching of the vessel by the municipal police of that port.

I have no doubt that your excellency with due appreciation of the full import of the facts related by our vice-consul in Pensacola, as well as of the justice of Captain Bustinza's protest, will see fit to draw the attention of the Federal Government thereto in order that they may be ascertained and such remedy afforded as provided by the law of this Republic if the outrage and search are verified.

I improve this opportunity, etc.,

EMILIO DE OJEDA.

[Inclosure.—Translation.]

Señor Perignat to Señor Ojeda.

On the 10th instant I received from the honorary vice-consul of Spain in Pensacola a dispatch dated the 7th of this month and reading as follows:

"I am in receipt this day of a note from Don V. Bustinza, captain of the Spanish steamship *Leonora*, anchored in this port, who tells me that on this day and while he was in his consignee's house looking after his cargo two police officers went on board his vessel without first obtaining the permit or authority of the consulate and took away two men of his crew, José Carnios and Leonardo Rio, without stating for what reason. Under date of this day I am writing to the honorable mayor of this city and protesting on account of such proceeding against whom it may concern for such purposes as may be expedient. All of which I make known to your excellency for your information and such instructions as you may be pleased to give me."

With reference to the same matter I have just received another dispatch from the said agent, dated in Pensacola the 14th instant, in which he says:

"I confirm my dispatch No. 16, and regret to have to report further outrages by the municipal police of this city on the captain and an officer of the same steamship *Leonora*, and deem it my duty to report to your excellency for your information. In the above-mentioned dispatch I told your excellency that the police officers on

that day went on board the steamship *Leonora* without a consular permit or previous notice, and took from the ship two men of the crew whose names I gave. On the following day, the 8th instant, a police officer informed me that, in company with one of his colleagues, and by order of the chief, he had gone on board the *Leonora* to arrest the third officer, Don Manuel Arana, and that, as the captain would not let them take the officer with them, they also offered to arrest the captain, Don V. Bustinza. To which I replied that they should not go on board any Spanish vessel without first securing a permit from the consul. They answered that they did not need such a permit, but that they announced to me that they were going on board to arrest the said officer and the captain too. On being asked what was the reason for the arrest, they replied that the officer and other men of the crew had been selling liquor on the preceding Sunday, without a license and in violation of the municipal law. I replied that I did not believe the officer had done any such thing, and as to the captain, he was within his right in not recognizing any authority on board his vessel other than that of the consulate. I gave assurances that both the captain and officer would appear in court without having to be arrested, and to that end I gave the said police officer a note for Don V. Bustinza, captain of the said steamer *Leonora*, in which I asked him to appear with his third officer in the municipal court the same day at half past 8 in the morning; my next step was to go in quest of a lawyer for the defense of the presumed guilty, but I first begged the policeman not to take any of the officers prisoner, assuring him that it would be sufficient to hand my note to the captain. As I was about to repair to the municipal court I received a note from Señor Bustinza, captain of the *Leonora*, advising me that he and the third officer had been lodged in jail and locked in an iron cell. Without loss of time, I sought the services of another lawyer for the defense of the captain, and appeared with him in court, where I talked to the said captain, his third officer, and the above-named two men of his crew. Other cases were tried, and when their turn came I asked that the captain's case be first taken up, which was granted, and the said captain was then released, it being found that he was arrested without cause, for he had offered no resistance whatever, merely objecting to anyone being taken away from his ship without authority from the consulate. When the case of the liquor venders came up, it was said that there were not enough witnesses and it was proposed to postpone the case until the next day; the mayor assented to this and put the case off until 12 o'clock of the said day, committing the two seamen and allowing the third officer to go on his promise that he would return at the appointed time. Then the captain told me that he and his officer were on their way to the court, when they came across the policeman who handed them my note; that they all came together to the court, where he was handed a document for his signature; this he refused to do, because he was not conversant with the English language and did not know what he was asked to subscribe. They then took from them their watches and the contents of their purses and locked them up, his officer and himself, in the iron cell. It was then that he sent me word, and they were thereupon brought into the court room, where I spoke with them when I came with the other lawyer. At 12 o'clock of the same day we returned to the court-house with a lawyer, and while awaiting the arrival of the judge there came two policemen with two other men of the crew, again without a permit from or notice to the consulate. On trial of the case, the last two men who had been brought before the court were found guilty of liquor selling, the first two who had been arrested and the third officer being there and then released. The judge fined the said last two men in the sum of \$100 each, and, as they had not earned it and the captain did not see fit to advance so excessive a fine, he left them in jail and the vessel sailed the next day, the ninth, for its destination, the two guilty men remaining here in prison. The captain protests against the outrage committed on his vessel and on his person, for he has suffered unwarranted injury, and is justified in protesting against the proceeding and in claiming damages, injuries, and costs from whomsoever liable and responsible. All of which I report to you for such action as may be expedient."

PERIGNAT.

CONSULATE OF SPAIN IN NEW YORK, October 20, 1902.

Mr. Hay to Señor Ojeda.

No. 4.]

DEPARTMENT OF STATE,
Washington, November 12, 1902.

SIR: I have the honor to acknowledge the receipt of your note of the 5th instant, protesting against certain proceedings taken by the

police and in the municipal court of Pensacola against the captain and members of the crew of the Spanish steamship *Leonora*.

I have the honor to say in reply that I have asked the governor of Florida for a report on the matter, on the receipt of which the question will be considered.

Accept, etc.,

JOHN HAY.

Mr. Hay to Señor Ojeda.

No. 20.]

DEPARTMENT OF STATE,
Washington, December 12, 1902.

SIR: Referring to your note of the 5th ultimo, complaining of the arrest of the master of the Spanish steamship *Leonora* and the searching of his vessel by the municipal police at Pensacola, I have the honor to inclose copy of a letter to the governor of Florida from the mayor of Pensacola stating the circumstances as reported to him.

Accept, etc.,

JOHN HAY.

[Inclosure.]

Mayor of Pensacola to the governor of Florida.

EXECUTIVE DEPARTMENT,
Pensacola, Fla., December 5, 1902.

SIR: In compliance with your request of date November 15, 1902, to investigate and report in re arrest of Captain Bustinza et al., of the Spanish steamship *Leonora*, I have the honor to return herewith said correspondence and to report from information received as follows: That on October 7, 1902, in the forenoon, a colored man by the name of Jackson reported at police headquarters that he, in company with several other colored men, had purchased a certain kind of intoxicating liquor, called "cognia," from sailors of the said steamship, and that all hands became intoxicated; that said liquor was purchased on Sunday, 5th day of October, 1902; that while so intoxicated they laid down to sleep on Tarragona street wharf, to which said vessel was moored, and which was in the corporate limits of the city of Pensacola, and that one of them was robbed of \$7 or more; that some of the liquor bought had been purchased through a colored man by the name of Nance from the sailors, who brought it down a ladder from the vessel to the wharf and delivered it to the said colored men, and for which they paid the sailors 50 cents per bottle; that immediately Deputy City Marshal Sanders and Special Officer Ray sought out this man Nance and arrested him. Warrants were procured for the arrest of the sailors, to wit: Jose Carnios, docketed as Toji Carman; Leonardo Rios, or Rio, and Manuel Arrana, who was mate on said vessel; that on said 7th day of October, about noon, in company with the colored man Nance and United States Deputy Marshal R. P. Wharton, the above-named officers of the city went to said vessel, stopped at the gangway, and asked for the captain of the ship. They were informed by the officer in charge of the vessel that the captain was absent from the vessel. They then informed said officer of the ship that they were officers of the city, showed their warrants, and explained to said officer that they had come for the arrest of the sailors above mentioned. The colored man Nance pointed out to the officers the three seamen. The officer in charge of the vessel instructed the seamen to get ready to go with said city officers, but requested the officers to defer the arrest of Mate Arrana, as he was engaged at the time tallying cargo being taken by said vessel, and to send for him later. The request of the chief officer of the ship was granted, and Arrana allowed to remain; and said Rios and Carman or Carnios were taken to police headquarters and locked up; that there was no protest nor objection made by the chief officer to the arrest of said sailors, but to the contrary they were notified to get ready and go with the police officers; that on the morning of October 8, 1902, the warrant for the arrest of Mate Manuel Arrana was placed in the hands of Police Officer Joseph Fondabilla to be executed (the said Fondabilla being able to speak the Spanish language), and who proceeded

to execute same; that upon his arrival at said ship he requested to see the captain and waited about thirty minutes for him to appear; that he exhibited his warrant to the captain for the arrest of said Arrana, read it and explained it (in the Spanish language) to him; that the captain immediately became very angry and excited and told the officer that he would not permit him to take the man; that he did not recognize his authority to arrest him, and would not recognize any authority except that of the Spanish consul, and that of a United States officer; that he explained fully to the captain why the warrant was issued, and that he had the right to arrest said Arrana; that he again requested Captain Bustinza to allow him to take the man, which he refused to allow him to do, and would not point him out to said officer; that it is, I am informed, untrue that the officer threatened in any way to arrest the captain, but simply stated to the captain that he should allow him to have the man and not interfere with him in the discharge of his duty; that the captain persisted in his refusal and the officer left the vessel without making the arrest; that said Officer Fondabilla, upon his return to police headquarters, swore out a warrant against Captain Bustinza for opposing an officer in the discharge of his duty; that said warrants for the arrest of Captain Bustinza and Mate Arrana were then placed in the hands of officers James Reed and N. J. Schmitz to be executed; that I am informed that it is untrue, as stated in the consul's report, that the conversation, as detailed therein, with reference to the arrest of Captain Bustinza, between said officers and the vice-consul, at this port, occurred; that on the contrary Officer James Reed, in order not to give offense to anyone concerned, proceeded to the office of the Spanish vice-consul and explained to him that he had a warrant for the arrest of said Captain Bustinza and Mate Arrana; that it is true a note of about three lines, in Spanish, was handed to the officer to be delivered to Captain Bustinza, but Officer Reed, in company with Officer Schmitz, proceeded to said vessel and handed the note to the captain. The captain immediately called Mate Arrana and returned with Officer Reed to police headquarters; that upon their arrival at police headquarters the city marshal notified the station keeper not to require bond and sureties on same for appearance of Captain Bustinza before the police court to answer the charge against him, but simply to permit the captain to sign his personal recognizance to appear at said court. This the said captain absolutely refused to do, whereupon the marshal explained the matter fully to the captain, and whom, the marshal informs me, appeared to understand, and in addition to the marshal's explanation, Joseph Fondabilla and one Manuel Gonzales also explained to the captain, in Spanish, the matter, but he persisted in his refusal, and the warrant was executed, and said parties were locked up until court convened, which was a very short time thereafter; that it was explained, in Spanish, to said captain that they should deliver their valuables to the station keeper for safe-keeping, and which would be returned to them, and to which he made no objection. When the court, convened at 8.30 a. m. on said 8th day of October, the witnesses were called, and it appeared that one of the principal witnesses was absent, the officer having the subpoena for said witness having been unable to locate him in time for court.

It was then suggested that said cases be continued until the next morning, the 9th, but it appearing that the vessel was ready for clearance, the cases were not continued until the said time, as alleged in the report of the consul, but a recess was taken, in order to accommodate the captain and men, until 12 o'clock noon on the same day, and the captain and mate were allowed to go, upon their promise to return at said time, without bond; that between the hour of taking said recess and 12 o'clock on said date, the two sailors, Rios and Carman or Carnios, who were in jail, informed Officers Sanders and Ray that the negro Nance was mistaken in pointing them out as the parties who had sold liquor to him, but that the parties who had sold said liquor were the two firemen on said vessel, to wit, Enrique Garretta and Eduardo Barretta; that warrants were then procured for the arrest of said firemen, Garretta and Barretta; that Officers Sanders and Ray and Deputy United States Marshal R. P. Wharton then proceeded to the vessel for the arrest of said firemen. Upon arrival at the vessel the officers asked for the captain and were informed that he was absent, whereupon the chief officer in charge of the vessel was informed that they had warrants for the arrest of the two firemen. The said chief officer then notified the firemen to go with said officers to police headquarters, which they did and were locked up. At 12 o'clock m. Captain Bustinza appeared in court represented by Judge A. C. Blount, and the two seamen, Rios and Carman or Carnios, represented by Judge James R. Landrum. The two firemen, Garretta and Barretta, were not represented by counsel. The case of Captain Bustinza was first taken up upon the charge of opposing an officer in the discharge of his duty. Upon investigation of said charge it appeared that the opposition to said officer was merely by words and not physical force, and taking into consideration the excitable disposition of the Spanish captain, I discharged him. Upon an

investigation of the charges against the other seamen, and on which the first two parties were arrested, to wit, Rios and Carman or Carnios, the said seamen, Rios and Carman or Carnios, testified that the two firemen, Garretta and Barretta, were the ones who had sold the liquor to the colored man Nance and others. The mate, Arrana, and seamen, Rios and Carman or Carnios, were discharged, and the two firemen, Garretta and Barretta, were found guilty and fined \$100 each; that late in the afternoon of said day, to wit, the 8th of October, Judge Landrum approached me and said that the captain desired to know if I would reduce the fine on Garretta and Barretta, to which I replied that rather than see them detained here I would release them upon payment by the captain of \$50 each; that I was informed later that the captain would not pay any fine for them. I am further informed that there was due Garretta and Barretta by said captain wages amounting to \$50; that when said Garretta and Barretta were allowed to go with an officer to procure their clothing from said vessel the captain tried to coerce the said firemen to sign a paper acknowledging the receipt of said wages due them and releasing his vessel therefrom, claiming said amount as having been expended in attorney's fees; and not having engaged counsel, and not having been represented by counsel at the trial, they refused to sign said paper. The said vessel sailed on October 9, and I am informed that nothing was paid to said firemen. I am informed that there was no discourtesy shown the captain, nor men, by any of the city's officers, but that the arrests were made as above stated; that there was no search made of said vessel in any way, nor of her compartments.

I will state further that I know of no law or treaty requiring a permit from the Spanish consul in order to arrest seamen, under the circumstances set forth above and in the corporate limits of a city. However, I have instructed my officers, out of courtesy to the Spanish consul, to notify him, when such can be done conveniently, before executing warrants for arrest of persons on board of Spanish vessels.

In conclusion, I am informed that had this vessel remained here for a few hours longer, action would have been instituted by the United States authorities for violations of the United States revenue laws.

I might also state that the two firemen were released from custody, for good behavior, about one week after their conviction in the police court.

Respectfully,

C. M. JONES, *Mayor*.

Señor Ojeda to Mr. Hay.

[Translation.]

LEGATION OF SPAIN,
Washington, December 22, 1902.

MR. SECRETARY: I have the honor to acknowledge the receipt of your note of the 17th instant, in which you were good enough to inclose a copy of the letter addressed by the mayor of Pensacola to the governor of Florida, in regard to the remarks I laid before your excellency in my note of the 5th instant, about the searching of the Spanish steamer *Leonora* and the arrest of its master.

I have taken due note of its contents, and in reply have to say to your excellency that this legation did not assume to call in question the justice of the charge brought against some of the crew of the steamship *Leonora* or the proceedings taken against those men in connection with the charge. The fact which the undersigned deemed it his duty to bring to the attention of the Federal Government, and now deems it his duty to do so again, to the end that the proper remedy may be applied, is that the authorities, municipal or others, of the United States should have searched a vessel of a friendly country without the intervention or representation of the latter's consular authority, which by international usage is invited, as is done in Spain in the case of American vessels and to the best of my information has always been done in the United States with seamen of Spanish vessels under similar circumstances.

I therefore ask that your excellency will be so good as to give consideration to that phase of the question to which my note of the 5th instant had mainly reference, whose great importance will, I am sure, be appreciated by your excellency as much as by myself.

I avail, etc.,

EMILIO DE OJEDA.

Mr. Hay to Señor Ojeda.

No. 26.]

DEPARTMENT OF STATE,
Washington, January 3, 1903.

SIR: I have the honor to acknowledge the receipt of your note of the 22d ultimo, in which you state that your note of November 5 last did not assume to call in question the justice of the charge brought at Pensacola against members of the crew of the Spanish steamship *Leonora*, or of the proceedings taken against them on that charge, but that it was desired merely to call attention to the fact that municipal or other authorities of the United States had searched a vessel of a friendly country without the intervention or representation of the latter's consular authority, as is required by international usage.

In reply I have the honor to point out that it is stated in the report of the mayor of Pensacola that when the Spanish captain objected to the arrest of Arrana, the officer left the vessel without making the arrest and, "in order not to give offense to anyone concerned, proceeded to the office of the Spanish vice-consul and explained that he had a warrant for the arrest of the said Captain Bustinza and Mate Arrana," before arresting them. Moreover, the mayor, in the concluding part of his letter, states that he has directed his officers, out of courtesy to the Spanish vice-consul, to notify him when it can be done conveniently before executing warrants for the arrest of persons on board of Spanish vessels.

Accept, etc.,

JOHN HAY.

SWEDEN AND NORWAY.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Thomas to Mr. Hay.

No. 282.]

LEGATION OF THE UNITED STATES,
Stockholm, November 10, 1902.

SIR: Referring to your instructions^a of May 24 last, I have the honor to inform you that immediately upon the receipt thereof I proffered the request therein contained to the Government of Sweden and Norway, in a note addressed to the minister for foreign affairs, a copy of which I inclose herewith.

I am to-day in receipt of a note from His Excellency Mr. Lagerheim, a copy of which, accompanied by a translation, stating that in response to this request the United States consular officers in Sweden and Norway have received permission to assume the charge of the interests of Cuba and of its citizens until Cuban consuls shall have been appointed.

In compliance with your instructions, I have at once notified the United States consul-general and consuls in Sweden and Norway that such permission has been granted.

I have, etc.,

W. W. THOMAS.

[Inclosure 1.]

Mr. Thomas to Mr. Lagerheim.

LEGATION OF THE UNITED STATES,
Stockholm, June 23, 1902.

EXCELLENCY: I have the honor to inform you that I am instructed by the Secretary of State, at the request of the President of Cuba, to ask the Government of Sweden and Norway to permit the United States consular officers within its jurisdiction to use their good offices in representation of the interests of Cuba and its citizens until Cuban consuls shall have been appointed.

I take this occasion to renew, etc.,

W. W. THOMAS.

[Inclosure 2—Translation.]

Mr. Lagerheim to Mr. Thomas.

ROYAL FOREIGN OFFICE,
Stockholm, November 7, 1902.

MR. MINISTER: Referring to your note of June 23 last, I have the honor to inform you that United States consular officers in Sweden and Norway have received permission to assume the charge of the interests of Cuba and of its citizens until Cuban consuls shall have been appointed.

Accept, etc.,

LAGERHEIM.

SWITZERLAND.

PASSPORT APPLICATION OF HELENA PECARE.

Mr. Hardy to Mr. Hay.

No. 43.]

UNITED STATES LEGATION,
Berne, February 13, 1902.

SIR: I have the honor to inclose herewith the application of Miss Helena Pecare for a passport received from the consular agent at Vevey, Mr. Cuenod, in November last, during my absence on leave. The consul-general preferred not to grant same, and held the papers until my return.

The application was renewed in January last, and I extract from my letter of January 22 to Mr. Cuenod so much as refers to this case, viz:

I have the honor to acknowledge the receipt of the application of Helena Pecare for a passport, together with the naturalization certificate of her father and three other documents. It appears that the applicant was born abroad and has never been in the United States, although now over 32 years of age. Before this application can be acted upon it will be necessary that the legation should be assured that the applicant has, since her majority, definitely elected to retain the citizenship conferred upon her by the naturalization of her father and that she really intends to go to the United States, there to reside and perform the duties of a citizen. If able to make such declarations under oath, you will attach them to the application in the form of an affidavit, and, I need not add, satisfy yourself that she fully understands the nature of the requirements and of her statement under oath. The papers above referred to are herewith returned.

In reply to the above letter, which sets forth the grounds on which the issue of a passport was temporarily refused, Miss Pecare makes the following statement:

I can confirm under oath that since my majority I have definitely elected to retain the citizenship of the United States, as it has been my late father's dearest wish and the reason why he was married only by the American consul instead of also under German law. But I can not say under oath that I go to America. It is my intention to go in spring. My brother awaits me at Naples in April. His movements are often so unsettled and we have a sister in Europe who is ill. If you must refuse my application I shall be very grieved. I did hope that the children of an American citizen had a right to citizenship somewhere. If you can not give me the passport, could you kindly give me a paper to say that my father has been an American and that as his daughter I, too, belong to America?

The fact that Miss Pecare allowed eleven years to pass after attaining her majority before taking any steps toward claiming American citizenship, that she has resided continuously abroad thirty-two years without visiting the United States, i. e., since her birth in Frankfort, and that she can not declare under oath her intention to go there to reside, has led me to decline to issue her a passport, and I have the honor to ask for the approval of the Department in so doing.

While the applicant declares intention to go to the United States

within two years, I am satisfied, as was the consul-general, that there is no such intent as is contemplated by the regulations.

If so instructed by the Department a passport can be issued with the warning that it will not be renewed on its expiration if the applicant remains abroad. Miss Pecare is, however, leaving Switzerland, and as a proviso such as the above-mentioned does not appear on the passport, it would probably be easy to secure a renewal elsewhere.

I have, etc.

ARTHUR S. HARDY.

Mr. Hay to Mr. Hardy.

No. 27.]

DEPARTMENT OF STATE,
Washington, February 28, 1902.

SIR: Your No. 43 of the 13th instant relative to the application of Helena Pecare for a passport has been received.

Under the circumstances detailed in the dispatch your refusal to grant the passport to Miss Pecare has the Department's approval.

I am, etc.,

JOHN HAY.

PASSPORT APPLICATION OF BERTHA KNOPF.

Mr. Hardy to Mr. Hay.

No. 55.]

UNITED STATES LEGATION,
Berne, May 2, 1902.

SIR: I have the honor to report that I have refused an application for a passport made by Mrs. Bertha Knopf under the circumstances set forth below.

On August 22, 1895, passport No. 251 was issued to one Dr. Leo Knopf on an application in which he declared he was born in New York on December 2, 1870, his father being a naturalized citizen of the United States, and that he intended to return to the United States within three or four years. He was the bearer of passport No. 1812, issued November 1, 1892, by the legation in Berlin, and desired its renewal for the purpose of finishing his studies. His wife's name and that of his son Richard, born at Altdorf, January 13, 1895, were inserted in passport No. 251.

On June 9, 1898, his wife, Bertha Knopf, called at the legation and explained to Mr. Leishman that her husband had left Switzerland, taking with him the passport No. 251 issued as above by Mr. Broadhead, leaving her and her children without money or identification papers. She was accompanied by Dr. Schmid, national councilor of Altdorf, who vouched for the truth of her statements. On these statements and the production of her marriage certificate and the birth certificates of her two children, and her declaration to go to the United States (where she had never been) within two years, passport No. 156 was issued her on June 9, 1898. She was then informed that she must not count upon a renewal.

On April 12 instant she applied for a renewal through the Zurich consulate, but was unable to declare her intention to go to the United

States within any definite time. Copies of Mr. Lieberknecht's letter accompanying her application and of my reply thereto are inclosed herewith.

Mr. Lieberknecht wrote again on April 16 instant. A copy of his letter and of my reply declining to renew are also inclosed.

Should the reasons set forth in Mr. Lieberknecht's letter, or the statements made in Mrs. Knopf's last letter appealing against my decision, seem in the view of the Department sufficient to warrant the issue of a passport I would ask to be so instructed.

Without such instruction I do not see my way clear to do so.

I have, etc.,

ARTHUR S. HARDY.

[Inclosure 1.]

Mr. Lieberknecht to Mr. Hardy.

UNITED STATES CONSULATE,
Zurich, April 12, 1902.

DEAR SIR: Inclosed please find application for passport of Bertha Knopf, together with her old passport. She married an American citizen, and her husband left her without any papers whatsoever. He is a fugitive from justice, and she does not know whether he is alive or dead. Reports have reached her that he committed suicide, but she has no positive proof of this fact.

What proof she has furnished that her husband is an American citizen I do not know, but the facts are recorded at your legation.

Yours, respectfully,

A. LIEBERKNECHT, *Consul.*

[Inclosure 2.]

Mr. Hardy to Mr. Lieberknecht.

UNITED STATES LEGATION,
Berne, April 15, 1902.

SIR: Inclosed please find returned the passport application of Mrs. Bertha Knopf, and her expired passport, "canceled."

It appears that Mrs. Knopf married a native citizen of the United States, who has since deserted her; that she has never been in the United States, and can make no declaration of intention to go there. Under these circumstances, as at present set forth, her application is refused. In the application made by her husband in 1895 he declared himself to be a native citizen, and to have been born in New York, December 2, 1870. In such a case the wife should make application on the native form, the words "that I am the wife of a native" being inserted in the proper place. I call your attention to this instruction of the Department for your future guidance.

Yours, very respectfully,

ARTHUR S. HARDY.

[Inclosure 3.]

Mr. Lieberknecht to Mr. Hardy.

UNITED STATES CONSULATE,
Zurich, April 16, 1902.

DEAR SIR: I have to acknowledge the receipt of your favor of the 15th instant, in regard to passport application of Mrs. Knopf, and note what you say.

I should certainly have used a native form had she not given me to understand that her husband was, or had been, a naturalized citizen, but the fact is she knows very little about him. The woman is no doubt an American citizen, and in her unfortunate circumstances it seems she ought to have the protection of her country. As regards her returning to the United States, it is difficult for her to make any pos-

itive statements until she is able to learn whether her husband is alive or dead. If she would make application on a native form would you see your way clear to issue her a passport? If so, I shall have her sign a new application.

Yours, etc.,

A. LIEBERKNECHT, *Consul*.

[Inclosure 4.]

Mr. Hardy to Mr. Lieberknecht.

UNITED STATES LEGATION,
Berne, April 18, 1902.

SIR: I beg to acknowledge receipt of your letter of April 16 instant, in regard to the passport application of Mrs. Knopf. There seems to be no doubt of the fact that she has acquired American citizenship by marriage to a citizen of the United States. The question is whether she intends, now that her husband has deserted her, to retain the citizenship she has acquired or not. The reply to this question is found in her application wherein she declares no intention to go to the United States, and in the fact that her circumstances are such that there is no reasonable probability that she will do so. If, as you say, she knows very little about her husband, whether he is alive or dead, her going to the United States, where she has never been, being dependent upon what she may learn of his whereabouts and disposition, is altogether too vague and improbable to warrant the issue of her passport.

I regret that I can not see my way clear so to do.

Yours, very respectfully,

ARTHUR S. HARDY.

[Inclosure 5.—Translation.]

Mrs. Knopf to Mr. Hardy.

SISIKON, CT. URI, *April 24, 1902.*

HONORED MR. MINISTER: I am informed by Mr. Lieberknecht that a renewal of my passport is refused for the reason that I can not declare when I will go to the United States. To some extent this is right. Some years ago a suit was brought against the parents of my husband for the payment of a yearly allowance in support of my children, and as it is uncertain when this suit will end, it is impossible to state when I will be able to go to America. As soon as the court shall have decided it, it will be necessary for me to go there to investigate matters myself and to secure a death certificate of my husband. I have acquired American citizenship through my marriage only, and am by birth a German. If, contrary to my expectation, the protection of my home country should be denied to me at this time of need, I would be obliged to resume my former nationality.

I beg you, honored minister, to inform me as soon as possible whether it would not be possible under the circumstances to have my passport renewed. If it should be impossible, please let me know the steps necessary for me to take to secure the necessary papers allowing me to stay in Switzerland.

Please accept, etc.,

Mrs. Dr. BERTHA KNOPF-FISCHER.

Mr. Hay to Mr. Hardy.

No. 35.]

DEPARTMENT OF STATE,
Washington, May 19, 1902.

SIR: The Department has received your No. 55 of May 2, 1902, submitting for instruction the case of Mrs. Bertha Knopf, who applied for a passport. It appears she was formerly issued a passport, No. 156, June 9, 1898, because her husband, who deserted her, was a citizen of the United States. She has applied for another passport, but you have

refused to issue it because she has not been to the United States and gives no proof of an intention to reside in this country.

A careful examination of the files of the passport division has been made, from which it appears that on November 1, 1892, her husband, Leo Knopf, secured a passport, No. 1812, from the (then) legation at Berlin, upon an application setting forth that he was born in Berlin on December 2, 1870, his father being a citizen of the United States at the time of his birth. He presented his father's naturalization certificate and declared that he had himself lived in the United States for two years, from 1890 to 1892. He was then nearly 22 years of age, and swore that he intended to return to the United States within a year. The record shows that when the passport was issued to him, he was warned "that a new passport would not be issued to him if he continued to reside abroad after the expiration of the validity of the present one." Perhaps this warning was in his mind when he applied for his next passport, for on August 22, 1895, the legation at Berne issued him a passport, No. 251, on his affidavit that he was *born in New York* on December 2, 1870, and intended to return to the United States in three or four years. This passport included his wife. Presumably he was not married when he received his first passport.

When his wife applied for a passport from your legation, receiving passport No. 156, June 9, 1898, she stated that her husband was a native citizen and that she intended to return (come) to the United States in two years. She presented a supplementary statement setting forth that her husband abandoned her and their two children on July 22, 1896, and had been condemned to a year's imprisonment for crime, but had fled, and was a fugitive from justice. She herself was born in Germany. As there were two children in 1896, it is fair to presume that she and her husband were married in 1894 or before, and while he was still under the protection of the passport granted him by the legation at Berlin.

The record is clear in showing that the man who thus abandoned his wife and children and was condemned on a criminal charge besides, is, *prima facie*, a perjurer also, but we can not avoid the conclusion that he was a citizen of the United States when he married. The second passport, obtained on the strength of the first, was probably issued upon a false application, for the legation at Berlin saw his father's naturalization certificate, and it would be more to his advantage to fabricate a story of native than of foreign birth. It is possible, of course, that both stories are false and that he never was entitled to a passport, but giving him the benefit of the doubt we may assume that the second passport only was obtained by fraud and that he was not entitled to it. Except for two years, he lived all his life abroad where he was born. Although he was in this country when he became of age, he went back to Europe soon thereafter and never returned. Had the truth about his birth and actual residence been known when he applied for his second passport, his application would have been rejected and the protection of this Government would have been withdrawn from him. In this deprivation his wife would have shared. The question then becomes a simple one: Can the wife claim a continuance of the protection which her husband secured through fraud and which would not now be extended to him? Her citizenship and consequent protection follow his, and what he forfeited she also lost. Moreover, she

herself states that she only wants to come to this country to secure a certificate of her husband's death.

Upon the facts before it, therefore, the Department sustains your refusal to issue a passport in this case.

I am, etc.,

JOHN HAY.

PASSPORT APPLICATION OF WILLIAM STRAHLHEIM.

Mr. Hardy to Mr. Hay.

No. 56.]

UNITED STATES LEGATION,
Berne, May 2, 1902.

SIR: I have the honor to report that a passport has been refused to William Strahlheim under the circumstances given below. I have received an appealing letter from his wife, but I am still unable to see how, under the instructions of the Department, a passport can be issued him. In consideration of the condition of the applicant and the hardship apparently consequent upon the denial of his application, I beg to submit the grounds on which a passport was refused.

William Strahlheim is a native citizen of the United States, having been born in New York on October 1, 1859. He first applied to this legation for a passport on November 17, 1893, returning passport No. 4832, issued to him while a minor by the legation at Paris on April 8, 1876. He declared that he last left the United States in 1888 and his intention to return within two years. On this application Mr. Broadhead issued him passport No. 59 November 18, 1893.

On October 8, 1895, he applied for a renewal, declaring that he last left the United States in 1890, and his intention to return within a few years. On this application Mr. Broadhead issued him passport No. 280 October 9, 1895.

On December 1, 1897, he applied for a renewal, stating that he last left the United States in 1889. In transmitting his application Consul Lieberknecht said:

He is a young man, not engaged particularly in any business now, but a commercial traveler, married to a Swiss lady who likes to be with her mamma, etc. I told him that I did not know whether you would consider his reasons for remaining here sufficient or not, but would submit his case to you.

Mr. Leishman did not feel warranted in issuing another passport, and referred the application to the Department in his No. 35 December 7, 1897. In its No. 51 of December 24, 1897, the Department, after taking note of the contradictions in Mr. Strahlheim's applications, instructed Mr. Leishman to ascertain the real facts in regard to Strahlheim's intention to return to the United States and to judge of the good faith of any declarations he might make as to his future home. Mr. Leishman saw Mr. Lieberknecht personally on the matter, and, as a result of his interview, Strahlheim made a new application on February 16, 1898, for a passport including his wife, in which he declared his intention to return within two years and that he needed a passport for the purpose of "looking after the welfare of my wife's aged parents." On this application he was issued passport No. 105 February 17, 1898.

On March 13, 1900, he applied for a renewal. In transmitting his application Mr. Lieberknecht wrote:

I told him what you said two years ago about renewing his passport again, but he says he is in the same condition he was then. His wife's parents are old and feeble and can not see their daughter leave them here alone in their old age. Mr. Strahlheim is agent for a rubber house in the United States and sells, among other articles, some American goods. I told him I would submit his case to you, but that there was not much show in his obtaining a passport unless you saw fit to do so.

Mr. Leishman requested Strahlheim to furnish a special affidavit, which was attached to the application forwarded with the passport returns to the Department, but whose exact tenor is not known to me, and issued him passport No. 455 March 22, 1900.

On April 3 instant he applied for a renewal, declaring his intention to return within eighteen months and that he needed a passport for identification. The application was denied. In reply to my letter informing Mr. Lieberknecht of this fact, I received the reply herewith inclosed. The statement in this letter that Mr. Strahlheim was a physical wreck and not allowed to leave his home without an attendant seemed to invalidate his declaration of intention to return within eighteen months, and in view of all the circumstances I adhered to my first decision. My second letter to Mr. Lieberknecht is inclosed herewith. I also inclose a translation of the letter from Mrs. Strahlheim.

Should the Department see in the above facts any mitigating circumstances under which a passport can be properly issued to Mr. Strahlheim, I would respectfully ask to be so instructed.

I have, etc.,

ARTHUR S. HARDY.

[Inclosure 1.]

Mr. Lieberknecht to Mr. Hardy.

UNITED STATES CONSULATE,
Zurich, April 15, 1902.

DEAR SIR: On receipt of your favor of the 5th instant, I at once communicated your decision to William Strahlheim in regard to his application for renewal of his passport. He seemed to be discouraged, and requested me to write you once more and explain fully his situation. In addition to the certificate inclosed herewith from his physician, who is a reliable practicing physician here, I can state from personal knowledge that Mr. Strahlheim is a physical wreck, and is not allowed to leave his home without an attendant, that his relatives support him, and that he is really better off in his present condition here than he would be in the United States.

If, in view of these facts, you should be inclined to change your decision, I will forward the application again.

Yours, respectfully,

A. LIEBERKNECHT, *Consul.*

[Inclosure 2.]

Mr. Hardy to Mr. Lieberknecht.

UNITED STATES LEGATION,
Berne, April 18, 1902.

SIR: I have to acknowledge the receipt of your letter of April 16 instant, relating to the application of Mr. William Strahlheim for a passport.

In that application, returned to you with my letter of the 5th instant, he stated

his intention to return to the United States within eighteen months. The application was refused on the ground of his repeated failure to make good his previous declarations of a similar character, the conflicting statements given in previous applications as reasons for not doing so, and the warning given him by my predecessor on the issue of his last passport that the same would not be renewed. In your present letter you state that Mr. Strahlheim is a physical wreck and is not allowed to leave his home without an attendant, and is better off where he is than he would be in the United States. This would seem to indicate that his declaration to return within eighteen months was of doubtful fulfillment, if, indeed, it was made with any real expectation that it could be realized.

As explained in my letter of the 5th instant, this case has been already the subject of correspondence with the Department, and the reasons for issuing a passport grows less with each new application. I should be glad to see my way to reversing my decision, but the reasons for Mr. Strahlheim's being unable to comply with the instructions of the Department, however unfortunate in themselves, do not alter the fact or the regulations.

I must therefore decline again his application.

I am, etc.,

ARTHUR S. HARDY.

[Inclosure 3.—Translation.]

Mrs. Strahlheim to Mr. Hardy.

ZURICH, April 26, 1902.

SIR: My husband has been suffering for a long time. He is nervous and of unsound mind, and the doctors have already discussed the question whether it would not be better to take him to an asylum.

Under these circumstances it is absolutely impossible for him to comply with the requirements of American laws and to go there in order to have his passport renewed. I pray you instantly, as my husband needs my assistance as also that of a man to wait upon him, to kindly issue him a new passport permitting his prolonged stay here and his taking advantage of the necessary special medical treatment.

Should he recover he undoubtedly will go to America to perform his duties as a citizen. His situation and residence in Zurich without identification papers would become impossible.

Hoping that in consideration of the above facts you will to this extent help the wife of a very ill man, I remain, etc.,

LEONORE STRAHLHEIM.

Mr. Hay to Mr. Hardy.

No. 36.]

DEPARTMENT OF STATE,
Washington, May 20, 1902.

SIR: The Department has received your No. 56 of May 2 relative to the application for a passport of William Strahlheim, and his right to the continued protection of this Government.

It appears that he was born in the United States and received his first passport in 1893, when he was 34 years of age. Since then, although according to his statements he has been several times in the United States, he has lived in Switzerland because his wife, who was born there, wishes to be near her parents. During the greater part of this time he has been engaged in selling American wares as part of his business. The intention of residing in the United States, expressed by him each time he has received a passport, he has failed to put into effect. He expresses his intention again, but his health is now so feeble that it is improbable he will be able to fulfill it.

It would appear that the issuance of passports in his favor in the

past was proper. His supplementary statement, accepted by your predecessor in issuing passport No. 455, March 22, 1900, set forth that it was his earnest desire to retain his citizenship, that the feeble condition of his wife's parents kept him abroad, and that he was actively engaged in the sale of American goods.

The statements of the consul at Zurich and of the applicant's wife, furnished with the pending application, show that he is now himself in precarious health and impecunious circumstances. The Department's circular instruction of March 27, 1899, on the subject of passports for persons residing or sojourning abroad states, as a favorable circumstance in determining the question of whether a passport should issue in cases of this character "that reasons of health render travel and return impossible or inexpedient, and that pecuniary exigencies interfere with the desire to return."

The Department is disposed to conclude that such circumstances exist in Mr. Strahlheim's case, and that the improbability of his carrying out his expressed intention of returning to the United States within eighteen months need not be counted too strongly against him, as his physical condition is, according to the consul at Zurich, pitiable, and his mind, according to his wife, is so unsound that the question of putting him in an asylum has been seriously considered.

Unless further adverse facts than this Department now has before it are developed, you are therefore authorized to issue a passport to Mr. Strahlheim.

I am, etc.,

JOHN HAY.

PASSPORTS NOT TO BE ISSUED TO PERSONS, MINORS AT THE TIME OF NATURALIZATION OF PARENTS, WHO WERE NOT AT THE TIME OF SUCH NATURALIZATION DWELLING WITHIN THE UNITED STATES. (CASE OF META SCHWARZ.)

Mr. Hardy to Mr. Hay.

No. 63.]

UNITED STATES LEGATION,
Berne, June 13, 1902.

SIR: I have the honor to report the following case of an application for a passport for the supervision of the Department:

Meta Schwarz, born in Germany in 1880, went to the United States in 1892 and left on April 29, 1897, about two months before the naturalization of her father, who emigrated to the United States in 1890 and was naturalized June 21, 1897. Since leaving the United States in 1897 the daughter Meta has resided abroad and has attained her majority. She now applies for a passport and declares her intention to return within two years in the usual form.

Section 2172, Revised Statutes, reads as follows:

The children of persons who have been duly naturalized under any law of the United States, or who, previous to the passing of any law on that subject by the Government of the United States, may have become citizens of any one of the States, under the laws thereof, being under the age of 21 years at the time of the naturalization of their parents, shall, if dwelling in the United States, be considered as citizens thereof.

Wharton, page 406, Volume II, says—

Section 2172 of the Revised Statutes is regarded "as applicable to such children as were actually residing in the United States at the time of their father's naturalization, and to minor children who come to the United States during their minority and while the parents were residing here in the character of citizens—"

which would imply that the clause of the statute "dwelling in the United States" means *at the time* of the naturalization of the parents.

I have issued a passport on the ground that the applicant, living with her father in the United States from 1892 to 1897, left for a temporary absence in Europe for purposes of study, and that she has now the right, on declaring her intention to return, to claim the citizenship derived from her father's naturalization, notwithstanding the fact that she happened to leave the United States a few weeks before the act of her father's naturalization was completed.

Her name appears as a minor child on her father's passport No. 459, issued April 9, 1900, by Mr. Leishman, the fact that she left the United States before the naturalization of her father not appearing on his application.

As the rights of minor children under section 2172, Revised Statutes, appear to be obscure, I have thought it proper to refer the case to the Department for its supervision.

I have, etc.,

ARTHUR S. HARDY.

Mr. Hay to Mr. Hardy.

No. 41.]

DEPARTMENT OF STATE,
Washington, July 15, 1902.

SIR: YOUR No. 63 of the 13th ultimo, relative to the passport of Meta Schwarz, has been received.

In reply I have to say that the Department does not think that Miss Schwarz at the time her father was admitted to citizenship was "dwelling in the United States" within the meaning of Revised Statutes, section 2172. The word "dwelling" is regarded as a word of narrower meaning than "residing." In other words, a person might have a legal residence in the United States while dwelling for the time being in Europe. He can not, however, be "dwelling" in the United States while physically absent from the country.

While the law (Rev. Stats., sec. 2172) permits the minor son of an alien to come to the United States immediately before his father's naturalization here and to leave the United States a full-fledged citizen the day after such naturalization, to construe the statute as conferring citizenship upon a minor who is not in the United States at the time of the father's naturalization nor subsequently would be to open the door needlessly to further abuses.

Inasmuch as the passport has been issued to her, this particular case is ended. But you will be guided by the foregoing in all similar cases which may arise in future.

I am, etc.,

JOHN HAY.

PASSPORT APPLICATION OF BERNHARD KAUFMANN.

Mr. Hardy to Mr. Hay.

No. 72.]

UNITED STATES LEGATION,
Berne, September 1, 1902.

SIR: I beg to report that on August 30 last I refused a passport to one Bernhard Kaufmann under the following circumstances:

Kaufmann was born on the 27th April, 1855, in Oetheim, Germany; emigrated to the United States in February, 1872, and was naturalized before the court of the city and county of New York on the 10th July,

1878. He obtained passport No. 8843 from the Department of State on the 11th day of July, 1878, and left the United States in April, 1880.

He first applied to this legation for a passport on February 28, 1896. Mr. Peak, then minister, did not feel authorized to grant him a renewal on account of his sixteen years' residence abroad, from 1880 to 1896. He reported the case to the Department in his No. 9 of March 3, 1896, and in its No. 18 of March 19, 1896, the Department approved Mr. Peak's action.

It is evident that, on being so informed, Mr. Kaufmann went to the United States and procured passport No. 18068, of November 14, 1896, from the Department of State, for he presented the expired passport when applying for the second time to the legation on October 1, 1898. His application showed that he returned to Europe on December 3, 1896, in less than three weeks after obtaining his passport, and after a brief visit only in the United States. Mr. Leishman granted a renewal in 1898 on the presentation of the passport from the Department of State and the usual declaration to return within two years.

In September, 1900, Kaufmann again appealed for a renewal and made the same declaration of intent to return. Mr. Leishman declined to renew his passport, holding that in view of his continued residence abroad since 1880, a brief visit to the United States did not constitute residence in the sense of the regulations.

But on the production of a special sworn affidavit to the effect that he would return to the United States within two years, there to reside and perform the duties of a citizen, Mr. Leishman finally issued him a passport (No. 515, September 25, 1900).

Mr. Leishman's letter to the consul at Zurich, accompanying this passport, instructed him to warn Kaufmann that a failure to make good his declaration would lead to the refusal of further protection.

Kaufmann now applies, on August 30 last, for a renewal. His application shows that he has not been in the United States since 1896, and makes the same declaration of intention to return within two years.

With the exception of the brief visit, made apparently for the purpose of securing the passport already refused by Mr. Peak, with the Department's approval, he has resided abroad since 1880.

So far as the facts appear, it would seem that he secured naturalization for the purpose of living abroad as an American citizen, thus to avoid the duties of citizenship in the place of his residence.

It is not unlikely that he may return to the United States to secure a passport, as before, and subsequently return to Switzerland, where his interests are. I deem it proper, therefore, to report the case to you.

I have, etc.,

ARTHUR S. HARDY.

Mr. Adee to Mr. Hardy.

No. 46.]

DEPARTMENT OF STATE,
Washington, September 17, 1902.

SIR: Your No. 72 of the 1st instant has been received, and your refusal to issue to Bernhard Kaufmann a passport under the circumstances detailed in the dispatch is commended.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

PROTECTION OF PAUL DICK, A SWISS CITIZEN, BY UNITED STATES REPRESENTATIVE IN EGYPT.

Mr. Hay to Mr. Pioda.

No. 327.]

DEPARTMENT OF STATE,
Washington, May 6, 1902.

SIR: I have the honor, with reference to similar previous correspondence, to inclose for your information copy of a dispatch from the agent and consul-general of the United States at Cairo, and copy of an instruction in reply, relative to the protection requested by Paul Dick, a citizen of Switzerland, living in Cairo.

Accept, etc.,

JOHN HAY.

[Inclosure 1.]

Mr. Long to the Department of State.

No. 222.]

AGENCY AND CONSULATE-GENERAL OF THE UNITED STATES,
Cairo, Egypt, April 4, 1902.

SIR: Paul Dick, a Swiss citizen residing in this city, in a communication addressed to this agency and consulate-general, has requested to be placed under the protection of the United States representative here, and I have to request the Department for instructions in the premises.

I am, etc.,

JOHN G. LONG,
Agent and Consul-General.

[Inclosure 2.]

Mr. Peirce to Mr. Long.

No. 122.]

DEPARTMENT OF STATE,
Washington, May 3, 1902.

SIR: In reply to your No. 222, of April 4, in which you state that Mr. Paul Dick, a Swiss citizen residing in Cairo, has requested to be placed under the protection of the representative of the United States at Cairo, I have to say that you are authorized to use your good offices in behalf of Mr. Dick, in the absence of a diplomatic or consular representative of Switzerland and with the consent of the Egyptian Government. You will inform Mr. Dick of the limited nature of the protection, and that you are under no circumstances permitted to intervene officially in his behalf with the Egyptian authorities.

I am, etc,

HERBERT H. D. PEIRCE,
Third Assistant Secretary.

PROTECTION OF ROBERT BECK, A SWISS CITIZEN, BY UNITED STATES OFFICIALS IN COLOMBIA.^a

Memorandum.

SWISS LEGATION,
Washington, May 29, 1902.

Mr. Robert Beck, a native of Switzerland, is established since 1892 as a representative of English and German exporting firms at Bogotá,

^a See also, under Colombia, page 289.

Colombia, and has, by registration, placed himself under the protection of the United States representative in that country.

In consequence of the depreciation of the paper money, he was forced to invest a large amount of it in coffee. For the purpose of shipping it, he bought a large number of mules.

These mules are now being taken away from him illegally by agents of the Government; they neither pay any consideration nor give any receipt for them. The finest specimens of them remain in the hands of the Colombian officers, who sell them for good prices.

Mr. Robert Beck has done all he could in order to obtain justice. Everything is useless. He has lost so far over 100 animals, and even some of the coffee (about \$800 worth) has been destroyed by the revolutionary forces.

He has addressed himself to the United States representative, Mr. Hart, but without avail. He therefore requests the Swiss legation in the United States to take the proper steps at the State Department in Washington to have these illegal proceedings stopped and force the wrongdoers to pay him a due compensation for his severe loss.

Memorandum.

DEPARTMENT OF STATE,
Washington, June 10, 1902.

The Department of State received on the 29th ultimo the memorandum of the Swiss legation in regard to the case of Mr. Robert Beck, a Swiss citizen, who complains that he has lost 100 mules, which have been seized by the Colombian authorities during the existing hostilities in the Republic of Colombia; that he has also had some coffee (worth about \$800) seized by revolutionary forces, and that he has addressed himself to the minister of the United States at Bogota without obtaining redress.

The Department has communicated the memorandum to Mr. Hart, the United States minister, who is on leave in this country. He reports that he gave Mr. Beck all the assistance, in the way of good offices (by making all proper representations to the Government of Colombia), that he could possibly have given to any American citizen, and that he has been unable to secure the payment of his claim for the same reasons that have made it impossible to secure the payment of claims of United States citizens whose animals have been expropriated as were Mr. Beck's mules.

The Department refers the Swiss legation to Mr. Bayard's note ^a of July 1, 1887, to that legation, pointing out that this Government can only use good offices in behalf of subjects or citizens of other countries who have been placed under the protection of United States diplomatic or consular officers.

^a See Foreign Relations, 1887, p. 1076.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Hardy to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Berne, May 28, 1902.

(Mr. Hardy reports that the Swiss Government has granted permission for United States consular officers within its jurisdiction to exercise good offices in behalf of Cuban interests, and that notification of this permission has been transmitted to consuls.)

Mr. Hardy to Mr. Hay.

No. 60.]

UNITED STATES LEGATION,
Berne, May 28, 1902.

SIR: I have the honor to acknowledge the receipt of your telegram^a of May 24, and to confirm mine of this date. This telegram has been sent and consuls notified, on the assurance of the President of the Confederation that Switzerland would willingly consent to the above request of the President of Cuba, and that formal notice to that effect would be at once sent to the legation.

The formal communication from the foreign office has since been received, and a copy thereof, together with translation, is herewith inclosed.

I have, etc.,

ARTHUR S. HARDY.

[Inclosure.—Translation.]

Mr. Zemp to Mr. Hardy.

FEDERAL POLITICAL DEPARTMENT,
Berne, May 28, 1902.

MR. MINISTER: In confirmation of our oral communications, we have the honor to inform you that the federal council has no objection to consuls of the United States of America in Switzerland being charged also to represent, each within the limits of his district, the interests of Cuba and of the citizens of that island, until the young Republic shall have appointed Cuban consuls.

Please accept, etc.,

ZEMP.

REFERENDUM AND INITIATIVE.

Mr. Hay to Mr. Hardy.

No. 32.]

DEPARTMENT OF STATE,
Washington, May 6, 1902.

SIR: I inclose copy of a letter from Senator Wetmore requesting a full history of the initiative and referendum in Switzerland.

I should be pleased to have you give this request immediate attention, so that the information desired may reach the Department not later than July 15 next.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Wetmore to Mr. Hay.*UNITED STATES SENATE,
Washington, May 5, 1902.

MY DEAR MR. SECRETARY: Will you be kind enough to secure for me, through the United States minister to Switzerland, the following information concerning the initiative and referendum in Switzerland, which I have been asked by a friend to obtain. He says:

"We should like to know in regard to its inception, the method of operation, the progress made, and the satisfaction given. It will be of interest to know the number of propositions submitted since its adoption and the subject or text of such propositions, the number of names placed on petitions therefor, the number of votes cast in favor or against, and a comparison between the votes given on submission with the number of names on the petition for such submission, and in general a full history of the initiative and referendum in Switzerland."

It is very much desired that this information should be in hand by the 20th of July next.

Believe me, etc.,

GEORGE PEABODY WETMORE.

Mr. Hardy to Mr. Hay.

No. 62.]

UNITED STATES LEGATION,
Berne, June 10, 1902.

SIR: I have the honor to inclose herewith the report called for by your No. 32 of May 6 last, in compliance with the request made through the Department of State by Senator George Peabody Wetmore.

All the information asked for by Senator Wetmore is, I believe, covered by this report, except the text of the propositions submitted through the referendum and initiative. These are to be had only in the bound volumes of the official record dating from 1874, and can not be procured separately. I have, however, given in most instances a brief statement of the bills in question and the circumstances attending their rejection or adoption.

In asking for a "full history of the referendum and initiative in Switzerland" I have not supposed Senator Wetmore intended to go back of the constitution of 1848.

The subject is a very large one and its literature very voluminous, even without touching the question of historical origin. Should, however, any further specific information be required, I shall be happy to supply it so far as in my power. As my own views on the practical working and results of the referendum and initiative have not been asked for by the Department, and as I do not know to what use they might be put, I have not added them.

I have, etc.,

ARTHUR S. HARDY.

[Inclosure.]

Referendum and initiative.

DEFINITIONS.

Legislative power may be exercised directly by the people or delegated to a few. In the former case government is *direct*, in the latter, *representative*.

The referendum is a union of both systems, the people delegating its power to representatives, but reserving the right to approve or reject their decisions.

The *initiative* still further curtails delegated power, the people reserving also the

right to initiate legislation. By the referendum they pass judgment on laws made by their representatives; by the initiative they propose new laws or alter or abolish those already existing.

The referendum is *compulsory* when all laws must be submitted to the people and optional when only certain laws are submitted or laws whose submission is desired by a certain number of voters.

More or less perfect illustrations of direct government are afforded by the town meetings of New England, by the early Swiss Republics of Uri, Appenzell, etc.; by certain old Flemish communes, the Hanseatic cities, and by ancient Gaul, Germany, Rome, and Athens. But even in small communities analysis shows that so-called direct government is never completely realized in practice. The representative principle always appears in some form in the elaboration, execution, interpretation, or revision of laws, the administration of finances or the conclusion of treaties, and the making of war or peace.

The principles of the referendum and initiative appear in the earliest forms of representative government in Switzerland as counterpoises to delegated power. For a study of the historical origin of these principles reference may be made to the works of Professor Hilty, of Berne, and to Signorel's *Referendum Legislatif*, Rousseau, Paris, 1896. Modern legislation on these subjects begins with the constitution of September 12, 1848, which converted a confederation of loosely associated cantons into a federal state.

CONSTITUTION OF 1848.

Under this constitution the people possessed the right to demand its revision and to accept or reject a new constitution. If either Chamber pronounced for revision, the other dissenting, or if 50,000 legal voters demanded revision, then, in either case, the question whether there should be revision was to be submitted to the people. If a majority of those voting pronounced in the affirmative, the two Chambers were to be convened to proceed to the revision, and the revised constitution was to go into effect when a majority of Swiss citizens voting, and of Cantons, accepted it. On constitutional questions, therefore, the constitution of 1848 embodied both the referendum and the initiative.

Under the second French Empire and during the unification of Germany a sentiment arose in favor of still greater centralization, and revision was discussed as early as 1864. Partial revision was proposed by the federal council in its message of July 1, 1869, in eight particulars—equality of citizens; the right to vote; liberty of worship; prohibition of lotteries; protection of authors' rights; abolition of certain penalties; uniformity of weights and measures, and the right of a citizen to settle anywhere within Swiss territory. All these were rejected by the people except two—the uniformity of weights and measures being adopted by 159,202 votes to 156,396, and the extension of the right of settlement by 170,032 to 149,401.

The agitation for a complete revision, however, went on, centralization, with the referendum as a check, being the objective. The debates in the Chambers, begun in 1871, terminated in 1872, when the national council, by a vote of 78 to 36, and the council of states, by a vote of 23 to 18, declared for revision. In this project the optional referendum was provided for all laws and for resolutions not deemed urgent, and the initiative was accorded to 50,000 citizens or 5 Cantons. In accordance with the provisions of the constitution then in force this revision was submitted to the people on May 12, 1872, and was rejected by 13 out of 32 Cantons, and by 260,859 against 255,606 votes.

In the fall of the same year revision was again taken up by the Federal Assembly. In the new project the popular initiative was suppressed and the referendum accorded to 8 (instead of 5) Cantons, and to 30,000 (instead of 50,000) citizens. This measure was adopted January 30, 1874, in the House by 103 to 20, and in the Senate by 25 to 14, and on April 19 was accepted by a popular vote of 340,199, as against 198,013, and by 14½, as against 7½ Cantons, and the existing constitution went into force May 29, 1874.

CONSTITUTION OF 1874.

In the constitution of 1874 the referendum received a wider application than in that of 1848. In the latter only questions of constitutional revision were submitted to the people; in the former federal laws and resolutions of a general nature not deemed urgent, are also submitted to popular suffrage on the demand of 30,000 citizens or 8 Cantons. The provisions of the constitution are as follows:

OPTIONAL REFERENDUM.

“ART. 89. Federal laws, enactments, and resolutions shall be passed only by the agreement of the two councils. Federal laws shall be submitted for acceptance or

rejection by the people, if the demand is made by 30,000 voters or by 8 Cantons. The same principle applies to federal resolutions which have a general application and which are not of an urgent nature.

“ART. 90. The confederation shall by law establish the forms and intervals to be observed in popular votes.”

COMPULSORY REFERENDUM—CONSTITUTIONAL REVISION.

“ART. 118. The federal constitution may at any time be wholly or partially amended.

“ART. 119. Complete amendment is secured through the forms required for passing federal laws.

“ART. 120. When either council of the Federal Assembly passes a resolution for the complete amendment of the federal constitution and the other council does not agree; or when 50,000 Swiss voters demand the complete amendment, the question whether the federal constitution ought to be amended is, in either case, submitted to a vote of the Swiss people, voting yes or no. If in either case the majority of the Swiss citizens who vote pronounce in the affirmative, there shall be a new election of both councils for the purpose of preparing the complete amendment.”

In execution of article 90 of the constitution, as above, a federal law was passed June 17, 1874, as follows:

Article 1 is a literal repetition of article 89 of the federal constitution.

Article 2.—The decision that a federal resolution is not of general application or is not of an urgent nature rests with the Federal Assembly, and must in each case be formally annexed to the resolution itself. In this case the federal council will order its execution and its insertion in the official register of the laws of the confederation.

Article 3.—All federal laws as also all federal resolutions which do not fall under either of the two exceptions provided for in article 2 shall be published immediately after their promulgation, and a sufficient number of copies thereof shall be communicated to the Cantonal governments.

Article 4.—The demand for the submission of a law or federal resolution to popular vote, whether emanating from the people or from the Cantons, must be formulated within ninety days of the publication of the same in the Federal Official Record.

Article 5.—The demand must be addressed to the federal council in writing. A citizen making or supporting such demand must sign it personally. Whoever, in a demand of this nature, writes another name than his own is liable to the provisions of the penal code. The right of the signers to vote must be attested by the communal authority of the place where their political rights are exercised. No fee is to be charged for such attestation.

Article 6.—The demand for a popular vote, when emanating from the Cantons, must be formulated by the grand council or landrath. The right guaranteed to the people by the cantonal constitution relative to the modifications which the former may make in decisions of this nature remain in force.

Article 7.—Whenever, within ninety days following the publication of a law or federal resolution in the Official Record, no demand for a popular vote has been formulated, or if, having been formulated, an official examination and abstract of the petitions shows that it is not supported by 30,000 signatures or 8 Cantons, the federal council will decree the said law or resolution to be in force, and order its execution and its insertion in the official register of the laws of the confederation. The number of signatures supporting a demand for a popular vote shall be published by Cantons and communes in the Federal Record. So also for demands by the Cantons in conformity with article 6.

Article 8.—If, on examination of the petitions, it appears that the demand is supported by the necessary number of Swiss citizens having the right to vote, or of Cantons, the federal council shall provide for the popular vote. It will inform the cantonal governments, and order the measures necessary for the publication of the law or Federal resolution in question.

Article 9.—The vote by the Swiss people will take place on the same day throughout the entire confederation. The day shall be fixed by the federal council. Provided, however, that the vote shall not take place within four weeks after the publication of the law or resolution in question.

Article 10.—The right to vote is possessed by every Swiss who has completed his twentieth year, and who has not been excluded from the rights of active citizenship by the legislation of the Canton in which he has his domicile.

Article 11.—Each Canton will provide for the voting within its own jurisdiction according to the provisions of the federal law on federal elections.

Article 12.—In every commune or district a report shall be prepared giving the exact

number of voters and the number of those who have accepted or rejected the law or federal resolution submitted to the popular vote.

Article 13.—The cantonal governments will submit to the federal council within ten days the reports of the vote, and shall hold the ballots at its disposal.

From these reports the federal council will verify the result of the voting.

Article 14.—The law or resolution shall be deemed adopted when it has been accepted by a majority of the Swiss citizens who have taken part in the vote. In this case the federal council shall order its execution and its insertion in the official register of the laws of the confederation.

Article 15.—If it is found that a majority of the voters have rejected the law or resolution submitted to them the said law or resolution shall be considered null and void and will not be executed.

Article 16.—In both cases the result of the votes will be published by the federal council, which shall make a report to the Federal Assembly at its next session.

TABLE I.—Showing the use made of the referendum since the adoption of the constitution of 1874.

No.	Date of vote.	Subject of vote.	Number of signatures demanding referendum.	Per cent of signatures to registered votes.	Affirmative votes.	Negative votes.	Result.
1	May 23, 1875	Federal law on marriage and civil status.	106,560	17	213,199	205,069	Accepted.
2	.....do.....	Federal law on political rights...	108,674	17.3	202,583	207,263	Rejected.
3	Apr 3, 1876	Federal law on issue and redemption of bank notes.	33,749	5.7	120,068	193,253	Do.
4	July 9, 1876	Federal law on exemption by tax from military service.	80,549	12.8	156,157	187,894	Do.
5	Oct. 21, 1877	Federal law regulating labor in factories.	54,841	8.7	181,204	170,857	Accepted.
6	.....do.....	Federal law on exemption by tax from military service.	63,300	10	170,223	181,383	Rejected.
7	.....do.....	Federal law on political rights...	40,207	6.4	131,357	213,230	Do.
8	Jan. 19, 1879	Federal law on subsidies to Alpine railways.	36,062	5.9	287,731	115,571	Accepted.
9	July 30, 1882	Federal law on epidemics.....	80,324	12.7	68,027	254,340	Rejected.
10	Nov. 26, 1882	Federal law on resolution on execution of article 27 of constitution.	180,995	28.5	172,010	318,139	Do.
11	May 11, 1884	Federal law on organization of department of justice and police.	93,046	14.7	149,729	214,916	Do.
12	.....do.....	Federal law on resolution suppressing tax on commercial travelers.	93,046	14.7	174,195	189,550	Do.
13	.....do.....	Federal resolution applying 10,000 francs to legation in Washington.	93,046	14.7	137,824	219,728	Do.
14	.....do.....	Federal law amending penal code.	93,046	14.7	159,068	202,773	Do.
15	May 15, 1887	Federal law on monopoly of alcohol.	52,412	8.1	267,122	138,496	Accepted.
16	Nov. 17, 1889	Federal law on debts and bankruptcy.	62,948	9.5	244,317	217,921	Do.
17	Mar. 15, 1891	Federal law on pensions for federal functionaries.	84,572	12.9	91,851	353,977	Rejected.
18	Oct. 18, 1891	Federal law on tariff.....	51,564	7.9	220,004	158,934	Accepted.
19	Dec. 6, 1891	Federal resolution on purchase of Central Swiss R. R.	91,678	13.9	130,729	289,406	Rejected.
20	Feb. 3, 1895	Federal law on representation abroad.	37,040	5.4	124,517	177,991	Do.
21	Oct. 4, 1896	Federal law regulating cattle trade.	45,932	6.5	174,860	209,118	Do.
22	.....do.....	Federal law regulating railroad administration.	59,706	8.4	223,228	176,574	Accepted.
23	.....do.....	Federal law on army discipline...	69,386	9.8	77,162	310,938	Rejected.
24	Feb. 28, 1897	Federal law on creating state bank.	78,340	10.9	195,743	451,728	Do.
25	Feb. 20, 1898	Federal law on purchase of railroads.	85,505	11.6	386,634	182,718	Accepted.
26	May 20, 1900	Federal law on insurance against accidents.	117,461	15.8	148,022	342,114	Rejected.

TABLE II.—*Constitutional revision referred to the people under the compulsory referendum since the adoption of the constitution of 1874.*

No.	Date of vote.	Subject of vote.	Number of registered vote.	Affirmative vote.	Negative vote.	Result.
1	May 18, 1879	Art. 65, death pen.....	633, 188	200, 485	181, 588	Accepted.
2	Oct. 31, 1880	Art. 39, banknote monopoly.....	641, 756	121, 099	260, 126	Rejected.
3	July 30, 1882	Art. 64, patents.....	625, 249	141, 610	156, 658	Do.
4	Oct. 25, 1885	Monopoly of alcohol.....	not given	230, 250	157, 463	Accepted.
5	July 10, 1887	Art. 64, patents.....	647, 071	203, 506	57, 862	Do.
6	Oct. 26, 1890	Art. 34, bis, insurance.....	663, 531	283, 288	92, 200	Do.
7	July 7, 1891	Popular initiative.....	641, 692	183, 029	120, 599	Do.
8	Oct. 18, 1891	Art. 39, subsidies to railroads.....	654, 372	231, 578	158, 615	Do.
9	Mar. 4, 1894	Art. 34, labor.....	676, 874	135, 713	158, 492	Rejected.
10	Sept. 29, 1895	Monopoly and sale of matches.....	690, 592	140, 174	184, 109	Do.
11	Nov. 3, 1895	Military organization.....	697, 131	195, 178	269, 751	Do.
12	July 11, 1897	Art. 24, police of forests.....	716, 701	156, 102	89, 666	Accepted.
13	.....do.....	Art. 69, bis.....	716, 701	162, 248	86, 945	Do.
14	Nov. 13, 1898	{Art. 64, civil law..... {Art. 64, bis, penal law.....	734, 502 734, 502	264, 933 266, 713	101, 220 101, 712	Do. Do.

TABLE III.—*Showing use made of initiative since its adoption on July 7, 1891.*

No.	Date of vote.	Subject of vote.	Signatures demanding vote.	Registered votes.	Affirmative votes.	Negative votes.	Result.
1	Aug. 20, 1893	Slaughter of animals.....	83, 159	668, 913	191, 527	127, 101	Accepted.
2	June 3, 1894	Labor laws.....	52, 387	680, 731	75, 810	308, 289	Rejected.
3	Nov. 4, 1894	Customs initiative.....	67, 828	690, 250	145, 462	350, 639	Do.
4	Nov. 4, 1900	Election of national council by proportional representation.	64, 675	747, 582	169, 018	244, 570	Do.
5	.....do.....	Nomination of federal council by the people.	56, 350	747, 582	145, 936	270, 502	Do.

INITIATIVE.

The text of the constitutional amendment providing for the initiative (No. 7, Table II) is as follows:

“ART. 121. Partial amendment may take place through the forms of popular initiative or of those required for passing federal laws. The popular initiative may be used when 50,000 Swiss voters present a petition for the enactment, the abolition, or the alteration of certain articles of the federal constitution. When several subjects are proposed for amendment or for enactment in the federal constitution by means of the popular initiative, each must form the subject of a special petition. Petitions may be presented in the form of general suggestions or of finished bills. When a petition is presented in the form of a general suggestion, and the Federal Assembly agrees thereto, it is the duty of that body to elaborate a partial amendment in the sense of the initiators, and to refer it to the people and the Cantons for acceptance or rejection. If the Federal Assembly does not agree to the petition, then the question of whether there shall be a partial amendment at all must be submitted to the vote of the people, and if the majority of Swiss voters express themselves in the affirmative, the amendment must be taken in hand by the Federal Assembly in the sense of the people.

“When a petition is presented in the form of a finished bill, and the Federal Assembly agrees thereto, the bill must be referred to the people and the Cantons for acceptance or rejection. In case the Federal Assembly does not agree, that body can elaborate a bill of its own, or move to reject the petition, and submit its own bill or motion for rejection to the vote of the people and the Cantons along with the petition.

“ART. 122. A federal law shall determine more precisely the manner of procedure in popular petitions and in voting for amendments to the constitution.

“ART. 123. The amended federal constitution, or the amended part thereof, shall be in force when it has been adopted by the majority of Swiss citizens who take part in the vote thereon and by a majority of the States.

“In making up a majority of the States the vote of a half Canton is counted as a half vote.

“The result of the popular vote in each Canton is considered to be the vote of the State.”

In execution of article 122, above quoted, a federal law of June 27, 1892, determined the mode of procedure for the popular initiative as follows:

Article 1.—The federal constitution may at any time be partially or wholly amended by means of the popular initiative. (Arts. 118, 120, and 121 of the federal constitution.)

Article 2.—For the exercise of this right a written demand, whose object must be definitely stated, and which must be signed by at least 50,000 Swiss citizens who are legal voters, must be addressed to the Federal Council, which shall in turn transmit the same to the Federal Assembly.

Article 3.—A citizen signing this demand must sign it personally. Whoever fixes a signature other than his own incurs the penalties prescribed by the penal code. (Art. 49 of the penal code of February 4, 1853.)

Article 4.—Each list of signatures must contain the name of the Canton and that of the political commune from which the signatures are obtained. To be valid the list must contain, (1) the text of the demand for revision; (2) the text of article 3 of the present law, and (3) at the end, the attestation, dated, of the president of the commune (syndic mayor), or of his substitute, to the effect that the signers are legal voters on federal questions, and that they enjoy the exercise of their political rights in the said commune. This attestation shall be made without fee.

Article 5.—On the presentation of a demand for revision the Federal Council shall determine the number of valid signatures.

Not to be counted are:

1. Signatures whose attestation by the competent authority (art. 4, No. 3) antedates by six months the deposit of the demand for the initiative.

2. Signatures affixed to a nonvalid paper. (Art. 4, Nos. 1, 2, 3.)

3. Signatures not attested as prescribed by article 4, No. 3, or whose attestation is inexact or incomplete. If signatures are found which are evidently written by one and the same hand, they shall be thrown out and not counted. The Federal Council shall publish the result of the scrutiny of the votes in the Federal Record and submit it with the documents to the Federal Assembly at its next session.

Article 6.—When a popular demand recognized as valid calls for the complete revision of the federal constitution, the Federal Assembly shall forthwith submit to the vote of the people the question whether the revision shall be made. If the majority of Swiss citizens voting pronounce in the affirmative, the two councils shall be convened in order to proceed to the revision. (Art. 120 of the federal constitution.)

Article 7.—If the demand for revision calls for the adoption, abrogation, or modification of definite articles of the federal constitution, and if this demand is presented in the form of a general suggestion, the Federal Chambers shall decide within one year at the latest whether they accept it, yes or no. If they accept it they shall give effect to this demand conformably to article 121, paragraph 5, of the federal constitution. If they reject the demand or fail to take action within the period prescribed above, the Federal Council shall submit the question of revision to the vote of the people.

If the majority of Swiss citizens voting pronounce in the affirmative, the Federal Assembly shall proceed without delay to a revision in the sense of the popular decision and submit the result in the usual way to the vote of the people and the States. (Art. 121, par. 5, of the federal constitution.)

Article 8.—When the demand for a partial revision is presented in the form of a finished bill, the chambers shall decide within at least the period of one year whether they assent to the bill as formulated, or whether they reject it.

Article 9.—If the two councils can not agree upon the finished bill as proposed, the bill shall be forthwith submitted to the vote of the people and Cantons. The same shall be done when the Federal Assembly approves the bill.

Article 10.—If the Federal Assembly rejects the bill it shall be submitted to the vote of the people and Cantons. It may at the same time present a motion of rejection or submit a bill of its own on the same constitutional subject to the vote of the people and the Cantons.

Article 11.—In case a separate bill is prepared by the Federal Assembly the two following questions shall be submitted to the voters: Will you accept the proposal for revision presented by the people, or will you accept the bill prepared by the Federal Assembly?

^a Whoever attempts to influence the result of an election or of any other act prescribed by federal legislation, by removing or falsifying valid ballots, by adding false ballots, or by illicit manner, is punishable by a fine, to which may be added in grave cases imprisonment not exceeding two years.

Article 12.—In the telling of votes, blank or null votes shall not be counted.

Votes which answer by yes or by a no to one only of either of the two questions propounded, or which answer no to both questions, are valid. Those which reply yes to both questions shall be deemed invalid.

Article 13.—That one of the two propositions approved by a majority of the voters and Cantons shall be accepted.

Article 14.—The returns of the voting should indicate the number of voters in the commune, the number of votes cast, the votes not counted, and, finally, the number of ayes and noes, and, in the case of a separate bill having been presented by the Federal Assembly, the number of ayes and noes on each of the two questions specified in article 11.

Article 15.—If several demands of the popular initiative concerning the same constitutional question are submitted to the Federal chancellery, the Federal Assembly shall first consider and submit to popular vote the one first presented.

The others shall be successively disposed of in the order in which they were presented.

Article 16.—In addition, the provisions of the federal law of June 17, 1874, for the regulation of popular votes on laws and federal resolutions shall apply to the conduct of the popular voting.

Article 17.—Are abrogated: The federal law of December 5, 1867, concerning the mode of procedure for demands for the revision of the federal constitution; the regulations of May 2, 1879, concerning demands for a popular vote on laws and federal resolutions and for the revision of the federal constitution, in so far as it treats of this revision.

Article 18.—It is the duty of the Federal Council, conformably to the provisions of the law of June 17, 1874, concerning popular votes on laws and federal resolutions, to publish the present law and to fix the date when it shall enter into force.

REMARKS ON THE USES OF THE REFERENDUM AND INITIATIVE.

1. The first law submitted to the people was on civil rights (No. 1, Table I). It assigned the keeping of registers to the civil authorities; established civil marriage as it exists in France and Germany, giving precedence to the civil over the religious ceremony; prohibited the church and communes from forbidding certain marriages; decreed that economic, confessional, and police considerations were not to be recognized as obstacles to marriage; and enumerated the grounds for divorce. The bill had to be accepted or rejected in its entirety. The provisions for divorce would probably have been rejected had they been presented separately. The acceptance of the law has resulted in a higher ratio of divorce to marriage in Switzerland than in any other European State.

2. Every citizen who has completed his twentieth year may vote, provided he is not excluded from the exercise of his political rights by the legislation of the Canton where he has his domicile. There exists therefore no *federal* law determining the right to vote. Bills were twice prepared to supply this deficiency and to remedy the diversity of cantonal legislation. (Nos. 2 and 7, Table I.) In both cases they were defeated.

3. The law on the emission and redemption of bank notes voted by the Assembly—September 18, 1875, was rejected by popular vote (No. 3, Table I). In 1880 a movement was organized for the suppression of article 39 of the constitution, by which the Confederation is given the power to provide by law for the issue and redemption of bank notes, but it is forbidden to create any monopoly therein or to make bank notes a legal tender. It was proposed to give the Federal Government the sole right to issue bank notes and treasury bonds. On October 31, 1880, 260,126 voters rejected this proposition (No. 2, Table II), but on October 18, 1891, when the same proposition was submitted, 231,578 voters accepted it. (No. 8, Table II; see dispatch No. 97, of October 27, 1891, from Minister Washburn to Secretary of State.)

4. A federal law fixing a tax for exemption from military service was twice rejected (Nos. 4 and 6, Table I), but was finally passed in 1878, the referendum failing for want of the requisite number of signatures. (No. 3, Table IV.)

5. The acceptance of the law regulating factory labor (No. 5, Table I) and the law according subsidies to Alpine railways (No. 8, table I) is considered to have been justified by experience.

6. An unusual increase of crime in 1879 led to agitation in favor of the death penalty, abolished by article 65 of the constitution of 1874. The vote of the Assembly to this effect was confirmed by the people (No. 1, Table II). The new article is as follows:

“ART. 65. The penalty of death shall not be pronounced for political offenses. Corporeal punishment is forbidden.”

Thus the Cantons were given the right to establish the death penalty for crimes not political. The only Cantons which have availed themselves of this right are Lucerne, Uri, Schwyz, Obwalden, Appenzell Inner Rhoden, Zug, St. Gall, and Valais, and Schaffhouse. The vote on this revision was a victory of the federalists for cantonal autonomy.

7. The law on epidemics (No. 9, Table I) prescribed preventive measures, required physicians to report cases, decreed compulsory isolation, vaccination, etc. The provisions of the bill placing general considerations of the public good above private interests, family ties, etc., probably defeated the measure. Compulsory vaccination became a law in 1887, although 254,340 votes were cast against it on the rejection of this bill.

8. On the same date the people rejected the proposed law on patents (No. 3, Table II). This is ascribed by some to the opposition to all extension of federal legislation, by others to the popular feeling against the law regulating epidemics, which was so strong as to carry down with it the patent law voted upon at the same time. However this may be, the same proposition was submitted five years later and was accepted. (No. 5, Table II).

9. By article 27 of the constitution the Confederation provides for higher education. Primary education was left in the hands of the Cantons and under the control of the civil authority, being obligatory, and in the public schools gratuitous. The public schools were to be opened to all confessions, with complete liberty in matters of conscience and belief, and the Confederation was authorized to proceed against such Cantons as did not comply with these provisions. This article had never received any application, and in the Catholic Cantons instruction was given by members of authorized religious communities. Liberals and freethinkers demanded an investigation, with the evident intent to suppress clerical instruction. This antireligious and disturbing policy was condemned by the people by the overwhelming majority of 146,129 votes (No. 10, Table I).

10. Of the four propositions submitted May 11, 1894, those on the organization of the department of justice and police and the appropriation of 10,000 francs for the legation in Washington were doubtless rejected from motives of economy, not to say parsimony (Nos. 11 and 13, Table I). A federal resolution (No. 12, Table I) providing that commercial travelers traveling in Switzerland for a Swiss house could take orders free of tax, if traveling with samples only, was rejected, as also (No. 14, Table I) a law providing for the transfer, under certain circumstances, of criminal cases from the cantonal to the federal courts. According to some Swiss writers, these four propositions were rejected, not because they were unacceptable, but because the people wished to show its disapproval of the radical party, which had increased taxes and caused the disturbances in the Canton of Ticino.

11. Two propositions, the federal resolution of 1885 (No. 4, Table II) and the law of 1887 (No. 15, Table I), were temperance rather than monopolistic measures. The distillation of home-grown fruit and the importation of fruit brandies remained free, but the distillation of foreign fruit and home cereals passed into hands of the States, and the free circulation of beverages throughout the Confederation was assured. A part of the profits of the monopoly was to be distributed among the Cantons, one-tenth of each Canton's share to be devoted to combating intemperance. Both these measures were contested by the distillers and their clients, but both were accepted by heavy majorities. The results have been most satisfactory. The consumption of beer has increased, the number of distilleries diminished, and the consumption of alcohol, which from 1878 to 1885 was increasing, has diminished over 25 per cent.

12. By article 64 of the constitution, the Federal Assembly was to remedy by a federal law the diversity of cantonal legislation on debts and bankruptcy (No. 16, Table I). The law submitted to the people was accepted.

13. By a majority exceeding 200,000 (No. 25, Table I) the Swiss people decided in 1898 in favor of state ownership and operation of railroads. The mileage of Swiss roads is about 1,700 miles, the estimated cost of purchase about \$200,000,000. The retired stock is to be replaced by 3½ per cent bonds. Up to the present time the Government has assumed charge of the Northeast Railroad and the Central Railroad.

14. By article 34 bis of the constitution the Confederation was charged with the elaboration of a law providing for insurance against accidents and sickness (No. 6, Table II). Whatever benefits may accrue from this policy, its adoption by popular vote will certainly prove a burden to the treasury.

15. The law on pensions (No. 17, Table I) was the first provision made for pensioning State officials. On retirement, on nonreelection, or on account of infirmities contracted in the service, a maximum indemnity of 2,000 francs was provided, if the incumbent had remained fifteen years in the service, and 2,500 francs after thirty years of service. Although unanimously passed by both chambers, this wise and humane measure was defeated by the large popular majority of 261,126 votes.

16. Switzerland has shared in the recent general movement toward a protectionist policy and approved (No. 18, Table I) the tariff of 1891.

17. The federal resolution of 1891 (No. 19, Table I) for the purchase of the Central Swiss Railroad was the first step toward State ownership of railroads. A syndicate of Jewish bankers in Berlin had, however, control of the stock. The State would have been obliged to treat with this syndicate at exorbitant figures and the people declared against the purchase.

18. The creation of and allowances for diplomatic missions have always been subject to the referendum, while consular appointments and salaries were created by the Federal Council and fixed by the budget. The Federal Assembly proposed a measure providing that no diplomatic post should be created without its sanction, its decisions in this respect not to be referred to the people (No. 20, Table I). This bill was rejected, and the people still remain the judge of the delicate question of the importance of a diplomatic representation.

19. The Society for the Protection of Animals inaugurated a campaign in 1887 against the method of slaughter (bleeding) practiced by the Jews. A jury of experts declared that this method did not occasion greater suffering than that practiced by Christians (felling). On an appeal of certain Cantons to the Federal Assembly, the latter declared in 1891 that the Jewish procedure was not prejudicial to public order or good morals, and that liberty of conscience dictated its authorization. Not discouraged by this rebuff, the society secured 83,000 signatures for a constitutional amendment prohibiting the slaughter of animals not previously stunned, presenting the proposition in the form of a finished bill. The Assembly presented no counter bill, but counseled rejection. It was, however, approved by the people (No. 1, Table III). Thus the first use of the popular initiative was the enactment of a clearly intolerant measure.

20. The Federal receipts rose from about 5,000,000 in 1874 to 35,000,000 in 1894. The initiative of November 4, 1894 (No. 3, Table III), proposed the distribution of a part of the revenue among the Cantons, at the rate of 2 francs per capita. The Federal Council opposed the measure as dangerous, both financially and politically. The Radical and Socialist parties opposed it on the ground that it would drain the resources of the Confederation, which they hoped to devote to the organization of national insurance, workshops, etc. The people rejected it, thus refusing to approve of high protective tariff, of creating a deficit by taking 6,000,000 from the Federal treasury, and of diminishing cantonal independence by putting the Cantons in the pay, as it were, of the Federal Government.

21. The Federal constitution gives the Confederation the right to take measures for the health and safety of the working classes. On representation of the injury sustained by the operatives in certain manufactories of matches, the Federal Council proposed a state monopoly of this industry (No. 10, Table II). In rejecting this proposition the people emphasized its distrust for State socialism.

22. A Federal law providing that everything relating to the Federal army was the sole jurisdiction of the Confederation, and creating military districts not coincident with cantonal boundaries (No. 11, Table II), was rejected, probably largely because of the substitution of military prefectures for Cantons, and because it was considered a first step toward more radical measures of centralization.

23. On March 4, 1894 (No. 9, Table II), over 50,000 signatures were obtained to a demand for an addition to article 34 of the constitution under which the Confederation may pass laws regulating labor. In rejecting the proposed measure the people declared their opposition to obligatory trades unions.

24. The people also rejected a proposition (No. 2, Table III), in favor of which the Socialists had obtained 52,387 signatures, to insert in the constitution a clause to the effect that the right of every Swiss citizen to remunerative labor should be recognized and made effective in every possible way by Federal, cantonal, and communal legislation.

25. The Cantons have never made use of the right accorded by article 89 of the constitution to demand the referendum.

26. Certain laws, while subject like others to the optional referendum, in practice have never been subjected to its operation. Such are (1) the budget, (2) treaties with foreign powers.

27. The cost of the referendum, which requires the printing of over 700,000 copies of the law in the three different languages, varies. Thus the cost was, for printing only, for—

	Francs.
No. 16, Table I.....	47,606
No. 3, Table I.....	14,425
No. 4, Table I.....	14,485
Nos. 5, 6, 7, Table I.....	20,843
No. 26, Table I.....	61,798

28. Since the referendum has been in force 226 Federal laws and resolutions have been enacted, of which 40 were submitted to the people, 14 by the compulsory and 26 by the optional referendum. The people have exercised the initiative five times since its adoption in 1891, rejecting the measures proposed four out of five times.

TABLE IV.—*Demands for referendum which failed for want of requisite number of signatures.*

No.	Date of law.	Subject.	Number of valid signatures.
1	Sept. 17, 1875	Protection of game.....	9,900
2	June 16, 1877	Salaries in army.....	13,686
3	June 23, 1878	Exemption tax military service.....	5,513
4	June 20, 1879	Increase of duties on certain imports.....	18,737
5	June 28, 1889	Appointment of attorney-general for political crimes.....	23,928
6	June 28, 1893	State care of the sick.....	a 40,000

a About.

THE INITIATIVE AND REFERENDUM IN THE CANTONS.

Table V, on the initiative in constitutional and legislative questions and the optional and compulsory referendum, in the Cantons gives, for each Canton, the date of adoption, the number of signatures required, and the measures subject to popular vote. The provisions governing the use of the initiative and referendum in the Cantons are too varied, and the use of these principles too numerous, for detailed specification in this report. The following general observations will, however, be of interest:

1. All the Cantons possess the initiative, either in constitutional or legislative matters, or both; and all, except Freiburg, some form, either compulsory or optional, or both, of the referendum.

2. The right of initiative is exercised in various ways:

I. When the demand is presented in form of a general suggestion. (a) In Schaffhausen and Thurgau, for example, the grand council immediately elaborates a law. (b) In Vaud and the Grisons the grand council prepares a law only after the submission of the proposition to the people and the expression of their desire for its preparation. (c) In other Cantons the grand council approves or rejects the suggestion. In the former case it prepares a law, in the latter case only after the suggestion has been submitted to and approved by the people.

II. When the people themselves present a finished bill, the legislative body is then only the agent of its transmission to the people.

III. When the people present a finished bill, but the legislature may also prepare a counter project, both being submitted to the people.

3. In certain Cantons a popular vote may take place not only on the demand of the voters, but also on that of the grand council or a certain number of deputies. This is the case in Zurich, Schwyz, Soleure, Aargau, Thurgau, St. Gall, Basel-Ville, Lucerne, Zug, and the Grisons. This form of the referendum does not commend itself in practice and is rarely employed.

4. In the Cantons, as in the Federal legislation, the difference between a law (L.) and a resolution (R.) is not defined. But in certain Cantons, as Zurich and Aargau, a list is drawn up of the subjects which may be finally disposed of by the representative body without reference to the people.

5. The word "treaties" (T.) in the table refers to such treaties as by their constitutions the Cantons have the right to conclude with each other or with foreign states under articles 7 and 9 of the Federal constitution.

6. The power to control expenditures (A.) varies greatly in the different Cantons. Generally the budget is not subject to the referendum. In Berne, where the compulsory referendum is in force, the people on several occasions rejected the budget. An article withdrawing the budget from the referendum was inserted in a bill which, having certain economies in view, was sure to receive popular sanction. This trick succeeded, and the budget is not now submitted to the people. But if, in order to balance receipts and expenditures, additional taxes are proposed, such increase must be approved by the people. Generally speaking, a new tax or increase of one already existing, or the proposal to issue a loan, must receive popular ratification. Thus, in Schaffhausen any resolution imposing an extraordinary tax of 200,000 francs or more, or an annual tax of 20,000 francs, must be referred to the people.

7. In all the Cantons which have the compulsory referendum all laws are submitted to popular vote, except in Vaud and the Valais, where the compulsory referendum applies only to certain financial measures.

8. Theoretically, the official message accompanying the law submitted to the people is intended to supply the absence of discussion by rehearsing the arguments pro and con. Practically this is not the case. The message is generally confined to a statement of the advantages of the proposed law and is an effort to render it acceptable. It does not inform.

9. Where the referendum is compulsory the people are not usually called upon to pronounce upon each measure as it is passed, but on all at certain stated times; in Berne, once a year; in Zurich, twice a year; in Soleure, very often; thus in 1892 there was a popular vote every three weeks, nearly.

10. As illustrating the use of the referendum:

In Zurich, from 1869 to 1890, 133 popular votes took place, of which 44 resulted in the negative. The average number of absentations was 26 per cent. The absentations were generally far less for financial measures. In communes where a fine is imposed for failure to vote the number of absentations is a minimum. Thus, in the referendum of June 25, 1871, in two communes where the voting is obligatory 97 per cent and 94 per cent of the voters took part; in three communes where voting is not obligatory only 19 per cent, 14 per cent, and 10 per cent took part.

In Berne, from 1869 to 1888, 68 measures were submitted to the people, of which 50 were approved. The average absentations was 45 per cent. In Bale-Campagne, from 1864 to 1881, of 94 popular votes, 45 were affirmative, 23 negative, and 17 without result, because an absolute majority of voters did not take part.

TABLE V.

[L., Laws; R., resolutions; T., treaties; A., appropriations; P., propositions; U., rules; I., laws and resolutions prepared as the result of popular initiative; C., prepared by grand council under delayed authority.]

INITIATIVE.

Cantons.	Constitutional.		Legislative.		
	In use since—	Signatures required.	In use since—	Signatures required.	In use for—
Zurich.....	1869	5,000	1869	5,000	L., R.
Berne.....	1893	15,000	1893	12,000	L., R.
Lucerne.....	1863	5,000			
Uri.....	1888	50	1888	1	P.
Schwyz.....	1848	2,000	1876	2,000	L.
Obwalden.....	1867	500	1867	1	P.
Nidwalden.....	1877	800	1877	1	P.
Glarus.....	1878	1	1878	1	P.
Zug.....	1873	1,000	1894	800	L., R.
Freiburg.....	1857	6,000			
Soleure.....	1856	3,000	1875	2,000	L., R.
Basel (V.).....	1875	1,000	1875	1,000	L., R.
Basel (C.).....	1863	1,500	1892	1,500	L., R., U.
Schaffhausen.....	1876	1,000	1875	1,000	L.
Appenzell (Ausser Rhoden).....	1876	(^a)	1876	(^a)	L.
Appenzell (Inner Rhoden).....	1872	1	1872	1	L.
St. Gall.....	1861	10,000	1890	4,000	L., R.
Graubünden.....	1880	5,000	1892	3,000	L., R., U.
Aargau.....	1885	5,000	1852	5,000	L.
Thurgau.....	1869	2,500	1869	2,500	L., R.
Ticino.....	1875	7,000	1892	5,000	L., R.
Vaud.....	1885	6,000	1861	6,000	A.
Valais.....	1852	6,000			
Neuchâtel.....	1848	3,000	1882	3,000	L., R.
Geneva.....	1891	2,500	1891	2,500	L., R.

^aA number of voters equal to the number of the grand council.

TABLE V—Continued.

REFERENDUM.

Cantons.	Optional.		Compulsory.		
	In use since—	Signatures required.	In use for—	In use since--	In use for—
Zurich.....				1869	L., R., T.
Berne.....				1869	L., A.
Lucerne.....	1875	5,000	L., T.....		
Uri.....	1888	20	R., U.....	1850-51	L., T., A.
Schwyz.....	1876	2,000	R., T., U.....	1876	L., A., U.
Obwalden.....	1867	400	L., C.....	1867	L., R., A.
Nidwalden.....				1877	L., P.
Glarus.....				1878	L., T., A.
Zug.....	1873	500	L., T., A.....		
Freiburg.....					
Soleure.....				1875	L., R., T., A.
Basel (V.).....	1875	1,000	L., R.....	1875	L., R., I.
Basel (C.).....				1863	L., R., T.
Schaffhausen.....				1895	L., R., A.
Appenzell (Ausser Rhoden).....				1876	L., T., A.
Appenzell (Inner Rhoden).....				1872	L.
St. Gall.....	1890	4,000	L., R.....		
Graubünden.....	1890	3,000	R., U.....	1852	L., R., T., A.
Aargau.....				1885	L., A.
Thurgau.....	1883			1869	L., T., A.
Ticino.....	1883-1892	5,000	L., R., A.....		
Vaud.....	1885	6,000	L., R.....	1861	A.
Valais.....				1852	A.
Neuchâtel.....	1879	3,000	L., R.....		
Geneva.....	1879	3,500	L., R., A.....		

GENERAL CONSIDERATIONS.

The conclusions and opinions of Swiss and other publicists and legislators on the practical results of the referendum and initiative are of the most opposite character.

Dubs (a distinguished Swiss federalist, ex-President) calls attention to the fact that in the ancient *Landsgemeinde* the whole people appeared together for the discussion of public questions and were deeply influenced by a sense of unity; that the deposit of a ballot *yes* or *no* in an urn, without previous discussion by the people assembled for that purpose, by scattered voters, fails to supply the ennobling motives of the primitive gatherings of a small, united population. He contends that the error of the theorists consists in thinking that the people think as rapidly as they themselves. The people learn by practical experience, and its judgments can equal those of Parliament only on condition that they are formed in a natural way. He denies that the referendum instructs, maintaining that this can result only from popular reunions, where the people can hear the law discussed by competent men—a plan for which the people have neither the leisure nor the will.

Zemp (President of the Confederation) affirms that experience shows the Swiss people are more conservative than their legislators.

Hilty, the distinguished Bernese writer, while admitting that the referendum and initiative can not find universal application, prefers them to purely representative government for these reasons: (1) The people gain a better knowledge of the laws, and legislators are forced to prepare them in a simple form easily comprehended by the masses. (2) Patriotism is stimulated, the State ceasing to exist apparently for a privileged class, and responsibility is developed. (3) The referendum has the great merit of showing where the real majority is, and thus silences the protestations of the minority. He declares that while infallibility can not be claimed for the people, they have made, relatively, as few mistakes as legislative bodies.

Naville (Geneva) points out that the large number of abstentions proves that it is not the people, but a relatively small part of the electoral body which accepts or rejects a law; that it is ridiculous to suppose that each citizen can form a just and matured opinion upon the laws submitted; that political leaders having a majority in the legislature always possess means to secure a popular majority, especially when the law at issue is a complicated one, and concludes that legislation by the people in the sense that each citizen can study, digest, and form a really personal opinion on the submitted law is a chimera.

Brunialti remarks that experience shows that parties judge the referendum by the services it renders them, and not by its intrinsic value.

Carteret would suppress the referendum, especially the compulsory, and terms the

initiative "legislative dynamite," contending that both, in the hands of the clericals, are made the obstacles to progress.

Lavelaye, commenting on the practical results of the referendum in Switzerland, says that it has disappointed the hopes of its partisans and the fears of its adversaries. It was demanded by the radicals and opposed by the conservatives. It has shown itself hostile to centralization, to large expenditures. The suffrage which persists in electing radicals rejects everything which they propose. It is economical and anti-revolutionary. Elections obey a *mot d'ordre*; the referendum is a result of personal judgments.

Signoret, in his study on the referendum, concludes that the frequency of popular votes in Switzerland has not produced popular indifference; that the referendum has not proved a revolutionary instrument; that more than any other country Switzerland possesses the necessary conditions for good democratic government, and therefore that conclusions founded upon Swiss experience can not be applied elsewhere; that in view of the large number of abstentions, voting, like jury duty, should be made obligatory; that the relative frequency with which the people have voted in the negative shows that the body of electors and the representative body are not in accord, hence the movement in favor of proportional representation; that the referendum has favored economy in public expenditures; that complete liberty of action should be secured by not including several propositions under one vote, this practice having led to the adoption of unwise with wise measures; that by repeatedly presenting the same law, as the law establishing a tax for exemption from military service, the people finally yield through lassitude; that after twenty-five years' experience, taking good and bad results together, no real progress has been made, and that only by modifying the representative system through compulsory voting and proportional representation can the decisions of the people reach conformity with those of its councils, and that this would probably lead to a more or less complete abandonment of the referendum.

ARTHUR S. HARDY.

Mr. Hay to Mr. Hardy.

No. 40.]

DEPARTMENT OF STATE,

Washington, July 2, 1902.

SIR: Your No. 62, of the 10th ultimo, transmitting, in compliance with the request made in the Department's instruction No. 32, of May 6 last, a report on the initiative and referendum in Switzerland, has been received.

The Department desires to commend the conscientious care shown in the preparation of the report.

I am, etc.,

JOHN HAY.

EXECUTION IN SWITZERLAND OF JUDGMENT OF MASSACHUSETTS COURT DENIED BY SWISS AUTHORITIES BECAUSE OF REFUSAL OF UNITED STATES TO GUARANTEE RECIPROCAL ACTION IN SIMILAR CASES.

Mr. Hardy to Mr. Hay.

No. 70.]

UNITED STATES LEGATION,

Berne, August 22, 1902.

SIR: I have the honor to inclose herewith translation of a letter from Dr. Sidney Schopfer, a lawyer of Lausanne, from which it appears that one Mrs. Dupré, who was granted a decree of divorce in the State of Massachusetts, with alimony to the amount of \$3,000, desires to bring suit against her former husband for payment of the same, and has applied to the authorities of the Canton of Vaud for the recognition of the decree of the Massachusetts court. The Vaudois author-

ities are, it appears, disposed to grant the necessary exequatur, but, in the absence of a treaty, only on condition of a declaration of reciprocity, for which Dr. Schopfer applies to this legation. I await your instructions in the matter. It appears from the documents accompanying the inclosed letter that Mrs. Dupré is by marriage an American citizen, her former husband having been naturalized before the supreme court, common pleas division, of the State of Rhode Island, in Providence, December 28, 1895.

I am, etc.

ARTHUR S. HARDY.

[Inclosure.—Translation.]

Mr. Schopfer to Mr. Hardy.

LAUSANNE, August 20, 1902.

MR. MINISTER: I have the honor to solicit your good offices under the following circumstances:

I am consulted by an American lady named Dupré, now in Paris, 11 Rue Scribe, who was granted a decree of divorce October 2, 1901, which decree was made absolute by a decision of the supreme court at Boston of May 10, 1902.

As you will perceive from the accompanying documents, the said Dupré has due to her from her former husband the sum of 15,000 francs, or, more exactly, \$3,000.

Mr. Dupré resides in France and possesses real estate in Moudon, Switzerland. He has never paid anything to Madam Dupré and appears to have no intention whatever to do so.

Consequently Madam Dupré wishes to bring suit against her former husband, and, if necessary, to attach his property to the amount of what he owes her. But to defeat the opposition of the husband it is necessary to obtain beforehand the exequatur of the American judgment in the Canton of Vaud. In the absence of a treaty the conseil d'état of Vaud, through its department of justice and police, has informed me that it is disposed to accord the exequatur required, on condition, however, that I produce an official declaration of reciprocity from your legation or some other competent authority.

I therefore take the liberty, Mr. Minister, to ask you in the name of your countrywoman Dupré to be so good as to furnish, on payment of costs, a declaration of reciprocity stating that a similar judgment of a Vaudois court could be executed in the United States.

Accept, etc.,

SIDNEY SCHOPFER.

Mr. Adee to Mr. Hardy.

No. 44.]

DEPARTMENT OF STATE,
Washington, September 8, 1902.

SIR: I have to acknowledge the receipt of your dispatch No. 70, of the 22d ultimo, with inclosure, from which it appears that one Mrs. Dupré, who was granted a divorce in the State of Massachusetts, with alimony to the amount of \$3,000, desires to bring suit against her former husband for payment of the same, and has applied to the authorities of the Canton of Vaud for the recognition of the decree of the Massachusetts court. It is stated that the Vaudois authorities are disposed to grant the necessary recognition provided the legation will furnish an official declaration of reciprocity, stating that a similar judgment of a Vaudois court could be executed in the United States.

In reply I have to say that the general doctrine maintained in the American courts in relation to foreign judgments is that they are prima facie evidence only and not conclusive of the merits of the controversy between the parties. As the judgment in this case was

obtained in a Massachusetts court, and as the question presented seems to be whether a similar judgment obtained in the Canton of Vaud would be executed in Massachusetts, the opinion of the supreme court of that State in the leading case of *Bissell v. Briggs* (Massachusetts Reports, 462) is pertinent. In that case the court said:

A foreign judgment may be produced here by a party to it, either to justify himself by the execution of that judgment in the country in which it was rendered or to obtain the execution of it from our courts. * * * If the foreign court rendering the judgment had jurisdiction of the cause, yet the courts here will not execute the judgment without first allowing an inquiry into the merits.

It is impossible to furnish the declaration of reciprocity which is requested.

I am, etc.,

ALVEY A. ADEE, *Acting Secretary.*

TURKEY.

ABDUCTION BY BRIGANDS, RANSOM, AND RELEASE OF MISS ELLEN M. STONE, AN AMERICAN MISSIONARY:

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, September 5, 1901.

(Mr. Leishman reports that the United States consular agent at Salonica has advised him by telegraph that Miss Stone, an American missionary, has been carried off by brigands while traveling from Raslog to Djumabala with a lady companion, and that the matter has been actively taken up with the Porte by Mr. Leishman.)

Mr. Leishman to Mr. Hay.

No. 73.]

LEGATION OF THE UNITED STATES,
Constantinople, September 13, 1901.

SIR: I beg to inclose you copy of correspondence from the consul-general which will give you all the information I have been able to obtain so far in regard to the abduction of Miss Stone by brigands in the vilayet of Salonica.

Although it is about ten days since the outrage was committed, no demand for ransom has yet been made. It is quite within the range of probabilities that the brigands are Bulgarians, not Turks, as the place where they were stopped is quite close to the Bulgarian frontier; but at this writing it is impossible to make any positive statement.

Although the delay must be terrible to the family and friends of Miss Stone, I am quite of the same opinion as the consul-general and consular agent at Salonica that any great activity on the part of the Turkish troops would only force the brigands deeper into the mountains, and if pressed too closely they might kill Miss Stone rather than allow her to be rescued. As soon as the brigands feel safe they will in all probability send the native woman who is with Miss Stone back with a demand for ransom, and in case I am unable to induce the Ottoman Government to pay same, I have notified Mr. Peet, the secretary of the Bible House Society, that he should be ready for emergencies, and that the question of getting the money back will have to be left for future consideration, as I could make no guaranty or take official action in regard to ransom without first receiving instructions from the Department. Mr. Peet assured me that he was prepared to act promptly.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 1.]

Mr. Lazzaro to Mr. Dickinson.

No. 556.]

UNITED STATES CONSULAR AGENCY,
Salonica, Turkey, September 5, 1901.

SIR: Last night at 1 a. m. Dr. House, an American missionary to the Bulgarians residing here, came to me with a telegram from Mr. Sedloff, his correspondent at Razlog (vilayet of Salonica), stating that Miss Ellen Stone, also a missionary with headquarters in Salonica, but residing for the last couple of weeks at Razlog, had been carried off by brigands on the previous day while on her way to Djumabala. She was at the time traveling with three or four lady companions, Bulgarian teachers. Some of these ladies were presumably not molested, but allowed to return to Razlog, where they brought the news of the outrage. One, however, of Miss Stone's companions, named Mrs. Tsilka, was also carried off. The place where the outrage occurred is called the great rocks, and the brigands escaped with their prisoners to the mountains near by.

On hearing this news I immediately wired you last night as follows:

"Have been just informed that Miss Ellen Stone, American missionary here, on her way from Razlog to Djumabala, September 3, was carried off with lady companion by brigands. No details. Shall interview vali early morning."

This morning I obtained an interview from the vali in his private dwelling and brought the matter before him, especially drawing his attention to the necessity not to send troops after the brigands at present. The fact is that in every case when troops were sent after the brigands before the release of the prisoners the latter were put to death. The object of the brigands is indubitably to obtain a ransom, and if hard pressed by troops before the release of the prisoners the lives of the latter are certainly jeopardized. I further pointed out to the vali that the calamity would be much greater if loss of life occurred, and that the Government ought to do everything in its power not to incur further responsibilities. The vali promised to do everything I asked him, and wired in my presence to the mutessarif of Serres requesting him to have troops dispatched toward the neighborhood of the outrage, and that said troops were not to molest the brigands, but keep a watchful eye on their movements, and only interfere in case they could help the prisoners without endangering their lives. In similar cases, when a foreign subject was carried off by brigands, and these cases have been quite frequent in our region, the Turkish Government has always paid the ransom; but owing to the penury of the treasury the foreign governments have generally advanced the money in order to avoid delay. I would strongly recommend this course, and shall wire you as soon as I hear that you come to an understanding with the Government in Washington, so that you may be able to dispose of a certain sum should this prove necessary. I further suggest that you also insist with the Porte on the nonadvisability of sending at present troops after the brigands.

I am inclined to think that the brigands have kept Mrs. Tsilka in order to transmit through her their demands and that this lady will be shortly released for the above purpose.

I shall wire you as soon as I have anything new to communicate.

I understand Dr. House has wired to the secretary of the Evangelical Society in Boston, to which both he and Miss Stone belong.

I have, etc.,

P. H. LAZZARO,
United States Consular Agent.

[Inclosure 2.]

*Mr. Baird to Mr. Dickinson.*SAMA KOV, *September 7, 1901.*

SIR: We were greatly pained yesterday at noon to learn from a telegram from Dr. House (Salonica) that Miss Stone and Mrs. Tsilka, the wife of the Albanian preacher, were captured and carried off by a band of brigands on September 3, about 4 p. m., while on their way with quite a company of friends from Banska to Djumabala. I went to the government here and informed them so that they might be on the lookout for these outlaws should they attempt to bring their captives into Bulgaria.

Just before sunset September 7 two of our students from Bansko arrived. They were with Miss Stone when the brigands captured the party. From their accounts, by the aid of questions, I got the following:

The whole party, about fifteen or eighteen, were suddenly stopped in a narrow valley and as soon as possible all were compelled to wade a river and ascend the wooded mountain side as fast as threats could make them for about an hour.

Not all the captors could be seen, but twenty were counted at one time and it was the opinion that there must have been forty of them, dressed like Turks and talking bad Turkish. They spoke occasionally in good Bulgarian and were glad to find among the provisions carried by the party several oke of bacon and ham.

They knew Miss Stone, showing that they were mainly after her. She and Mrs. Tsilka were taken on further and seen no more. The remainder were relieved of money and watches and compelled to stay all night under strict guard. After sunrise the brigands who watched them went up the mountain and the remainder of the party were free.

Our two students passed through Djumabala and on across the border to Bulgaria; the remainder of those released returned to Bansko.

It seems that this detention of all the party kept the Turkish Government from getting any knowledge of even the presence of brigands till about noon of the 4th, and gave the outlaws a chance of hurrying their captives to a place far distant from the scene of their capture. A Turk captured just before this party was taken up the mountain with them and beaten to death before their eyes.

I know nothing as to which direction the captives were taken. I think it most likely that they will be brought into Bulgaria; because, first, it is very probable that a large proportion of the brigands make Bulgaria their headquarters; second, when the Turkish troops get thawed out enough to chase the brigands these latter will naturally prefer to be in Bulgaria; third, if they can get quickly across the border into Bulgaria they can peacefully secrete their victims and by keeping quiet live honorable (?) lives till they get their ransom.

What those two women will suffer can be imagined. May God guard them.

A Bulgarian officer came to-day, sent by the government, to learn about the brigands. He said they had special instruction and that they would guard their border very closely.

J. W. BAIRD.

Mr. Leishman to Mr. Hay.

No. 75.]

LEGATION OF THE UNITED STATES,
Constantinople, September 20, 1901.

SIR: Although it is now two weeks since Miss Stone was captured by the brigands no word has as yet been received about her and no demand for ransom. Numerous reports have been received, some to the effect that they were Turkish soldiers in disguise, some that they were Macedonian agitators instigated to commit the crime by the central Bulgarian committee in the hope of stirring up foreign intervention, and others that they were Bulgarian bandits who had crossed the frontier, and that the delay in making their demands was caused by the difficulty they were experiencing in getting back into their own country or finding a secure place of retreat. The latter theory is the one I am most inclined to credit, but it is impossible at present to form a definite opinion. The Ottoman Government is doing everything that could be expected. They have already captured three men who, it is claimed, acted as guides, and hope through them to locate the band, but are compelled to act with caution for fear that if pressed too closely the brigands may injure or kill Miss Stone, their idea being first to locate Miss Stone, negotiate for her safe delivery, and then pursue the band afterwards.

Regretting my inability to furnish you with more definite information at present,

I have, etc.,

JOHN G. A. LEISHMAN.

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, September 23, 1901.

(Mr. Leishman states that no definite news concerning Miss Stone has been received, but that the best obtainable information indicates that the brigands were Bulgarians who recrossed the frontier after capturing Miss Stone.)

Mr. Leishman has advised Mr. Dickinson, United States consul-general at Constantinople, to proceed to Sofia and take the matter up with the Bulgarian Government there.)

Mr. Leishman to Mr. Hay.

No. 79.]

LEGATION OF THE UNITED STATES,
Constantinople, September 24, 1901.

SIR: Referring to the abduction of Miss Ellen M. Stone by brigands, you will observe from copy of correspondence inclosed herewith that the scene of operations appears to have shifted from Turkish to Bulgarian territory, and judging from the best information obtainable the miscreants who committed the outrage were Bulgarians, or possibly Macedonians, living close to the frontier, instigated by the central Bulgarian committee. I am not disposed, however, to accept the opinion of a number of the missionaries, which seems to be partly shared by Mr. McGregor, acting British agent at Sofia (who up to the present time has been looking after American interests, as Mr. Dickinson has not presented his credentials, although, as I advised privately, all objections have been removed), that the outrage was committed for political reasons under the direction of the central Bulgarian Macedonian committee with the hope of stirring up foreign intervention. I consider that it is quite within the range of probabilities that the central committee may have had a hand in the matter, but in all probability the principal motive was money; and the only way I can explain the long delay in sending a demand for ransom is that the Turkish Government not only acted very promptly, but with unusual activity, keeping the brigands on the move and thus preventing them from feeling secure enough to warrant opening up negotiations; but now that they have succeeded in recrossing the frontier, notwithstanding the assurance given me by Mr. Guechoff, the Bulgarian agent, that his government was guarding the frontier so closely that it would be impossible for the brigands to enter Bulgaria, it is reasonable to expect that negotiations may be commenced that will lead to the prompt and safe return of Miss Stone, especially if Mr. Dickinson can induce the Bulgarian authorities to act with the same energy that the Turkish officials have displayed, the latter having acted with so much energy that the consul-general and several of the leading officers of the missionary board have been to see me, advising against such great activity, fearing that if too closely pressed the brigands might harm Miss Stone rather than permit her to be rescued.

* * * I feel quite satisfied that it is only a question of money

and that the brigands will take the best care possible of Miss Stone and return her unharmed to her friends as soon as the question of ransom is settled.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 1.]

Mr. McGregor to Mr. Leishman.

HIS BRITANNIC MAJESTY'S AGENCY AND CONSULATE-GENERAL,
Sofia, September 16, 1901.

SIR: With reference to my telegram of yesterday morning, which I presume was duly communicated to you by His Majesty's ambassador, I have the honor to report that, immediately on learning that the American citizen, Miss Stone, and her companion had been captured by brigands within a short distance of the Bulgarian frontier, I wrote to Mr. Daneff, the Bulgarian minister of foreign affairs, requesting that the necessary vigilance should be exercised by the frontier guards, and was informed the same day by Mr. Daneff that measures in that sense had, from the first moment, been taken by His Excellency's Government.

Since then the local newspapers, and among them a journal said to be inspired by Mr. Daneff, have announced that the outrage is supposed to have been perpetrated by Turkish deserters, an announcement which has been taken advantage of by the *Reforme*, the organ of the Macedonian central committee, to publish a diatribe against the evils of Ottoman administration in Macedonia.

On the evening of the 14th instant, however, I received from the Rev. Robert Thomson, a British subject in the employ of the American mission at Samakoff, a letter, of which I have the honor to inclose a copy, putting quite a different and, in my opinion, a much more serious complexion on the whole matter.

Mr. Thomson, whom I believe to be a cautious and trustworthy man, quotes facts pointing unmistakably to the act having been the work of the secret committee in Macedonia which, as Mr. Daneff admitted to me lately, has had relations with Boris Saratoff, ex-president of the central committee, as well as with several other members of the same committee. Now, it has been hinted in several newspapers which profess to be acquainted with the views of Saratoff and his henchmen that it had been decided, in the hope of provoking a European intervention, to render existence in Macedonia impossible for foreigners, and the circumstances of Miss Stone's capture, viewed in the light of Mr. Thomson's letter, seem to me to afford strong grounds for assuming that Saratoff has begun to put his scheme into execution. It is also stated here in many quarters that Saratoff is contemplating leaving the country for Odessa, and, in consideration of the desirableness of ascertaining whether this crime can be brought home to him and his associates, I have thought it my duty to acquaint the Bulgarian Government with the facts which have come to my knowledge, warning them at the same time that under these circumstances they would incur a grave moral responsibility by allowing Saratoff to quit Bulgarian territory for the present.

Not having found Mr. Saratoff, the acting minister for foreign affairs, at home yesterday morning, I called on Selim Bey, the acting Ottoman commissary, and, on learning that he had no news to give beyond the fact that the brigands were believed by the Turkish authorities to be Bulgarians, I confidentially communicated to him the information I had received, without, however, disclosing the source, and urged upon him the importance of preventing the brigands from escaping into Bulgarian territory. Selim Bey promised to inform his Government forthwith and said he would do his best to obtain the particulars necessary in order to establish the connivance of the Macedonians here, whose undoubted complicity in the outrages daily committed in the province had already formed the subject of much animated but sterile correspondence with the Bulgarian Government.

Having subsequently made two unsuccessful attempts to see Mr. Saratoff (the minister) I finally called this morning on Mr. Vernazza, secretary-general at the ministry for foreign affairs, and on ascertaining that he had no news regarding the identity of the brigands or the result of their pursuit, I communicated to him the contents of Mr. Thomson's letter and stated my reasons for suspecting the outrage to be the work of individuals acting under orders from Sofia. I told Mr. Vernazza that, under the circumstances, it would be regrettable were Boris Saratoff or any of his more noteworthy associates allowed to put themselves beyond the reach of Bulgarian juris-

diction so long as involved directly or indirectly in Miss Stone's capture, as in the event of such proving to be the case I had no doubt that, in the eyes of the United States Government, a grave moral responsibility would be at the door of the Bulgarian authorities.

Mr. Vernazza took a note of my representations which he promised to communicate to Mr. Saratoff, and I shall have the honor to acquaint you with the minister's reply at the earliest opportunity.

I should be glad to know if my action so far has your approval. I am sending a copy of this dispatch to the Marquis of Lansdowne.

I have, etc.,

JAMES MCGREGOR,
His Majesty's Chargé d'Affaires.

[Inclosure 2.]

Mr. McGregor to Mr. Leishman.

HIS BRITANNIC MAJESTY'S AGENCY AND CONSULATE-GENERAL,
Sofia, September 19, 1901.

SIR: In continuation of my dispatch of the 16th instant, I have the honor to report that I called yesterday on Mr. Saratoff, the minister of the interior, who is at present acting as minister of foreign affairs, and repeated to him the facts already communicated to Mr. Vernazza regarding the circumstances of Miss Stone's capture, adding that according to information I had just received the brigands were supposed to have taken refuge in the Rilo Mountains, and were, perhaps, at this moment in Bulgarian territory. I should mention that I had this information from Selim Bey, the acting Ottoman commissary, who has, moreover, received a telegram from his Government confirming the suspicion that the brigands are Macedonians, and is about to address a note to the Bulgarian Government demanding a strict inquiry.

Mr. Saratoff thanked me for the information and promised not only to send immediate instructions to the military authorities in the Rilo district, but also to have Saratoff and his associates carefully watched by the police. He said, however, that in the absence of a specific accusation it would be difficult for the authorities to refuse Saratoff a passport supposing it to be true that he intended to go to England, as the minister professed to have heard was the case. Saratoff was completely ruined as far as regards his influence with the Macedonians, and it was highly improbable that he could have had a hand in this business.

It is possible that Mr. Saratoff may be right in saying that his namesake is no longer all-powerful, and that he is out of favor with the newly elected committee; but he is still the center of a circle of admirers, and it can not be imagined that he will renounce what has hitherto been his means of livelihood. I therefore reminded Mr. Saratoff that neither his Government, nor any of his predecessors, had ever been at a loss to devise administrative measures when circumstances seemed to call for them; I had considered it my duty to aid the Government in its efforts to repress the excesses attributed to agents of the committee and the responsibility for taking action or remaining quiescent would rest with the Government.

I have, etc.,

JAMES MCGREGOR.

[Inclosure 3.]

Mr. McGregor to Mr. Leishman.

HIS BRITANNIC MAJESTY'S AGENCY AND CONSULATE-GENERAL,
Sofia, September 20, 1901.

SIR: With reference to my dispatch of yesterday's date, I have the honor to report that, according to reliable information received just as the bag is closing, Boris Saratoff left Sofia on the 15th instant en route for Odessa, a fact which must have been known to the acting minister for foreign affairs when I attended his reception on the 18th instant.

I have, etc.,

JAMES MCGREGOR.

[Inclosure 4.]

*Mr. Dickinson to Mr. Leishman.*UNITED STATES CONSULATE-GENERAL,
Constantinople, September 20, 1901.

SIR: Referring further to the capture of Miss Stone, Agent Lazzaro sent me last night a further telegram, as follows:

"Vali informs brigands' agent caught Banitza. Stone kept some time in huts at Obesnik, whence by Kresne crossed toward Melenik. Evidently not passed Bulgarian frontier. Authorities Melenik, Djumabala, Nevrecop, Serres continuing search."

The statement that the agent of the brigands has been "caught" and the authorities are continuing the search justifies the inference that the latter may be pressing the matter so closely as to jeopardize the life of Miss Stone. Naturally they are bent on catching the brigands, both for vengeance and the hope of reward. * * *

If the agent of the brigands has been caught, he should be set at liberty and negotiations for ransom opened at once. I telegraphed Agent Lazzaro to the foregoing effect on receipt of his telegram, and also to urge Vali to prevent escape of brigands across the Bulgarian border, but not to press the search too vigorously. In harmony with our personal conference, all our efforts at first must be directed to the rescue of Miss Stone. This will lead to sufficient identification, and the punishment of the guilty parties can be vigorously and safely pursued thereafter.

Agent Lazzaro also reports by written dispatch that one of the guides of the brigands testifies that just before the capture of the Stone party he heard Dentzo, the leader of the brigands, say that they expected to make their fortunes by this capture. This, and the appearance of the agent of the brigands, seems to settle definitely their purpose, and his appearance also indicates that they believe they have reached a place of hiding where negotiations for ransom may be safely opened.

I am, etc.,

CHAS. M. DICKINSON.

[Inclosure 5.]

*Mr. Leishman to Mr. Dickinson.*LEGATION OF THE UNITED STATES,
Constantinople, September 24, 1901.

SIR: I beg to acknowledge receipt of your No. 414 of even date and note contents with interest.

As all the information obtained during the past two weeks tends to prove that the brigands who carried off Miss Stone were Bulgarians who, according to the telegram you received last evening from agent Lazzaro, have succeeded in recrossing the Bulgarian frontier and are now supposed to be in the neighborhood of Batak, I would urge upon you the advisability of your going to Sofia at once in order to take the matter up personally with the Bulgarian Government; for while Mr. McGregor is no doubt doing everything in his power, I am inclined to believe that representations from the accredited agent of the United States might bring the Bulgarian Government to a more prompt realization of the importance of taking the most active and energetic measures to secure Miss Stone's release.

While I have no positive information on the subject, I am inclined to believe that the man arrested by the Turkish soldiers, supposed to be an agent of the brigands, is still in custody. I spoke to the minister for foreign affairs on Saturday in regard to this man, and was informed that outside of the man's own admission that he was an agent of the brigands they had been unable to obtain any information, as the man denied all knowledge of their whereabouts and of the fact of his being the bearer of any demand for ransom.

I can only add that the minister for foreign affairs again assured me that every effort was being made to locate the brigands, and that the first care would be to secure Miss Stone's safe return to her friends.

I do not share your fear that Miss Stone's chance of rescue has been materially lessened, being rather inclined to take the reverse view, for the reason that the brigands are quite sure to commence negotiations for ransom the moment they feel secure, which the activity of the Turkish troops may have prevented so long as they remained in Turkish territory; for even if later developments should prove that the Macedonian committee has been the instigator of the dastardly outrage, sordid gain in the shape of a ransom is no doubt the main factor which induced the miscreants to commit the deed.

I am, etc.,

JOHN G. A. LEISHMAN.

Mr. Eddy to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, September 28, 1901.

(Mr. Eddy reports that a letter from Miss Stone, dated September 20, was delivered by an agent of the brigands to Mr. Haskell, a missionary, at Samfue, on September 28, declaring that if a ransom of 25,000 Turkish pounds be not paid before October 8 she will be killed; that, judging by former similar cases, it is certain that the threat will be carried out.

Mr. Eddy has requested the Porte to hold the Turkish pursuing forces somewhat in check, and hopes shortly to enter into negotiations with the brigands, when he will endeavor to reduce the amount demanded for ransom. He states that the missionaries were unable to pay anything like 25,000 pounds and requests immediate instructions in regard to payment.

Mr. Eddy reiterates Mr. Leishman's suggestion that Consul-General Dickinson be directed to proceed to Sofia, as it is considered probable that the brigands will cross into Bulgaria.)

Mr. Hill to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, September 28, 1901.

(Mr. Hill states that Consul-General Dickinson has been instructed by telegraph regarding his conduct of the matter of Miss Stone in its Bulgarian aspects, and instructs that the legation equally do all in its power and discretion with the Turkish Government to bring about Miss Stone's release.

Mr. Eddy is instructed, in case the agent should go to Sofia, to keep in communication with him and with the mission treasurer, aiding the agent in every possible discreet way.)

Mr. Eddy to Mr. Hay.

No. 89.]

LEGATION OF THE UNITED STATES,
Constantinople, October 2, 1901.

SIR: In continuation of Mr. Leishman's dispatches, Nos. 73, 75, and 79, regarding the abduction of Miss Stone by brigands, I have now the honor to inform you of what has taken place since the date of the minister's departure, September 25.

On the morning of September 27, Mr. Peet, the treasurer of the Bible House, appeared at this legation, bringing with him Dr. Haskell, a missionary, who resides and carries on his work at Samakow. Dr. Haskell had arrived in Constantinople the evening before, bringing with him a letter from Miss Stone (a copy of which is herewith inclosed), which had been delivered at his house two days previously

by an agent of the brigands. The amount of ransom demanded in this letter was an inordinate sum, 25,000 Turkish pounds, and the brigands gave until the 8th of October for its payment, at the end of which time, if the ransom were not paid, Miss Stone would be killed.

From previous incidents of this nature which have taken place in Turkey and in the East, I felt sure that the threat would be carried out, and the opinion of all whom I consulted in the matter coincided with this view. But, at the same time, the sum demanded was so enormous that it was out of the question for the missionary societies to get the money together.

Mr. Peet and Dr. Haskell, by using every effort, succeeded in getting together evidence sufficient to warrant the belief that the brigands were men hired by the Bulgarian central or secret committee to abduct Miss Stone. The missionaries have always refused to contribute toward the support of this political faction in Bulgaria, and threats had been openly made that they (the missionaries) would be forced to pay in some way or another. One preacher was informed anonymously that if he did not contribute toward the fund his barn would be burned. As he failed to comply with the demand, the threat was carried out. The missions would seem to be very unpopular with the revolutionary party in Bulgaria, and this party appears to support itself by contributions from this part of the country, which contributions are paid on account of fear for the result should they fail to comply with the demand. Furthermore, the armed men who surrounded Miss Stone's party were not speaking Turkish, but Bulgarian, though they attempted to pass themselves off for Turks. In addition to this evidence, one of the students at Robert College, at Roumelie Hissar, was in a café at Samakow shortly after the abduction, and there overheard a conversation between two known members of the revolutionary party, in the course of which conversation it was said that the abduction had not been planned and carried out primarily for the sake of obtaining money, but rather to cause all the trouble and annoyance possible to foreigners, and to make it appear that this trouble was caused by Turks. Moreover, they said that the sum demanded for Miss Stone's release was of course absurd, but that should they obtain 2,000 or 3,000 pounds it would be very convenient, and they would thus have been able to compel the missionaries to contribute to their fund.

As the consul-general, Mr. Peet, Dr. Haskell, and Dr. Washburn were also convinced that it was a case of "political brigandage," caused and directed by the Bulgarian central committee, I cabled to the Department asking that Mr. Dickinson be directed to proceed at once to Sofia, and thus be in a position to lay the matter before the minister for foreign affairs. It seemed to me that if the matter were brought properly before the Bulgarian government pressure would be brought to bear on the leaders of the central committee, which, it is said, has at least one of two members in the cabinet. I learned from one of the ambassadors now stationed in Constantinople that the Bulgarian government had the hopes of being assisted financially by the United States in the not far distant future, and it seemed to me that, with our representative on the ground, our influence might be strong enough to cause Miss Stone's release without any payment whatever.

The Department in its reply to my telegram said nothing about Mr. Dickinson's departure for Sofia, but in a telegram of instruction

to the consul-general he was granted permission to go if he saw fit. Last night he decided to start, and this evening he will leave Constantinople.

I regret that the forty-eight hours have been lost, as it is absolutely necessary to begin negotiating in a definite manner with the brigands inside of the next three days; and should negotiations be opened with them from us in Constantinople for the payment of a ransom it would cause the efforts of Mr. Dickinson to be less valuable at Sofia, for the secret committee would certainly prefer to settle the matter on a monetary than on a diplomatic basis. But I do not dare to wait any longer before replying in some way to the agent of the party which is secreting Miss Stone. Her safety seems to me to be the first thing which must be considered.

I obtained an interview with the minister for foreign affairs at his house this morning, and in the course of this interview I pointed out to him that whatever sum was ultimately agreed upon between the brigands and ourselves would have to be paid by the Turkish Government.

After some conversation he agreed that precedent warranted the demanding of this money from the Porte. He furthermore agreed that in three days' time he would appoint some Turkish official in the vilayet of Salonica to act in conjunction with our representative in treating with Miss Stone's captors.

Should anything further of importance come to light within the next few days I shall not fail to keep in touch with the Department by cable, but I feel that we have the matter pretty well in hand and that everything possible is being done. Mr. Peet, treasurer of the Bible House, has proved himself invaluable on account of his knowledge of the country and the people, and has been indefatigable in his efforts to be of assistance.

I have, etc.,

SPENCER EDDY.

[Inclosure.]

Miss Stone to Mr. Peet.

MACEDONIA, *September 20, 1901.*

MY HONORED FRIEND: My first letter which I sent eleven days ago I now learn has not been forwarded to you by the person in Raslog (Macedonia) into whose hands we intrusted it. Therefore I write you again to inform you that on the 3d of September I was captured by a great number of armed men (some forty) as I traveled from Bansko to Djumaia, with about twelve teachers, students, and others. They took with me for my companion Mrs. Catharine Tsilka. The ransom they demand for us is 25,000 Turkish liras, which sum must be paid in gold, and this entirely without the knowledge of the Turkish and Bulgarian Governments, in a term of eighteen days from to-day. In my first letter I had mentioned that the condition in which Mrs. Tsilka is decided the limit, as she is to give birth to a child in three months. But now, as the circumstances have changed, and we know that we are pursued by the Turkish Army, this short term has been fixed. I beg Dr. Haskell himself to go to Constantinople to exert himself for the payment of the ransom in Samakow, where the men will receive it only on presenting an order from me.

The men who captured us at the first showed courtesy and conducted themselves very well toward us. But now since Turkish soldiers and "bashi-bazouks" have begun to pursue us and the ransom is delayed, our condition is altogether changed. Therefore I beg you to hasten the sending of the sum (i. e., of the ransom demanded), and that as much as possible you will insist before the Turkish Government that it stop the pursuit of us by the soldiers and "bashi-bazouks;" otherwise we shall be killed by the people in whose hands we are.

I pray you, Mr. Peet, communicate without delay the contents of this letter to the representative of the United States at the Porte, and request his most serious cooperation.

Pray for us. We are kept in the peace of God.

Your friend,

ELLEN M. STONE.

Mr. Adee to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 3, 1901.

(Mr. Adee directs Mr. Eddy to informally consult the Russian ambassador and say that the United States Government would be pleased if he might feel free to use at once his good offices and exert his influence, in whatever direction, in aid of the rescue of Miss Stone, and states that Mr. Eddy may, in the same way, invoke the aid of any other foreign minister who may be able to render assistance.)

Mr. Adee to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 4, 1901.

(Mr. Adee states that if Miss Stone is held in Turkey, Mr. Eddy is to bring to the attention of the Turkish Government the facts in relation to the abduction and the very great importance the United States Government attaches to her safe deliverance from the brigands; to request the aid of the Turkish Government and impress upon it the extreme gravity of the affair.)

Mr. Adee to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 4, 1901.

(Mr. Adee states that the people of the United States are thrilled with horror by the kidnaping of Miss Stone, and directs Mr. Eddy to say to the Porte that the Government of the United States urgently requests it to use its utmost efforts to effect her rescue.)

Mr. Eddy to Mr. Adee.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, October 5, 1901.

(Mr. Eddy reports that he has called the attention of the Turkish minister for foreign affairs most urgently to the matter of the abduction of Miss Stone; that the minister admits the responsibility of his

Government for the safety of Miss Stone and for the ransom. Mr. Eddy is convinced that the Turkish Government is doing all it can in the matter; he states that Mr. Dickinson is at Sofia, and will use every effort there; that the British embassy is rendering great assistance, and that he is to have an immediate consultation with the Russian ambassador.)

Mr. Eddy to Mr. Adee.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,

Constantinople, October 5, 1901.

(Mr. Eddy reports that the Russian ambassador has telegraphed instructions to Sofia, and will do all in his power to assist; that the British ambassador approves steps taken by United States officials, and that he will endeavor to persuade the German and Austrian ambassadors to follow the example of those of Russia and Great Britain.)

Mr. Adee to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,

Washington, October 5, 1901.

(Mr. Adee states that the missionary board has decided it can not be responsible for payment of the ransom, and that there is no possibility of the United States Government paying or guaranteeing same; that friends of Miss Stone are endeavoring to raise money by charitable subscription, which may in time be successful.)

Mr. Adee to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,

Washington, October 5, 1901.

(Mr. Adee directs Mr. Eddy to say to the Turkish Government that inasmuch as it has admitted its responsibility for the safety of Miss Stone and for her ransom, and in view of the friendly relations between the two Governments, it is confidently hoped by the Government of the United States that her safe deliverance will be brought about by the Turkish Government.)

Mr. Adee to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,

Washington, October 6, 1901.

(Mr. Adee states that the secretary of the mission board telegraphs that the money needed for Miss Stone's ransom will undoubtedly be

raised by popular subscription, which is already begun; that Mr. Eddy's efforts are warmly approved; that Russian cooperation, especially at Sofia, is most valuable and is cordially welcomed, as is also the weighty aid of the other ambassadors.)

Mr. Eddy to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, October 7, 1901.

(Mr. Eddy reports that at an interview with the Turkish minister for foreign affairs he advanced the substance of the Department's representations regarding the gravity of the situation; that he believes the Turkish Government have done all in their power, up to the present, to rescue Miss Stone; that spies, detectives, and troops are exceedingly numerous along the frontier, and report that Miss Stone is in Bulgaria, at a place called Pinlai; that the Turkish authorities therefore can do no more to rescue her, and she must now be either ransomed in the regular manner or through the strong influence which the ambassadors are bringing to bear on the Bulgarian Government, and through that Government on the secret committee; that this influence may bring about her release with only nominal ransom; that when Bulgaria realizes that there is a feeling of horror throughout the civilized world for the crimes committed by the secret committee, it is possible that vigorous measures will be taken against the committee.
* * *)

Mr. Adee to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 8, 1901.

(Mr. Adee directs Mr. Eddy not to relax his efforts with the Turkish Government, and to continue to enlist all possible cooperation of ambassadors to impress Bulgarian Government and strengthen the hands of the United States agent at Sofia, and states that neither the United States Government nor the missionary board have any responsibility regarding ransom; they simply do not obstruct private charity.)

Mr. Eddy to Mr. Adee.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, October 9, 1901.

(Mr. Eddy reports having received from Mr. Dickinson, United States agent at Sofia, the following telegram dated October 8:

Last night I received information which I deem reliable that eighteen brigands, with Miss Stone and companion, are on top of Gultepe, which is near Turkish hamlet

Eleshnita, almost exactly on the frontier line, or at least they were there last Saturday. Miss Stone was well, but the brigands are evidently getting discouraged, for they are reported as saying to confederate that if surrounded by Bulgarian troops they would surrender, but if surrounded by Turkish troops they would kill prisoners and fight to the last man. They know what capture means in Turkey. After consulting with the Government I decided to ask that Bulgarian troops be gathered this morning at that point and the Turkish authorities be asked to surround Gultepe, on the Turkish side; and cautiously press brigands across the border, where the Bulgarian troops will be concealed in the thick bush ready to capture them.

Mr. Eddy does not approve the action reported above, as he considers it unwarranted and dangerous to prisoners' lives.)

Mr. Eddy to Mr. Adee.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, October 11, 1901.

(Mr. Eddy reports the receipt of the following telegram from Mr. Dickinson:

Commandant at Salonica has asked instructions from Constantinople. Some brigands write that they will kill prisoners and disperse if ransom is not paid this week. Brigands seen yesterday at Taxouronda, near Gultepe.

Mr. Eddy states that the above information shows the failure of the plan reported in his telegram of October 9, and that the lives of the prisoners are in immediate danger. He urgently advises the withdrawal of Bulgarian troops from the neighborhood of the brigands, and has already requested Turkish Government to withdraw Turkish forces. When this has been done, he states, negotiations for payment of ransom may proceed, which will be impossible as long as brigands are pursued.)

Mr. Adee to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 11, 1901.

(Mr. Adee states that the paramount object of the United States Government is to save Miss Stone; that there is much danger that any movement of troops or any demonstration whatever of an apparently hostile character may bring about her instant death; and directs Mr. Eddy to use utmost caution in this respect; that unless there is assurance of Miss Stone's safe deliverance by the plan of causing brigands to surrender to Bulgarian troops as a result of gradual pressure across the frontier by movement of Turkish troops, Mr. Eddy is to earnestly represent to the Turkish Government this peril to Miss Stone. * * *)

Mr. Adee to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 12, 1901.

(Mr. Adee states that the amount of money privately raised and now in his hands amounts to \$56,000, for which Mr. Eddy may draw if it is necessary in order to save Miss Stone's life.)

Mr. Hay to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 16, 1901.

(Mr. Hay states that \$8,000 additional have been subscribed toward the ransom of Miss Stone, making a total in hand of \$64,000.)

Mr. Adee to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 23, 1901.

(Mr. Adee states that \$2,000 additional have been received, making a total of \$66,000 available for the ransom of Miss Stone.)

Mr. Eddy to Mr. Hay.

No. 112.]

LEGATION OF THE UNITED STATES,
Constantinople, December 4, 1901.

SIR: I have the honor to transmit herewith for your information the copy of a letter from Sir Alfred Billiotti, British consul-general at Salonica, to Mr. Young, third secretary of the British embassy at Constantinople. I also have the honor to transmit a copy of the inclosure which was contained in Sir Alfred's letter. This inclosure is the statement of one of the cavasses of the British consulate at Salonica, and is an account of the methods pursued in the release of Colonel Singe, who fell into the hands of brigands in the year 1878.

I have, etc.,

SPENCER EDDY.

[Inclosure.]

Sir Alfred Billiotti to Mr. Young.

SALONICA, November 18, 1901.

MY DEAR MR. YOUNG: It had struck me that it might be interesting and perhaps instructive in connection with Miss Stone to get the details of the procedure in the case of Colonel Singe, who was the first prisoner taken by brigands, nearly twenty-

three years ago. I inclose the statements as taken down word by word by Mr. Falanga from our old cavass Hussein. My opinion is that it will be most difficult, if not impossible, to come to terms as to the manner of payment of the ransom and rescuing the prisoners without running the risk of putting faith in the word of the captors. My experience of Turkish brigands in Anatolia, and what I have heard in the cases of Colonel Singe, Mr. Suter, and Mr. Chevalier, is that reliance can be placed in their promises. They have a certain code of honor, and I suppose that Bulgarians will be as faithful as Turks and Greeks in their word.

I heard here from a Bulgarian source that according to all probabilities Miss Stone is on Bulgarian soil, in the house of a Pomak, and that she never moved since her capture nor that she has been kidnapped by Pomaks, but as their houses can not be entered by the Bulgarians (on account of their harems) the Bulgarian brigands may have arranged with some Bulgarian Turks to keep her in concealment. I give the information for what it is worth.

I have seen lately in newspapers a report to the effect that Miss Stone was in the house of a bey in Serres. Although I do not place the slightest value to such a rumor I have, however, written to our agent to make inquiries.

In the last telegram which I received through the embassy (November 5) I was directed to keep the messenger within reach. I have kept him here. This messenger has already been away from his house exactly three weeks to-day. His traveling expenses have been 1 pound Turkish and 3 medjids (silver) his maintenance about P. 10 per diem; in addition to which I suppose he will get some slight remuneration for loss of time. I mention these details in order to enable the United States legation to have an idea of what their outlays may be if the man is retained longer. My dragoman tells me that the messenger has been already asked by his countrymen what he was doing here so long.

I remain, etc.,

ALFRED BILLIOTTI.

[Subinclosure.—Translation.]

Details concerning the release of Colonel Singe, captured more than twenty years ago by the Greek band of Captain Nico in the district of Caterini, Salonica.

A villager named Tcharghi who, as was later shown, formed part of the same band, presented himself as intermediary between the British consulate and the brigands. After prolonged negotiation it was arranged that 12,000 Turkish pounds should be carried to the brigands at a place fixed by them upon a steep and wooded mountain traversed by paths known to the brigands alone; that if troops were summoned to accompany the ransom they should halt at a point indicated at the base of the mountain, and from there the intermediary, Tcharghi, should accompany the bearers of the money to a point higher up where the brigands would attend him; and, lastly, that the soldiers should give no sign of pursuing the brigands before twenty-four hours had elapsed from the reception of the ransom.

This programme was followed to the letter. One hundred horsemen (soldiers) under the command of Col. Rachid Bey (now general) set out from Caterini with the consul, Mr. Blunt, the dragoman of the consulate, Mr. Brizzo, the cavass Hussein Aga, the intermediary, and four armed men who accompanied the horse which bore the money. At the foot of the mountain, in a small opening, Tcharghi told the soldiers to halt, and with the dragoman, the cavass, the mulazim Hassan Agha, the four men and the horse bearing the money went on foot toward the summit of the mountain, and after half an hour of very difficult climbing he stopped the caravan anew. The brigands had placed sentinels upon the trees a little way above this place of rendezvous in order to be able to spy the movements of the soldiers. After a quarter of an hour of waiting ten brigands came, one after another, from different parts of the forest and surrounded the caravan. Six of them leveled their guns at the troop, and the other four, of whom one was Captain Nico, came nearer to converse. Mr. Brizzo having informed Nico that he was the bearer of the ransom agreed upon, the chief sent a man of his band, who returned a quarter of an hour later with Colonel Singe, escorted by two other brigands. His hands were bound by a cord and he was so overcome with emotion that he recognized nobody and could not speak a word. It was not until after drinking several swallows of cognac that he came to himself.

After verifying the contents of each of the bags containing the 12,000 pounds, which was done by Nico himself, aided by four companions, one of the coins was found with a hole in it and Nico demanded that it should be exchanged, which was done.

During the count the bags which were found correct were carried off one by one by a brigand who disappeared in the forest and reappeared ten minutes afterwards.

This operation lasted about two hours, and when it was ended one of the brigands, having taken Colonel Singe aside, shaved his beard. After which Captain Nico returned to the colonel his gold watch, which he had taken from him, and 250 piastres in money which he had upon him the day of his capture; besides which Captain Nico counted out to him 50 Turkish pounds saying to him that it was the commission which rightfully belonged to him from the ransom.

After this ceremony Captain Nico brought forward two women and a child all muffled up. They were the wife of the intermediary Tcharghi, his married daughter, and a child of the latter, captured a few days before. He said to Mr. Brizzo and his companions:

"Give good heed to what I say. If we perceive within twenty-four hours from now that troops are in pursuit of us these three persons shall be decapitated."

After this brief discourse all the brigands disappeared as by enchantment. The caravan rejoined the soldiers, and all returned together to Caterini. Nico, who did not return to his village until two years later, was killed shortly after his return.

A similar procedure was followed in the case of Mr. Suter, who was captured three years later by another Greek band at Isvoro; as also in the case of Mr. Chevalier, captured about two and a half years ago in the same locality.

Mr. Eddy to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, December 12, 1901.

(Mr. Eddy reports that he has decided to make another trial to secure Miss Stone's release for \$66,000; that the missionary treasurer and dragoman of the legation will leave Constantinople on December 13 for Djumabala, which is near the frontier not far from Rilo, where they will be close to the brigands and will use extreme measures to convince them that they can have only \$66,000, but that they can have that immediately; that the exchange of money and prisoners can take place exactly on the frontier, thus obviating foreseen difficulties in regard to this point; that Mr. Washburn, of Robert College, has gone to Sofia, where he will use all of his considerable influence to persuade the brigands to accept the sum offered. * * *)

Mr. Eddy to Mr. Hay.

No. 116.]

LEGATION OF THE UNITED STATES,
Constantinople, December 13, 1901.

SIR: I have the honor to inform you that, after obtaining the best advice at my disposal here in Constantinople, I have decided to send Mr. Peet (the missionary treasurer) and Mr. Gargiulo (first dragoman of this legation) to the frontier between Turkey and Bulgaria at a point near the town of Rilo, where, to the best of my knowledge and belief, the brigands have their headquarters.

These two gentlemen leave here this evening and proceed directly to the city of Salonica where they will obtain, through letters from the minister of the interior, the full and entire assistance of the vali of Salonica, who is in charge of that district in which their work will probably be confined. From Salonica they will proceed to Djumabala, where they will establish their headquarters for the time being. They will then come into touch with the brigands, being at a distance of only

ten or twelve hours from the latters' headquarters. Should it seem necessary they will move still closer up to the frontier, and from that point they will endeavor to convince Miss Stone's captors that there is only \$66,000 to be paid for her release, and that this sum will be forthcoming directly they decide to accept it.

Messrs. Gargiula and Peet have instructions to gain the trust and good will of the brigands, to treat them frankly and openly, and to arrange that the exchange of the prisoners for the money will take place on the frontier, thus obviating the difficulties which were foreseen some weeks ago when the brigands insisted on receiving the money in Bulgaria, and surrendering the prisoners in Turkey.

Last night and to-day I have had long interviews with Mr. Guéchoff, the Bulgarian diplomatic agent in Constantinople, and have convinced him that we have only \$66,000; he has signified his intention of spreading the certainty of this fact throughout Sofia on his own authority by means of letters and telegrams.

Dr. Washburn, of Robert College (who is sometimes known as the "Father of Bulgaria"), has gone to Sofia, and will endeavor, through his influence, to convince those in authority over the brigands that they will gain nothing by waiting longer, that the final amount will be only \$66,000 whether it is paid now or next spring, and that the brigands by delaying are only risking the chance of Miss Stone's death, and the consequent loss of the ransom. * * * At the present time I am keeping it a close secret that Mr. Gargiulo and Mr. Peet are leaving this city.

This effort would seem to be the last thing which can be done without an increase of the sum at our disposal. We are not dealing with a case of ordinary brigandage. The whole matter is mixed up with Macedonian and Bulgarian politics, the two causes of Miss Stone's capture being a desire to obtain money from the missionaries for the so-called "sacred cause" and to impress the world with the belief that Turkey has no real power in Macedonia, where the state of affairs is little short of anarchy.

In a conversation with the Dutch minister, Mr. de Weckerlin, the day before yesterday he stated the case very clearly. He said it was a case of fear on all sides. The Bulgarian Government is afraid of the present committee, the present committee is afraid of the old committee, the old committee is afraid of the leaders of the thirty-two brigands who abducted Miss Stone, the leaders of the thirty-two men are afraid of the men themselves, and the men in turn are afraid that they will not get their money for the work they have done and that their superiors will betray them into the hands of the troops. You will readily see from this the extreme difficulty of dealing with the case. There is such a vast number of persons concerned in it and it has become so much an international question that its far-reaching results and the universal distrust engendered render it almost impossible to take any direct line of action and to hold to it.

From the numerous conversations which I have had recently on this subject, with the object of obtaining the best possible advice, it is perfectly evident that the consensus of opinion gives but three possible solutions to the matter:

(1) To pay the full £25,000 and then collect it in the form of indemnity.

(2) To cause the troops to surround the brigands and cause the release by force.

(3) To use coercive measures against Bulgaria, causing them to be responsible for Miss Stone's safety. * * *

I have, however, thinking it to be the wish of the Department not to resort to extreme measures, adopted this plan of sending Messrs. Gargiulo and Peet to the frontier in order to exhaust every effort to settle the matter for the amount now in our possession. Up to the present time I have been unable to take any definite action, as the whole matter has been in the hands of Mr. Dickinson at Sofia; but now that the negotiations at that point have proved fruitless I am using every possible means to arrive at some definite result from this point, acting always on the advice of such of my colleagues as have had a long experience in this country and have profited by it.

I have, etc.,

SPENCER EDDY.

Mr. Eddy to Mr. Hay.

No. 117 A.]

LEGATION OF THE UNITED STATES,
Constantinople, December 15, 1901.

SIR: I have the honor to inform you that Dr. Washburn arrived this morning from Sofia, where he had gone to endeavor, in a quiet manner, to obtain additional information as to why all efforts for Miss Stone's release have so far been without result.

The Department is doubtless aware that Dr. Washburn's position with reference to Bulgaria is a unique one. He has been for many years the head of Robert College, near Constantinople, in which institution most of Bulgaria's leading men have been educated under his personal supervision. He is a man of great force of character and powerful personal magnetism and seems to hold the affection and esteem of his pupils after their graduation. But his strongest hold on the Bulgarian people is owing to the fact they consider him as the "Father of Bulgaria"—that the present liberty and enlightenment of the country are owing to his teachings and to his molding of the young men of a former generation. Dr. Washburn has been at all times most willing and anxious to render any assistance to the Government of the United States in the work of liberating Miss Stone, but it was impossible for him to go into Bulgaria while Mr. Dickinson was there, and such information as he has received through letters could not, of course, be very full or explicit.

I have now the honor, however, to transmit herewith the copy of an official report which he handed to me this morning on his return from Sofia. A copy of this inclosure has been sent to Mr. Dickinson.

You will see that the facts contained in the first paragraph of Dr. Washburn's report are already known to us. We have always supposed the brigands to be Bulgarian and there is ample evidence to prove that the hand of Saratoff has been at the bottom of this matter. According to my knowledge Boris Saratoff is a young man of 28 years, well educated, of charming manners, and a temperament more or less visionary and fanatical. His object in this case may therefore be either a mistaken sense of patriotism or the pressing need of money.

I have an idea that we shall have more to do with this young man later on, when it comes to the final settlement of the matter.

The second paragraph contains the startling statement that Miss Stone is not now in Bulgaria, nor has she been there. The evidence of this fact, which Dr. Washburn speaks of as being conclusive, is briefly as follows: On his arrival in Sofia he went to the houses of many members of the Government (i. e., the council of state), who had at one time been studying under his direction at Robert College. He talked long and earnestly with each of these men, who, he believes, would be absolutely unable to lie to him. One of his friends took him to a meeting of the council of state, and he remained there for one hour talking to the Bulgarian Government in session. He had interviews with the officer commanding the districts along the frontier and with the heads of the different branches of the police, and these interviews were all with his intimate personal friends—men who are bound to him by feelings of affection, respect, and, perhaps, even fear. * * * In all these interviews and conversations he only received the most emphatic and strong assurances of Bulgaria's absolute innocence of complicity in Miss Stone's abduction, and, furthermore, of the present Government's willingness to do all in their power to assist in her release. Moreover, none of them has any personal fear for her safety were they to resort to any measures, however violent.

That the English and Russian agents at Sofia have been willing and anxious to help Mr. Dickinson I have long been aware through the embassies of these respective Governments here in Constantinople. Unfortunately, there was a slight friction between the Russian agent and Mr. Dickinson, and the English agent believed that his assistance was not required or asked for.

The third paragraph of Dr. Washburn's memorandum is, of course, self-evident, granting the correctness of the hypotheses from which it is drawn.

The fourth paragraph is also a certainty of which there never was any doubt in my mind from the beginning. There seemed to be but little chance of persuading a new and, if I may use the expression, a vain Government to identify itself with a band of robbers and cut-throats and tacitly admit to the civilized world that they had hired such men for acts of brigandage. Moreover, I may add to Dr. Washburn's statement the fact that it is in all quarters thought very doubtful whether the brigands will accept anything short of the £25,000 demanded; and it seems to be the sentiment of all my colleagues that the United States should now obtain the additional £10,000 required and then, naturally, bring a claim of indemnity for the whole sum. * * * That is not exactly my own view, but it is the generally expressed opinion of all the chefs de mission.

The fifth paragraph is and has been evident from the first; and as I have sent Mr. Gargiulo and Mr. Peet to the frontier, I think that in this point our actions coincide with Dr. Washburn's views. The two gentlemen who have undertaken this work willingly and gladly have precisely the knowledge and experience necessary to cause its success. Moreover, great credit is due to them for having been willing to leave their families at Christmas time and go on a mission which is certainly attended with great difficulties, hardships, and perhaps danger.

The sixth paragraph of Dr. Washburn's memorandum contains the only statement of his from which I differ in opinion. Precedent, both in Bulgaria and Turkey, would seem to prove the contrary.

I have, etc.,

SPENCER EDDY.

[Inclosure.]

Memorandum of Miss Stone's case.

[Submitted to Mr. Eddy and Mr. Dickinson confidentially.]

After a careful and exhaustive investigation at Sofia I have reached the following conclusions:

I. Miss Stone was captured in Turkey by a band, mostly Bulgarians, organized for this purpose in Bulgaria by the followers of Saratoff, ex-president of the Macedonian committee.

II. Miss Stone is not now in Bulgaria, and there is no reliable evidence that she has been there since her capture. The evidence to the contrary seems to me to be as conclusive as any negative evidence can be. The Bulgarian Government and the English and Russian diplomatic agents have done everything in their power to secure the release of Miss Stone. The Government has no sympathy with the followers of Saratoff and no fear of them.

III. As Miss Stone is not in Bulgaria, neither the Bulgarian Government nor the Russian can do anything more to effect her release.

IV. There is no hope of her release except by making terms with the brigands and paying a ransom.

V. The negotiations with them will be difficult and perhaps dangerous, and all authorities in Bulgaria agree that they should be confided to some trusty person who knows the languages and the people.

VI. Miss Stone is still alive. After her release, if the brigands can be identified they can be tried and punished wherever they are caught, whether in Turkey or in Bulgaria.

Constantinople, December 15, 1900.

GEORGE WASHBURN.

Mr. Eddy to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, December 26, 1901.

(Mr. Eddy reports favorable news from Messrs. Gargiulo and Peet, the committee sent to Djumabala, stating that they are in close touch with brigands and will leave Salonica on December 27 for an unknown point on the frontier, where a meeting with the most of the leading brigands will take place. Mr. Eddy has every hope of their success.)

Mr. Hay to Mr. Leishman.

No. 93.]

DEPARTMENT OF STATE,
Washington, January 11, 1902.

SIR: I have to acknowledge the receipt of Mr. Eddy's dispatch, No. 117 A, of the 15th ultimo, reporting that Rev. George Washburn, president of Robert College, had just returned to Constantinople from

Sofia, whither he had gone in the hope of being able to lend his aid to effect the release of Miss Stone. With Mr. Eddy's dispatch is a memorandum by Dr. Washburn, giving the conclusions at which he arrived after a careful and exhaustive investigation by him of the case.

Referring to Mr. Eddy's statement that it seems to be the sentiment of all his colleagues that the United States should now obtain the additional £10,000 required by the brigands, I have to say that the Department has not that additional sum, nor is it disposed to advise Miss Stone's friends to raise it, even if they seemed able and willing to do so.

I am, etc.,

JOHN HAY.

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphase.]

LEGATION OF THE UNITED STATES,
Constantinople, January 19, 1902.

(Mr. Leishman reports that negotiations have been resumed, and that brigands agree to accept offer, but insist on money being paid in advance, agreeing to surrender captives ten days later; that a letter from Miss Stone states that both she and Madame Tsilka are alive and well, and urge acceptance of brigands' terms; and that, as the committee are of the same opinion, Mr. Leishman has instructed them to use their own judgment and lose no time in making best terms possible.)

Mr. Leishman to Mr. Hay.

No. 129.]

LEGATION OF THE UNITED STATES,
Constantinople, January 20, 1902.

SIR: After many weeks of patient waiting we have finally succeeded in getting into direct communication with the brigands holding Miss Stone captive, who, while agreeing to accept the amount of money at our disposal, insist, as I feared they would, on payment being made in advance. This method of payment, as I have already written you, is not unusual, except the matter of time demanded in this case being much longer, viz, ten days instead of twenty-four to forty-eight hours.

I have already cabled you that the committee were unanimous in recommending the acceptance of the conditions demanded by the brigands; and as it has been my constant endeavor to keep the legation as free as possible from any official connection with the matter of ransom, leaving the settlement entirely in the hands of the committee, who, being familiar with all the details and in direct touch with the brigands, are in much better position to judge whether the brigands will faithfully carry out their agreement, I immediately advised them to lose no time in concluding the best arrangement possible. This action has met with the approval of my colleagues and such men as Dr. Washburn and Dr. Herrick, and I can only trust that it will also meet with yours, and live in hope that the brigands will faithfully carry out their part of the contract.

The money, 14,500 liras, in gold coin, is already on its way in charge of the United States marshal and a guard consisting of two cavasses, two Croats from the Ottoman Bank, and half a dozen soldiers furnished

by the Turkish Government. I provided them with a special car, which will be dropped off the train at a point beyond Serres, about twenty-four hours from Constantinople, where a mounted guard will meet them and escort them to a place selected near the Bulgarian frontier (about two days' ride on horseback), where the money will be turned over to the committee, who in turn will pay it to the brigands in the manner agreed upon; but the exact manner in which this is to be done I am unable to inform you.

I inclose you copy of telegraphic correspondence which will place you more *au courant* of the matter. The word "regret" at having to pay the money in advance and trust the brigands to return the captives later fails to express my feelings, and I shall be on the anxious seat until such time as Miss Stone is actually back with her friends. But while I realize that it was assuming a great risk to approve the recommendation of the committee, I felt that it was the choice of two evils, and I deemed it a much greater risk to refuse, for to decline what I understand to have been practically an ultimatum would have been to practically seal the doom of the prisoners; and although I even deplore the thought, should the brigands fail to carry out their agreement, it would certainly kill the trade of brigandage, as it would be difficult for them to induce people to ever treat with them again. Of course, if precedent counts for anything, there is no great cause for uneasiness, as payment in advance has been conceded in nearly every case in the last twenty years, and even in the English case, while Colonel Singe was released at the time ransom was paid, it was only on condition of substitutes in the shape of the wife, daughter, and grandchild of the intermediary having been furnished, who were retained for forty-eight hours with the threat that if the brigands were pursued by troops or followed by any person, the three substitutes would be decapitated.

I am keeping in as close touch as possible and rendering every aid and assistance, Mr. Gargiulo still remaining with the committee and Mr. Lemmi having gone with the party conveying ransom to arrange all details en route, etc.

Trusting that I may be able to advise you by cable ere this reaches you of a successful termination of this affair,

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 1.]

Mr. Gargiulo to Mr. Leishman.

[Telegram.]

DJUMA BALA, *January 18, 1902.*

House arrived to-night. Interview with three brigands last night. Agent of brigands with letter from Miss Stone arrived. Very satisfactory reports as well Miss Stone, Mrs. Tsilka, and baby. Gives bearer full authority to treat with Mr. Leishman for 14,500 liras, full weight. Place for payment of ransom, near Bansko. Time for the delivery of captives, within ten days after payment. Negotiations pending for place of delivery of captives. Agent of brigands will consult captives about place for their delivery. Miss Stone and Mrs. Tsilka recommend full confidence in agent of brigands. Captives' assumption of all risk of their delivery inclines us to accept brigands' proposition and hasten end. House is confident brigands will release captives in good condition after payment. In view of Miss Stone's message we all think that conditions should be accepted at once. Do you approve?

GARGIULO.

[Inclosure 2.]

Mr. Leishman to Mr. Gargiulo.

[Telegram.]

LEGATION OF THE UNITED STATES,
Constantinople, January 19, 1902.

Trust you will be able to modify demands, but as I have entire confidence in the committee, lose no time in concluding agreement on best terms possible, and advise me when, how, and where you wish money sent.

LEISHMAN.

[Inclosure 3.]

*Mr. Leishman to Mr. Smith-Lyte, United States marshal.*LEGATION OF THE UNITED STATES,
Constantinople, January 20, 1902.

SIR: In accordance with my understanding with Mr. Dickinson, you will please arrange to be at the Oriental Railway station at 7 o'clock this evening prepared to take charge of a large sum of money for the ransom of Miss Stone, which will be delivered by the Ottoman Bank. This money is to be delivered by you to the committee having matter in charge, consisting of Messrs. Peet, House, and Gargiulo, and just as soon as you deliver the money safely into their hands you may consider your duty finished.

I am sending Mr. Lemmi along, who will arrange details and be furnished with ample funds to cover all expenses. A special car will be provided and attached to train leaving for Serres at 8 o'clock. Mr. Dickinson has agreed to furnish you with a cavass, and this, with the legation cavass who accompanies Mr. Lemmi, two Croats from the bank, and half a dozen soldiers furnished by the Ottoman Government, will supply you with a sufficient guard.

In the event of your desiring to communicate with me in case of emergency, Mr. Lemmi is provided with a code and will render you every possible assistance.

I am, etc.,

JOHN G. A. LEISHMAN.

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, January 28, 1902.

(Mr. Leishman reports that negotiations have been temporarily interrupted and the committee prevented from paying the ransom, as expected, owing to failure of local authorities to faithfully carry out guaranties given by the Ottoman Government that troops would be held back and negotiations protected; that the brigands became frightened at unusual activity of troops, and, fearing bad faith on the part of the Turkish authorities, disappeared; that it is questionable whether further attempt should be made to treat for ransom on Turkish territory * * *.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, February 3, 1902.

(Mr. Leishman reports that negotiations have been renewed, and the committee reports progress, but that everything is being done to keep this secret for the present. Mr. Leishman is quite hopeful of an early and satisfactory conclusion.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, February 12, 1902.

(Mr. Leishman reports that the ransom has been paid to the brigands, who, it is hoped, will faithfully perform their part of the agreement to return the captives safe.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, February 18, 1902.

(Mr. Leishman reports that although the ten-day period originally mentioned has been exceeded the committee does not attach particular importance to this fact, as at their last meeting with the brigands the time for the delivery of the captives, owing to anticipated difficulties, was made rather elastic. While the delay causes Mr. Leishman some uneasiness, in view of all the circumstances, he sees no immediate cause for alarm. He states that rather difficult conditions were imposed upon the committee, and absolute secrecy demanded under threats of most dire vengeance in case of disclosure; that the length of time demanded was with an object to deliver the captives at some interior point in Turkey. He states that Miss Stone's letters were very clear and explicit, and not only implored that her captors' demands be acceded to, but demanded that the money collected by her friends be paid without question, and that absolute confidence be placed in the brigands.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, February 22, 1902.

(Mr. Leishman reports that word has been received from the brigands requesting the committee not to be uneasy at the delay, which is caused by difficulties beyond their immediate control. * * *)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, February 23, 1902.

(Mr. Leishman reports that he has been advised by the committee that the governor of Serres reports that Miss Stone has been found at a point not named, and is expected to reach Serres on February 24.)

Mr. Hay to Mr. Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 26, 1902.

(Mr. Hay extends congratulations to Mr. Leishman on the effected release of Miss Stone. * * *)

Mr. Leishman to Mr. Hay.

No. 143.]

LEGATION OF THE UNITED STATES,
Constantinople, March 1, 1902.

SIR: * * * As already advised by cable, I am very happy to state that our efforts to rescue Miss Stone have proved successful, and she is now safely in the hands of her friends in her old home in Salonica.

Too much praise could not be accorded to Messrs. Gargiulo, Peet, and House for the able and clever manner in which they performed the difficult and, at times, dangerous task assigned to them, and I especially desire to recommend to your consideration Mr. Gargiulo, the intelligent and capable dragoman of this legation, who, although purposely kept in the background for reasons of policy, really commanded the expedition, and through whom the legation conveyed any necessary instructions and advice. I can not speak too highly of his work, and it is all the more creditable when one considers that he is over 60 years of age, and arose from a sick bed to go up into a wild, unsettled country affording but poor and sometimes miserable accommodation, and frequently had to spend eight, ten, and twelve hours a day in the saddle, as there are few roads where carriage travel would be possible.

Mr. Lenmi, the second dragoman, also deserves mention for the creditable and skillful manner in which he performed his part of the work in conveying the ransom and preventing from becoming known the fact of payment having been made when returning with the bags, which had been refilled with lead.

I also wish to take occasion to mention the friendly interest taken in this matter by Sir Nicholas O'Connor, the British ambassador here, and also the interest and assistance rendered us by Mr. Elliott, the English diplomatic agent at Sofia; Mr. McGregor, the consul and, at the early stage of the Stone case, acting as British chargé at Sofia, and Sir Alfred Billiotti, British consul at Salonica, all of whom rendered us valuable assistance and advice; and it would give me great pleasure if you were to intimate to the British Government the gratitude which is felt for their kindly interest and assistance.

I have, etc.,

JOHN G. A. LEISHMAN.

Mr. Hay to Mr. Leishman.

No. 153.]

DEPARTMENT OF STATE,
Washington, May 8, 1902.

SIR: I have to acknowledge the receipt of your dispatch, No. 143, of March 1 last, on the subject of the abduction of Miss Stone.

You will express the grateful appreciation of the President and myself to the persons mentioned in your dispatch for their generous and valuable services in connection with the release of Miss Stone.

I am, etc.,

JOHN HAY.

PASSPORT APPLICATION OF ASSADUR H. KLUDJIAN.

Mr. Leishman to Mr. Hay.

No. 124.]

LEGATION OF THE UNITED STATES,
Constantinople, January 9, 1902.

SIR: I herewith inclose copies of correspondence with Consul-General Dickinson in regard to application of Assadur H. Kludjian for passport, which I feel compelled to refuse. I also inclose copy of Kludjian's letter dated November 10, 1901, which explains my reasons for declining to grant him desired recognition.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 1.]

Mr. Kludjian to Mr. Leishman.

ALEXANDRETTA, SYRIA, *November 10, 1901.*

DEAR SIR: I am an Armenian naturalized citizen of the United States of America; lived in the United States since 1889; left the United States in the month of June, 1900; obtained a passport from Washington; came here to end my business relations in Turkey and return to the United States as soon as possible; was quarantined at Beirut; my passport was indorsed by the Turkish Government at Beirut; arrived at this port in August, 1900; was refused admission to this port with my passport; sent with a messenger my letter of recommendation addressed to the United States consul here, which I obtained from the United States consulate at Marseilles, France; was detained at the seashore, guarded by the police, waiting for protection by our representative here; my messenger returned and informed me that the consul was at his summer home, about 8 or 10 miles away from here. I sent my messenger again to the office of the consulate to see if there was not any substitute or an acting officer in his place, but he was refused any interview whatever. Then I sent my messenger again, feeling assured that some one should surely be in the office to look out for the interests of the United States. My messenger came back with the instruction given by the dragoman or interpreter of the consulate that there was no other way but to give up my passport and become a Turkish subject.

I sent my messenger again to the dragoman, begging of him to obtain permission from the Turkish Government for me to remain here for a period of one or two weeks.

No United States representative appeared in my defense. Then I was ordered to go back into the steamer in which I came and was taken here at once. The steamer I sailed from Beirut to this port in was a Turkish one named *Dolma-Baghiché*. The crew and the officers of the steamer belonged to the military.

Fearful of the dreadful feature of things, I had to give up my passport in the boat and land. A few days after my landing I had the opportunity of seeing the United States consul, and he informed me that I was no more an American citizen and advised me not to come around the office, as he was afraid himself.

I left Alexandretta and went to my home, Deurt-Yole, about 18 miles from here.

While trying to cut my business relations with my brothers, I was called by the governor of the State of Adana to the State capital, the city of Adana. I went to Adana, and after strict cross-examinations I was asked to furnish bond or go to prison. I furnished bond and was left free under close watch with the condition that I should remain in Adana until I was notified otherwise. I remained in Adana six weeks conditionally, then was cast into the prison of the capital. My imprisonment was six months. During all this period I wished to beg the protection of my adopted and much-loved country, but considering the possible national bitter feeling that might be caused between the two nations, I hesitated to do so; and as there is an Imperial order according to which any person living in Turkey could have the privilege of leaving Turkey under condition of not returning any more, I thought of taking advantage of the same order in the absence of other means.

Now I am in perfect readiness to leave this country for the United States (Boston), where I have received my education, and where I have made my home, practicing medicine, since 1894.

I respectfully present to you a copy of my naturalization paper^a inclosed herein.

Awaiting your advice, etc.,

A. H. KLUDJIAN.

[Inclosure 2.]

Mr. Dickinson to Mr. Leishman.

UNITED STATES CONSULATE-GENERAL,
Constantinople, January 4, 1902.

SIR: I beg to acknowledge the legation's No. 113 of November 20, 1901, covering a letter from Dr. A. H. Kludjian written from Alexandretta, and asking me to investigate the matter.

I would refer you to Consul Davis's No. 13^a to the legation, of August 11, 1900, in which he stated that in order to gain admission to this country he (Kludjian) had to renounce his citizenship, but as it appeared from his letter to the legation, which I return herewith, that he was prepared and anxious to leave this country for the United States, in referring the matter to Consul Davis I asked him to have Dr. Kludjian make an application for a passport in proper form, which I would submit to the legation and ask that he be granted a passport.

I now beg to inclose his passport application^a in duplicate, together with a certificate of citizenship,^a and to enable him to leave this country for his adopted home I would request you to grant him the necessary passport.

I am, etc.,

CHAS. M. DICKINSON.

Mr. Hay to Mr. Leishman.

No. 108.]

DEPARTMENT OF STATE,
Washington, February 10, 1902.

SIR: I have to acknowledge the receipt of your dispatch No. 124 of the 9th ultimo, reporting that you have refused to grant Assadur H. Kludjian, a former Turkish subject, a passport, the facts of the case, as shown by the inclosures to your dispatch, * * * being as follows:

Kludjian came to this country in 1889, was naturalized in 1895, and granted a passport by this Government May 17, 1900. He went back to Turkey, presented evidence of his American citizenship at the port of Alexandretta, and was refused permission to enter the country because he was an American citizen. He declares that he sent for the American consul, who was away, and that the dragoman of the consulate told him that in order to enter Turkey he must give up his pass-

^aNot printed.

port and become a Turkish subject. He was ordered back to the steamer on which he had arrived. Under these circumstances he gave up his passport and naturalization certificate and swore allegiance to Turkey. He went about his business, and some six weeks later was cast into prison. Before this he told the consul at Alexandretta that he had been compelled to give up his passport and naturalization certificate, but that he was at heart a good American. He was imprisoned for six months, during which time he did not call upon the agents of this Government for protection, because, so he says, of "the possible national bitter feeling that might cause between the two nations."

It is true that Turkey refuses to recognize the American citizenship of a former Turk who secures naturalization in the United States without Turkish authority; and that when this authority is given it is with the stipulation that the person shall not return to Turkey. Therefore, if a naturalized American citizen of Turkish origin returns to Turkey he may expect arrest and imprisonment or expulsion. The Department's notice stating these facts, now sent to every former subject of Turkey who receives a passport, was not yet, however, issued when the passport was granted in this case, and Dr. Kludjian may have been ignorant of the danger he was incurring by returning to Turkey. It is also true that this Government insists that the laws of Turkey on the subject are contrary to enlightened international policy, are unjust and oppressive; and that this Government protects, so far as it can, Americans, formerly of Turkish allegiance, who gain admission to Turkey.

A right to American protection and a renunciation of American citizenship are incompatible conditions, and Dr. Kludjian's claim to such protection can rest only upon the ground that his renunciation of American citizenship was brought about by duress under threats, and is therefore void.

If the dragoman advised Kludjian to renounce his American citizenship, his acting on that advice does not make his renunciation void; actual duress must be shown. There is nothing to show that he was compelled to abjure his American nationality. He did it for his own convenience.

Your action in refusing him a passport is therefore approved by the Department.

I am, sir, etc.,

JOHN HAY.

EXCHANGE OF COMPLIMENTS BETWEEN THE PRESIDENT OF THE UNITED STATES AND THE SULTAN OF TURKEY ON THE RECURRENT OF THE BAIRAM.

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Pera, March 20, 1902.

(Mr. Leishman states that during a private audience following the Kurban Bairam ceremony on the morning of March 20, His Imperial Majesty the Sultan requested that his compliments and feelings of friendship be conveyed to the President of the United States.)

President Roosevelt to the Sultan of Turkey.

[Telegram.]

WHITE HOUSE,
Washington, March 24, 1902.

I tender Your Majesty cordial felicitations on the recurrence of Bairam.

THEODORE ROOSEVELT.

The Sultan of Turkey to President Roosevelt.

[Telegram.—Translation.]

YILDIZ, March 25, 1902.

Very much touched by the felicitations you have been so good as to express to me on the occasion of the Bairam. I return especial thanks.

ABDUL HAMID.

Mr. Leishman to Mr. Hay.

No. 158.]

LEGATION OF THE UNITED STATES,
Constantinople, March 25, 1902.

SIR: As advised by cable to-day, His Imperial Majesty was exceedingly gratified at the courtesy of the President and sent a special message expressing great pleasure at receiving the President's congratulatory telegram, and mentioned the fact of its being the first message of that character that he had ever received from the head of our Government. I think I am fully warranted in saying that His Majesty was delighted, and that the exchange of courtesies will produce a good effect and have a decided tendency to facilitate business and place us more on the same footing as other great powers, as it can not be denied that matters progress and are frequently settled in a country like this largely by royal favor.

I have, etc.,

JOHN G. A. LEISHMAN.

**RESTRICTIONS ON AMERICAN LIFE INSURANCE COMPANIES IN
TURKEY.**

Mr. Hay to Mr. Leishman.

No. 143.]

DEPARTMENT OF STATE,
Washington, April 25, 1902.

SIR: I inclose herewith for your information an extract from a letter dated Constantinople, March 24, 1902, from Messrs. J. C. Whittall & Co., the managers for Turkey for the New York Life Insurance Company, to Mr. Joseph J. Hearns, the company's superintendent of agencies, Paris, in relation to the difficulties experienced by the company during the past two years in carrying on its business in the provinces of Turkey, owing to the obstruction and prohibition of the Turkish Government.

Messrs. Whittall & Co.'s letter is one of the inclosures to a letter dated the 29th ultimo from Mr. Hearns to Mr. William E. Ingersoll, the company's general manager for Europe; which was left at the Department on the 14th instant by Mr. John A. McCall, president of the company.

I also inclose a copy of a letter from Mr. Ingersoll to the Department, dated the 17th instant, with four inclosures on the same subject. The Department would like to receive a report from you upon the subject.

If you think it opportune to do so, you will press upon the Ottoman Government the granting of larger privileges to American insurance companies.

I am, etc.,

JOHN HAY.

[Inclosure 1.]

Messrs. Whittall & Co. to Mr. Hearns.

CONSTANTINOPLE, *March 24, 1902.*

DEAR SIR: * * * You may not be quite au courant of the difficulties which we have experienced during the past two years in carrying on our business in the provinces of Turkey owing to the obstruction and prohibition of the Turkish Government, but Mr. Ingersoll is fully aware of them, and he has done much to assist us; but matters have now reached a stage where vigorous action on the part of the American Government is necessary if the New York Life is to continue to work in Turkey.

According to very old conventions between the Turkish Government and the civilized powers, foreign companies or individuals are to be allowed to transact business in the Turkish Empire with absolute freedom. Until recently we were able to send our canvassers all over Turkey, and our agents in all the provincial towns were able to work unmolested, but about a couple of years ago the Turkish Government, acting on the instigation of the Ottoman Insurance Company to promote their own interest, issued a circular to all the provincial governors to the effect that no insurance agent who was not provided with a permit from the Ottoman Government should be allowed to carry on insurance business, and the circular warns the public not to place any faith or confidence in any agent not possessing a certificate to the effect that the company he represents is authorized by Government license to transact business in Turkey. This circular naturally proved very mischievous, and the difficulties and obstruction our agents encountered were in proportion to the spirit or zeal in which the different governors interpreted their instructions; * * * and in some towns the governors were indifferent; but in many places they absolutely refused to allow our agents to work, and in some instances seized all the company's papers, etc.

At the outset we sought the intervention and protection of the United States minister, and we advised Mr. Ingersoll, and for the last two years we have been constantly in communication with the American legation and also directly with the Ottoman Government. We contend that according to the "capitulations" the Turkish Government has no right to interfere in any way with the operations of the New York Life Insurance Company; nevertheless, we are prepared to take out a license, and an application in due form was made. The Government, however, will not withdraw its circulars nor will it grant us the concession we have applied for, and so far the representations of the legation have been unproductive of any benefit whatever.

We have during this period done some business in the provinces, but always under difficulties; but another circular appears to have been issued quite recently by the Government confirming their previous instructions, and as a result all our provincial agencies are now at a standstill.

Moreover, the Turkish authorities are now refusing to issue passports to our traveling agents, so they are prevented from traveling, and our operations are consequently being further and further restricted and are now confined to the capital and principal seaport towns. The provinces where much business is to be done are practically closed to us, and instead of doing 18,000,000 francs this year we shall be extremely fortunate if we succeed in producing half that amount.

* * * * *

We are, etc.,

J. W. WHITTALL & Co.

[Inclosure 2.]

Mr. Ingersoll to Mr. Hill.

NEW YORK LIFE INSURANCE COMPANY,
New York, April 17, 1902.

DEAR SIR: Referring to the kind reception you accorded to our esteemed president, Mr. McCall, and myself on Monday last, and the conversation we had in regard to the annoyances the agents of our company are experiencing in Turkey in consequence of unjust and uncalled-for instructions being issued by the Turkish Government to the governors of the different provinces, since my return to New York I have received additional correspondence in regard to this matter, which I think will be of some interest to you and which I would like to join to the papers we left with you. I inclose the same herewith.

I take this occasion to again thank you for the interest you propose to take in this matter, and I hope that our minister in Constantinople will receive such instructions as will have the desired effect on the Turkish officials.

I am, etc.,

W. E. INGERSOLL,
General Manager for Europe and Resident Executive.

[Subinclosure 1.]

Messrs. Whittall & Co. to Mr. Hearn, superintendent of agencies, Paris.

CONSTANTINOPLE, April 1, 1902.

SIR: With reference to our letter of the 24th ultimo respecting the obstruction of the Turkish Government, we have now to hand you copies of letters that have been exchanged with the United States minister in this matter.

Trusting the question is engaging your most earnest attention,

We are, etc.,

J. W. WHITTALL & Co.

P. S.—This prohibition of the Government has reduced our proportion for March to a half million francs, whereas it should have been a million and a half. It is simply disastrous.

[Subinclosure 2.]

Messrs. Whittall & Co. to Mr. Leishman.

CONSTANTINOPLE, March 25, 1902.

EXCELLENCY: By our several requests presented to this honorable legation we have drawn its attention to the difficulties and vexations of which the representatives of the New York Life Insurance Company are the object on the part of the authorities of the Ottoman provinces. We have furthermore not failed to keep it posted constantly in regard to the steps taken by us at the competent departments, and particularly in regard to the deposit by us at the ministry of commerce and public works of the documents exacted by the law on foreign limited-liability companies, promulgated in 1303 (1887).

The honorable legation has been good enough to address the Ottoman ministry of foreign affairs under date of November 6, 1901, and January 16, 1902. The first of these notes, after having passed through various administrative channels, was at last referred to the council of the ministry of commerce and public works, where it remains without effect since the 14th of January last, and as to the second, it has been decreed to the consulting bureau of the ministry of foreign affairs under date of the 20th of the same month and has not had a better fate than the preceding.

Meanwhile, the situation is becoming worse from day to day, and we receive daily from our agents in the provinces louder and louder complaints, and we hasten to transmit to you herewith two copies of those received from our agents in Sivas, Amasia, and Yuzgat. Your excellency will see from their contents that * * * the authorities * * * no longer content themselves with publications putting

soi-disant the public on their guard against foreign insurances, but they have come to acts by threats and seizing the papers and documents of the company.

Your excellency will understand that this situation is no longer tolerable, that it will have for effect not only to annihilate completely our transactions in Turkey and to gravely injure our credit and reputation, but further to put American enterprises in this country at the mercy of the caprice and arbitrament of any police agent, which is of the highest gravity.

In bringing the foregoing to the attention of this honorable legation, we beg your excellency to be good enough to urgently take such measures as you shall judge necessary to put a stop without delay to the persecutions of which our company is the object, and to have accorded to our company the liberty of carrying on its operations, to which it has right by virtue of the treaties and capitulations in force.

We have, etc.,

J. W. WHITTALL & Co.

[Subinclosure 3.]

Mr. Leishman to Messrs. Whittall & Co.

LEGATION OF THE UNITED STATES,
Constantinople, March 27, 1902.

GENTLEMEN: I beg to acknowledge receipt of your communication of March 25, with inclosures, and in reply I deem it wise to advise you to take up the question on broad lines of establishing the New York Life Insurance Company on a proper basis in the Ottoman Empire in preference to raising questions in individual cases, for once the great question is settled the small ones will disappear, and until that is done I fear you are apt to experience more or less trouble and annoyance.

All sovereign governments enjoy the right to frame proper laws for the protection of their citizens and commerce, and unless you can show that American insurance companies are being discriminated against, or that the laws with which they are asked to comply are unjust and illegal, there is very little hope of the legation being able to render you any material assistance, although I am most anxious and willing to do anything in my power to aid and protect any American interest. I would suggest that you carry out the intention indicated in one of your former letters of sending one of your firm to see me in order that I may be made acquainted with the real cause of the troubles, and what steps you deem necessary in order to correct same.

I am, etc.,

JOHN G. A. LEISHMAN.

[Subinclosure 4.]

Messrs. Whittall & Co. to Mr. Leishman.

CONSTANTINOPLE, *April 1, 1902.*

SIR: We have the honor to acknowledge the receipt of your excellency's dispatch of the 27th ultimo, and to express our thanks for your excellency's kind attention to the question of the obstruction of the Ottoman Government toward the New York Life Insurance Company.

The New York Life is quite prepared to conform to any reasonable regulation which the Turkish Government might impose before granting a concession to work in Turkey, and as a matter of fact an application has been made in conformity with the usual procedure, and this is, we believe, within the knowledge of the legation, but the Turkish Government does not appear to have taken any steps toward granting the concession, nor is there any indication to lead one to hope that a concession will ever be granted.

We would respectfully solicit your excellency's kind assistance in urging the Turkish authorities to give our application their prompt attention, as we are certain that without diplomatic intervention the authorities will take no action in the matter. In the meantime we contend that in view of the capitulations which accord freedom of commerce to foreign individuals and companies in the Turkish Empire the Government has no right to seize documents belonging to the New York Life, or to hinder its agents in the performance of their duties.

We are of opinion that the United States legation should take an early opportunity of protesting to the Sublime Porte and to the Palace against the arbitrary and unwar-

ranted obstruction that is being caused to the agents of the New York Life, and to demand that they shall not be interfered with in any way in the future.

These difficulties have been going on for over two years, and unless your excellency is able to get them removed the operations of the New York Life in Turkey will be reduced to a very serious extent. We maintain that this is a case where the Turkish Government is not only violating its treaties, but is also showing its ill-will toward the United States by refusing to grant a concession when applied for, and we claim on behalf of the New York Life that energetic action should be taken by the legation to obtain the freedom of our business to which we are entitled. The Government, in reply to our remonstrances, states that our agents are not allowed to work in the provinces because the New York Life is not registered in Turkey, and when we apply for registration they decline to grant it. Surely this is a position of affairs which merits the earnest attention of the United States Government.

This is the basis of our complaint, and the instances of persecution to which we drew the attention of your excellency in our last were given as proofs of our case.

It was with the object of explaining the whole position to your excellency that we solicited the interview which was kindly afforded to Mr. Chirinian, as this gentleman has been doing the needful on our behalf with the Turkish authorities, and is au courant of the whole question.

If your excellency is still desirous of interviewing either Mr. Chirinian or a member of our firm it will give us pleasure to accede to such a request, but we trust we have stated our case sufficiently clearly to enable your excellency to take immediate and energetic action to remedy a state of affairs which has become intolerable, is causing serious prejudice to American interests, and is in violation of treaty rights.

We have, etc.,

J. M. WHITTALL & Co.

Mr. Leishman to Mr. Hay.

No. 210.]

LEGATION OF THE UNITED STATES,
Constantinople, June 10, 1902.

SIR: I have delayed answering your dispatch No. 143, of April 25, in regard to the New York Life Insurance Company matter, hoping to be able to give you some definite information, but unfortunately the matter is still in abeyance, with comparatively little hope of an immediate settlement.

The letters of Messrs. Whittall & Co., managers for Turkey for the New York Life Insurance Company, are apt to create an erroneous impression, as they rather lead one to believe that an intentional discrimination exists against American insurance companies, and especially against the New York Life. This is not the case, as the trouble is general, and other foreign companies suffer equally; but although the matter has been repeatedly brought to the attention to the Ottoman Government during the past few years, a number of the ambassadors going to the extent of making a sort of joint representation, nothing ever came of it, and as far as I can see, the case is practically being left to us to push; but as I have failed to discover the slightest indication on the part of the Ottoman Government to discriminate particularly against American insurance companies, I have not felt warranted in taking any stronger measures than those indicated in copy of correspondence herewith inclosed, followed up, of course, with frequent personal representations when visiting the grand vizier or minister for foreign affairs, which will be continued on same lines unless instructed by you to the contrary. As intimated to Messrs. Whittall & Co., I believe it is a matter that should be followed up in a regular business way by the life insurance companies with what assistance the legations can properly extend, rather than one calling for diplomatic action.

Although a natural tendency may exist to protect Ottoman companies, the results of my investigations rather lead me to believe that the trouble arises principally from a well-intentioned effort on the part of the Ottoman Government to properly protect their citizens on the same lines adopted by other European countries; but the laws have only been partially and not very wisely framed, owing to imperfect knowledge of insurance matters.

Owing to the peculiar manner of conducting affairs in this country, little or no difficulty is experienced by insurance companies in conducting their business in large cities like Constantinople, Smyrna, etc., the trouble commencing generally when they attempt to prosecute their business in the interior; but whether this comes from the fact that unusual liberties are granted in Constantinople and several other large seaboard cities (where even the natives are exempted from certain taxes that are exacted in the interior), coupled with the fact that the agents in these places are of a superior class and generally foreigners, while the subagents throughout the country are generally natives, some of whom may have practiced frauds in time past, or whether it arises from the fact that the Ottoman Government feels that it can enforce its laws in the interior with less friction and less interference on the part of the embassies and the legations, both officially and officiously, I am unable to state; but I rather hold to the opinion that the trouble arises principally from the fact that conflicting and inoperative measures have been adopted which are difficult to correct.

According to the Ottoman law of 1303 (1887) in regard to foreign anonymous companies carrying on business in the Turkish Empire such companies must—

I. Submit to the imperial department of commerce and public works a certified copy and translation of the statutes of the company, so that the Imperial Government, before granting permission to such companies to carry on business, may be sure that the company has nothing against public order and morality.

II. Such companies must elect domicile in Turkey and have a responsible agent, so that if they should have any disputes with Ottoman subjects, the latter may have the opportunity to bring action against such companies in the mixed Ottoman tribunals.

III. In the case of insurance companies, however, the department of commerce and public works seems to demand—I think the condition is put down verbally—that insurance companies over and above the said two conditions deposit in Turkey, stocks, cash, or other value, or be guaranteed by an institution like the Ottoman Bank, so that if there should be any action against the companies, and in case such companies be condemned to pay any sums to Ottoman subjects, the courts and Ottoman authorities may be in a position to execute such judgments. This they call the “fonds de garantie,” and they argue that in France, Germany, Switzerland, etc., no foreign company is allowed to carry on insurance work without such “fonds de garantie,” or before the company has acquired real property of some value. This third condition is not in the law. A comparatively small investment in real estate or bonds would no doubt satisfy the Ottoman Government, and I feel quite satisfied that with a little patience, coupled with determined efforts and a liberal spirit on the part of the insurance companies, the difficulty can be adjusted.

I am informed that the agents of the foreign insurance companies

are contemplating taking joint action, and further, that one of the foreign companies (l'Union de Paris) even went so far as to agree to the third condition, not yet embodied in the law, but were immediately confronted with other conditions to which they were not willing to agree, and from the best information I can obtain the department of commerce and public works, which has charge of insurance matters, is still floundering around trying to frame a new law to cover conditions of which they evidently have a very imperfect knowledge.

In one of Messrs. Whittall's letters they express the opinion that the trouble arises from an effort to protect the Ottoman Insurance Company. There may be some slight foundations for this suspicion owing to the fact that the lawyer who drew up the papers for the Ottoman company has frequently been consulted by the Government; but the company itself is rather a small affair and deals principally in fire insurance, and consequently I am not inclined to credit them with any great amount of influence.

I will continue to do everything in my power to further the interests of the New York Life Insurance Company, but under present conditions I do not deem it advisable to press the matter too hard or too far.

Trusting above will furnish you with all the information desired, I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 1.]

Mr. Leishman to the Minister for Foreign Affairs.

No. 71.]

UNITED STATES LEGATION,
Constantinople, January 31, 1902.

EXCELLENCY: I respectfully beg leave to call your excellency's attention to the fact that despite the several protests made by this legation against the restraint placed upon American insurance companies, and the obstacles and troubles thrown in their way in order to prevent them from prosecuting their business throughout the Ottoman Empire in accordance with their rights and privileges guaranteed by the treaties, the trouble continues to exist as evidenced by the complaint lodged by the New York Life Insurance Company, copy of which is herewith attached, and I venture to hope that your excellency will cause the necessary steps to be taken to promptly correct the trouble recited.

The New York Life Insurance Company is one of the largest and most responsible and reliable institutions of the kind in the world, amply able to comply with any reasonable regulation introduced by any foreign government for the protection of the interests of its citizens, and have even been admitted in both Germany and Switzerland, where the laws governing insurance companies are unusually severe; and if there exists any formality to which they have not complied, I would be pleased to be advised in order that they may be notified to comply with any proper rules and regulations that may exist; and as the delay in correcting above-mentioned trouble is causing severe loss and prestige to an American institution of high standing and merit, I trust your excellency will cause such action to be taken as will immediately remedy the existing trouble.

I take this occasion, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 2.]

Mr. Leishman to Messrs. Whittall & Co.

UNITED STATES LEGATION,
Constantinople, April 3, 1902.

GENTLEMEN: Replying to your letter ^a of April 1, without being more fully informed as to the exact status of your case it would be impossible for me to take any action

other than what has already been taken, and I am at somewhat of a loss to understand the mention you make in your letter of an interview which you state Mr. Chirinian had with me, for although I advised you that I would be pleased to accord an interview to the gentleman mentioned or one of your firm, I have never had the pleasure of meeting any of your representatives.

As advised in my previous note, unless you can clearly show that American insurance companies are being officially discriminated against or that the insurance laws in force in the Ottoman Empire are unjust and improper, it would be difficult for the legation to interfere; and if the latter is the only cause of complaint, I would strongly recommend that the New York Life Insurance Company take the matter up in the same careful and thorough manner which they pursued when correcting the trouble which formerly existed in Germany and Switzerland, in which they were assisted by the United States Government, which finally resulted in their being reestablished in these countries on a basis which was entirely satisfactory to all parties concerned.

Yours, very truly,

JOHN G. A. LEISHMAN.

[Inclosure 3.]

Messrs. Whittall & Co. to Mr. Leishman.

CONSTANTINOPLE, April 14, 1902.

SIR: With reference to the conversation which our Mr. William Whittall and Mr. Chirinian had with your excellency a few days ago, we have now the honor to state, as already mentioned in our letter of the 1st of April, that the New York Life is prepared to conform to the laws of this country respecting insurance companies, and on the 6th of September, 1900, we deposited with the Ottoman Government an application for registration. This application was signed by the direction-general for Europe of the New York Life, and it was accompanied by a copy of the statutes of the company duly legalized at your legation, and the company also accepted legal domicile in Turkey.

The requirements of the law of the year 1303 (1887) were thus duly complied with, but notwithstanding all the efforts we have made, and despite the representations made from time to time by the legation of the United States, the Ottoman Government will not grant us the authorization.

We repeat, the Ottoman Government has no right under the capitulations to interfere in any way with the operations of the New York Life in any part of Turkey, but although we are entitled to this freedom in our business, we have, nevertheless, as mentioned above, in order to be agreeable to the Government, consented to abide by the laws of the country, and the required documents were signed eighteen months ago, but instead of granting the permit the persecution of our agents and the obstruction is on the increase.

In accordance with the promise expressed by your excellency we venture to hope that the legation will now be able to take up the question with energy and support the application we have made to the Government and induce them to grant us the authorization without further delay.

We should mention that the New York Life is being discriminated against, inasmuch as the Ottoman Insurance Company meets with no obstacles in its operations.

We have no doubt the New York Life would send one of its officers here to carry through the negotiations as your excellency suggested, if it were necessary, but we do not consider that the question has reached such a stage. We are of opinion that at the present moment the legation alone is able to clear up the situation and prepare the way for the final settlement of the question.

We solicit your excellency's active intervention in this matter in order to put an end to a state of affairs which is seriously detrimental to American interests in general and to the New York Life in particular.

We have, etc.,

J. W. WHITTALL & Co.

[Inclosure 4.]

Messrs. Whittall & Co. to Mr. Leishman.

CONSTANTINOPLE, May 23, 1902.

SIR: With reference to the letter we had the honor of addressing your excellency on the 14th of April respecting the obstruction of the Turkish Government toward

the New York Life Insurance Company, we now take the liberty of inquiring whether, in conformity with the promise expressed, your excellency has been able to take the necessary steps for obtaining an early cessation of the illegal actions of the Ottoman Government.

We consider the matter is of such great importance as to warrant us urging upon your excellency on behalf of our principals, the New York Life Insurance Company, to use every means at your excellency's disposal to bring about a solution of the question as early as possible, inasmuch as the difficulties are increasing and are causing very serious prejudice to the company's business in Turkey.

We shall be glad to learn what result your excellency's representations have had, and, needless to say, we are at your excellency's disposal for any information that might be required.

We, have, etc.,

J. W. WHITTALL & Co.

[Inclosure 5.]

Mr. Leishman to the minister for foreign affairs.

No. 107.]

UNITED STATES LEGATION,
Constantinople, May 14, 1902.

EXCELLENCY: Referring to the legation's note No. 71, of January 31 last, in regard to the New York Life Insurance Company, I beg to inclose herewith a copy of a letter from Messrs. J. W. Whittall & Co., agents in Turkey for said company, in which they claim to have complied with all the rules and regulations in force; and consequently I trust that your excellency will cause the necessary orders to be issued at once permitting them to conduct their business throughout the Ottoman Empire without further molestation.

I take, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 6.]

Extract from a note sent by Mr. Leishman to the minister for foreign affairs concerning the New York Life Insurance Company.

No. 115.]

UNITED STATES LEGATION,
Constantinople, May 24, 1902.

Another matter which is causing considerable trouble and loss of business to important American interests is the difficulties thrown in the way of the New York Life Insurance Company in the prosecution of their legitimate business throughout the Ottoman Empire. The standing and financial responsibility of this company is undoubted, as it is recognized the world over as being one of the largest and most reputable institutions of the kind existing; but notwithstanding the report furnished you from Messrs. Whittall & Co., managers for Turkey for the New York Life Insurance Company, stating that they have offered to comply with all the conditions of the existing Ottoman insurance laws, their agents throughout the country continue to meet with annoyance and petty obstruction, and I must ask that the trouble be promptly remedied.

[Inclosure 7.]

Mr. Leishman to Messrs. Whittall & Co.

UNITED STATES LEGATION,
Constantinople, May 28, 1902.

GENTLEMEN: Replying to your letter of May 23, I beg to state that in accordance with our understanding I presented a copy of the paper which you sent me to the Porte, coupled with the request that the matter be at once investigated and that the difficulties and obstacles which have been thrown in the way of foreign insurance companies be removed.

It seems to me that outside of the general difficulty of getting anything settled, owing to the present manner of conducting affairs and the consequent congestion of all business, the greatest trouble seems to lie in the effort of the Ottoman Govern-

ment to frame an insurance law for the protection of the interests of their subjects somewhat on the line adopted by other European nations, without having properly considered the problem or the difference in existing conditions, rather than with an idea of discriminating against the New York Life Insurance Company, as the trouble seems to be general, although you may be experiencing more difficulties than others owing to greater activity on the part of your agents. As no evidence has been submitted that would show any special discrimination against American interests, I can only continue to bring what pressure and influence I can properly bring to bear to assist you in your efforts to secure a fair and equitable adjustment of the present difficulties, and as you have already evidenced your willingness to comply with the Ottoman insurance laws, I have so informed the minister of foreign affairs and insisted on proper authority being given you to prosecute your business throughout the Ottoman Empire without further let or hindrance, and will be only too happy to do anything further in my power to assist the New York Life Insurance Company in its efforts to secure a fair and prompt settlement of the existing troubles.

I am, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 8.]

Messrs. Whittall & Co. to Mr. Leishman.

CONSTANTINOPLE, June 5, 1902.

SIR: We have the honor to acknowledge the receipt of your excellency's dispatch of the 28th ultimo, and beg to tender our thanks for the further steps your excellency has taken to remove the obstruction we are exposed to.

We have deemed it expedient, now that the Ottoman Government is more or less occupied with the question, to protest formally against their action, and we have accordingly served a protest, as per inclosed copy, through the consulate of the United States, and we beg your excellency will give this protest any support that may be necessary.

We take due note of your excellency's remarks respecting the apparent difficulty of the Ottoman Government to frame an insurance law, but we take the liberty of pointing out to your excellency that that fact does not, in our humble opinion, justify the action of the Ottoman Government in violating its treaties and causing serious prejudice to American interests, for we respectfully maintain that under the capitulations the Ottoman Government has no right to interfere in our business as they have done.

The regulations which the Ottoman Government framed in the year 1887 (1303) respecting joint-stock companies were not, as your excellency is doubtless aware, accepted by the foreign powers, inasmuch as they were based on a principle which constituted an encroachment on the liberties of commerce.

The Ottoman Government should frame these regulations in such a shape as to make them admissible by the powers, but pending the solution of this question the Government should be requested to respect its treaties, and no doubt a satisfactory modus operandi could be arranged until the regulations are framed and accepted by the powers.

Unless some arrangement of this nature is made or the Government can be made to desist from the present measures of persecution, there will be no change in the situation for years to come, and the troubles will become even more acute, for, as your excellency correctly remarks, the congestion of all business is such as to make it difficult, it might be said impossible, to get anything settled.

We trust your excellency will continue to adopt energetic measures to obtain for the New York Life Insurance Company that freedom in its operations in Turkey to which it is unquestionably entitled by treaty.

We have, etc.,

J. W. WHITTALL & Co.

[Inclosure 9.]

Mr. Leishman to Messrs. Whittall & Co.

UNITED STATES LEGATION,
Constantinople, June 10, 1902.

GENTLEMEN: I beg to acknowledge receipt of your communication of June 5, inclosing copy of the protest which you have served upon the Ottoman Government

through the consulate-general, which had previously been submitted to me by Mr. Schmavonian, and to which I had suggested making some slight alteration in order to emphasize the willingness which you had already evidenced to comply with the Ottoman insurance laws now in force; but Mr. Schmavonian explained to me that your lawyer had purposely left the matter a little vague.

I note your remark that you do not consider that the trouble arising from the Ottoman Government's effort to frame a proper insurance law justifying the action of which you complain, and am quite of the same opinion. Under existing circumstances, with which you are fully acquainted, it is rather difficult to move very rapidly, and the fact that no special discrimination exists against American companies prevents taking measures which might otherwise be resorted to; and while the fact which you state in regard to the European powers never having accepted the Ottoman insurance laws of 1887 (1303) is an open secret, and some of them were going so far as to file a protest, nothing further was done and the matter has been allowed to rest.

With the assurance that I will always hold myself in readiness to render you any assistance in my power to aid you in securing a satisfactory adjustment of the present difficulty, and with the hope that your protest may have a beneficial result, I am, etc.,

JOHN G. A. LEISHMAN.

Mr. Leishman to Mr. Hay.

No. 218.]

LEGATION OF THE UNITED STATES,
Constantinople, July 1, 1902.

SIR: Referring further to my dispatch No. 210 of June 10, in regard to the case of the New York Life Insurance Company, there is undoubtedly a strong undercurrent of prejudice and feeling against all things foreign existing at all times, and occasionally a wave of ill-disguised antagonism sweeps over the country, as at the present time, which somewhat resembles a suppressed Boxer movement. But notwithstanding this feeling I am quite of the opinion that if the representatives of the foreign insurance companies get together and make some reasonable concessions the existing trouble can be adjusted, and as explained to Messrs. Whittall & Co., I believe it would be a wise and politic move on the part of the New York Life Insurance Company if they were the first to make the necessary concessions which I am inclined to believe will sooner or later be made by one or all.

I have, etc.,

JOHN G. A. LEISHMAN.

Mr. Hill to Mr. Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 9, 1902.

(Mr. Hill states that it is represented by the New York Life Insurance Company that on May 26, six policies were sent by the Ottoman Bank by registered mail to their agency in Tchouhour for collection and the same seized by the Turkish postal officials; that the bank protested, and the officials' reply was that the action was taken by order of the minister of police, who had forbidden insurance companies working in Turkey if they have not fulfilled the formalities required by the Government.)

Mr. Leishman is directed to exercise good offices in behalf of the company and to investigate and report what further formalities must be complied with by it.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, July 11, 1902.

(Replying to Department's telegram of July 9, Mr. Leishman reports that the matter referred to had already received his attention and that a demand has been made for the surrender of the package; that he will continue to use good offices in behalf of the company, and that the origin of the trouble is fully explained in his dispatches Nos. 210 and 218.)

Mr. Leishman to Mr. Hay.

No. 258.]

LEGATION OF THE UNITED STATES,
Constantinople, August 26, 1902.

SIR: I beg to inclose herewith copy of recent correspondence with Messrs. Whittall & Co., managers for Turkey of the New York Life Insurance, which is self-explanatory.

For your further information I might add that no possible doubt can exist about the fact that many things are tolerated in the large cities, especially in the capital, that are positively prohibited throughout the country, as the citizens of the large capitals are even relieved of certain taxes and enjoy exemption from military service.

There is no law or even a good reason that I know of for the condition of affairs, but it exists nevertheless. The Department is no doubt aware that Ottoman subjects generally are not permitted to move from place to place without a special permit, as the present government seems to object to free travel and intercourse, and this is particularly the case with Armenians, from whose ranks the subagents are generally recruited on account of their superior business qualities, but this is, unfortunately, a class that continues to rest under suspicion of plotting against Turkish rule, and it is quite within the range of probabilities that this may be the immediate cause of existing troubles.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 1.]

Messrs. Whittall & Co. to Mr. Leishman.

CONSTANTINOPLE, *August 8, 1902.*

SIR: We have the honor to acknowledge the receipt of your excellency's letters of the 22d and 24th ultimo, and to express our thanks for the steps your excellency took with regard to the seizure of a packet of policies. We have not yet heard from our agent whether he has obtained possession of the documents.

We venture to hope that your excellency has been equally successful in respect to the representations which the legation would doubtless make to the Ottoman Government regarding the imprisonment of our agent at Kirtchovo.

With regard to the remark made in your dispatch of the 24th ultimo that the "general question must necessarily rest largely in the hands of the insurance companies who must prosecute the matter before the proper officials," we beg to state that we have taken such measures as were necessary. We have complied with the required formalities, and we have done all in our power to arrive at a solution of the question, but we can obtain no response of any nature from the Ottoman Govern-

ment, and we appear to have arrived at a deadlock which only energetic diplomatic action can remove.

Your excellency is aware that a demand for a concession or registration was duly made to the Ottoman Government by the New York Life Insurance Company, notwithstanding the fact that in virtue of the "capitulations" it is unnecessary for an insurance company to obtain permission from the Ottoman Government to do business in Turkey. In this contention we are not only supported by legal authorities, but this is also the view taken by other foreign missions. And were it otherwise, why does the Ottoman Government tolerate the 40 or 50 insurance companies which are established in its capital and many other cities of the Empire? Were an attempt made by the Turks to close the offices of the many English or other companies in those cities, we are convinced the British, or other Government, would not tolerate such a step.

If, therefore, we have a legitimate right to operate in these principal cities, there can be no restriction to our carrying our operations into the provinces.

It has been stated that the trouble arises principally from a well-intentioned effort on the part of the Ottoman Government to protect its subjects, but apart from the recognized and indisputable fact that all this trouble originated from a desire to protect and promote the interests of the Ottoman Insurance Company, anyone conversant with the politics of Turkey will confirm us in our assertion that the subsequent course adopted by the government is but the accomplishment of a deliberate policy of oppression and persecution to oppose any western enterprise—and there are numerous instances, doubtless within the knowledge of your excellency, in support of this fact.

If the Government had any good intentions in the matter they have had numerous opportunities of showing their sincerity by affording facilities for a settlement of the question rather than taking every available opportunity for practicing their persecution and oppression, such as imprisonment of agents, violation of postal correspondence, seizure of documents, and interference in operations.

As far as we can see we have no further means at our disposal of prosecuting the matter ourselves, inasmuch as no attention appears to be paid to the communications we make to the Government, and it is our conviction and that of our legal advisers, that only a firm pressure on the part of the American Government will induce the Turks to change their attitude and desist from their arbitrary procedure.

If your excellency can suggest any course that the New York Life should adopt we are certain they will take any steps that may be indicated, for, while maintaining the principle of liberty, the company has repeatedly expressed its willingness to conform to any reasonable regulations.

It should be borne in mind, however, that it is not possible for us to negotiate direct with the Ottoman Government in the same way as the company did in Switzerland or Prussia, inasmuch as transactions with the Ottoman Government are so different from European methods, and in questions of this nature only diplomatic intervention is efficacious.

We understand this matter has recently been discussed by the Turkish departments, and it is rumored that, apparently as a result of the impotence shown by the foreign missions in the protection of their subjects and companies, more stringent measures are to be taken to prohibit any insurance business in the province.

We would respectfully suggest that your excellency should bring the matter to the notice of the Sultan, pointing out to His Majesty the prejudice that is being caused to American interests and solicitating a cessation of these persecutive measures; for, unless His Majesty can be induced to give whatever instructions may be necessary, the Sublime Porte and other departments of state will continue to treat our diplomatic representations with the same contempt as they have done during the past two and a half years.

Trusting your excellency will protect American interests by taking energetic action in this important matter,

We have, etc.,

J. W. WHITTALL & Co.

[Inclosure 2.]

Mr. Whittall & Co. to Mr. Leishman.

CONSTANTINOPLE, August 13, 1902.

SIR: With reference to the letter we had the honor of addressing your excellency on the 8th instant we now beg to forward you copy of a letter we have received from one of our traveling agents, from which your excellency will observe that our

prediction that the Government contemplated renewing with greater energy their persecution is confirmed.

Our agent draws our attention to the very insolent way in which the mutessarif of Kutahia notified him that he would not be allowed to transact any business.

We feel sure your excellency will not allow a respectable and important American company like the New York Life to be gratuitously aspersed and interfered with in this manner, and we claim, on behalf of our principals, the protection and intervention of your excellency to repress these arbitrary and illegitimate interferences in our business.

We claim that liberty of action to which the New York Life is indisputably entitled in the Turkish Empire and which for nearly twenty years the company enjoyed.

We can not believe that the United States Government will allow American interests to be thus prejudiced without justification, and we hope your excellency will immediately adopt urgent and energetic measures to suppress this intolerable and degrading state of affairs.

We await to hear what action your excellency has taken in the matter in order that we should acquaint our principals, the New York Life Insurance Company.

We have, etc.,

J. W. WHITTALL & Co.

[Inclosure 3.]

Mr. Leishman to Messrs. Whittall & Co.

LEGATION OF THE UNITED STATES,
Constantinople, August 25, 1902.

GENTLEMEN: Referring to your communications of August 8 and 13, as the package of policies seized at Tchorum have since been surrendered to your agent, no further reply on this point is necessary.

In regard to the general question, I can only again refer you to my previous communications on this subject, and to add that the legation does not feel warranted in pursuing a more aggressive course in the absence of any evidence showing that special discrimination exists against American insurance companies.

I am not prepared to dispute the statement which you make in regard to the forty or fifty foreign insurance companies being tolerated to prosecute their business in the large capitals, but this fact would not necessarily guarantee any right to operate throughout the provinces, as it is hardly necessary to call the attention of old and experienced residents like the Whittall family to the fact that many things are tolerated in the large cities in the Ottoman Empire that are absolutely forbidden and denied in the provinces.

If other foreign missions view the matter as indicated in your letter of August 8, it would seem to me wise were the other foreign insurance companies to petition their ambassadors to address energetic notes to the Sublime Porte, with a view of forcing a settlement of the troublesome question, having little doubt about the willingness of my Government to authorize me to send in an identic note. But under present conditions I do not feel warranted in attempting to force matters, although I shall continue to use every effort to secure the proper recognition of American insurance companies and insist upon their being granted the same rights and privileges accorded similar institutions of other nations.

If this line of action is contrary to your ideas I would suggest that you report the matter to your principals, the New York Life Insurance Company, who can, if they so desire, take the matter up direct with the Department of State at Washington.

I am, etc.,

JOHN G. A. LEISHMAN.

Mr. Leishman to Mr. Hay.

No. 272.]

LEGATION OF THE UNITED STATES,
Constantinople, September 7, 1902.

SIR: I beg to inclose herewith for your information copy of further correspondence with the agents of the New York Life Insurance Company in regard to the difficulties encountered in prosecuting their business in the Turkish provinces.

This matter has received the careful and energetic attention of the legation for months past, and every proper effort has been made to induce the Sublime Porte to adjust the differences with the insurance companies, but so far without any actual results, although the Porte claims to have the matter under advisement and promises to endeavor to arrange existing trouble shortly.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 1]

Messrs. Whittall & Co. to Mr. Leishman.

CONSTANTINOPLE, *September 5, 1902.*

SIR: We have the honor to acknowledge the receipt of your dispatch of the 25th ultimo, and now beg to thank your excellency for having caused the surrender of the policies which were seized by the Ottoman authorities.

We regret to notice your excellency is not disposed to act more energetically for protecting the New York Life against the aggressive measures pursued by the Ottoman Government in contravention of its treaties.

Unfortunately, the other insurance companies in Turkey have not met with difficulties to the same extent as the New York Life, and your excellency is evidently unaware that there are many English fire-insurance companies doing business in the provinces without being interfered with, in fact in towns where the New York Life has met with obstruction. The necessity has therefore not arisen for the other companies to petition their respective ambassadors, who would probably be unwilling to take any action in the matter unless they had cause for complaint.

We are, moreover, informed that several companies some years ago obtained permits from the Ottoman Government, one of which was the "Aachen and München."

Under all the circumstances, in the opinion of our legal advisers and ourselves, the difficulties which the New York Life has experienced fully justify the American Government taking stronger measures than it has done.

We have, etc.,

J. W. WHITTALL & Co.

[Inclosure 2.]

Mr. Leishman to Messrs. Whittall & Co.

LEGATION OF THE UNITED STATES,
Constantinople, September 7, 1902.

GENTLEMEN: Replying to your communication of September 5, the legation notes the statement which you make in regard to fire insurance companies, which is quite in accord with the information developed during progress of the investigation, but evidently the Ottoman Government, for reasons of its own, has not as yet determined to take any repressive action against this class of insurance companies, and the legation has no knowledge of any American fire insurance companies being represented in Turkey.

The legation has and will continue to press the Porte energetically to adjust the pending difficulties with American life insurance companies, but in absence of evidence tending to show that particular discrimination exists against American companies, I do not feel warranted in taking more aggressive measures without special instructions from my Government.

I am, etc.,

JOHN G. A. LEISHMAN.

Mr. Adee to Mr. Eddy.

No. 238.]

DEPARTMENT OF STATE,
Washington, September 20, 1902.

SIR: I have to acknowledge the receipt of Mr. Leishman's No. 258 of the 26th ultimo, regarding the case of the New York Life Insur-

ance Company. His letter of August 8 to Messrs. J. W. Whittall & Co., managers for Turkey of the said company, is approved by the Department.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULS.

Mr. Leishman to Mr. Hay.

No. 209.]

LEGATION OF THE UNITED STATES,
Constantinople, June 9, 1902.

SIR: Referring to your telegraphic instruction^a of May 24 last, with reference to the request of the Cuban Government that the United States consuls throughout the Ottoman Empire should represent the interests of Cuba until such time as the latter nation should be in a position to appoint its own representatives, I have now the honor to inclose herewith for your information a copy of a note which I addressed to the Ottoman Government immediately upon receipt of the above-mentioned telegram, and the copy of a second note which I feel obliged to transmit to the Porte to-day. During the intervening two weeks between the transmittal of my first note and of my second I have several times called upon the minister for foreign affairs, and during my interviews with him I have urged a prompt decision in regard to this matter. Each time I have been assured that it would be settled satisfactorily and immediately.

You will readily perceive from this example of the method of treating a very simple request how extremely difficult it is becoming to cause any action to be taken on any of the numerous cases which have been pending for a very long period. The Imperial Government shows a disposition to inactivity which is as unaccountable as it is annoying. This "do-nothing" policy is not confined alone to the United States, as I am aware that at least one of my colleagues has suffered from the same cause. * * *

I shall lose no time in telegraphing the reply of the Imperial Government directly it is received.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 1.]

Mr. Leishman to the Minister for Foreign Affairs.

No. 113.]

LEGATION OF THE UNITED STATES,
Constantinople, May 26, 1902.

YOUR EXCELLENCY: I have the honor to inform you that I have this day received telegraphic instructions from my Government to the effect that the President of Cuba has requested the United States Government to cause its consular officers throughout the Turkish Empire to be authorized to use their good offices in representation of the interests of Cuba and its citizens until Cuban consuls shall have been appointed.

I have therefore the honor to request that this necessary permission be granted, and that your excellency will be good enough to notify me within as short a space of time as possible concerning the action taken by the Imperial Government in this matter, as it is necessary that I should at once inform my Government by telegraph.

I have, etc.,

JOHN G. A. LEISHMAN.

^aPrinted, page 6.

[Inclosure 2.]

Mr. Leishman to the Minister for Foreign Affairs.

No. 119.]

LEGATION OF THE UNITED STATES;
Constantinople, June 9, 1902.

YOUR EXCELLENCY: On May 24 last I had the honor to inform you that I had received telegraphic instructions from my Government to request the Imperial Government to allow the United States consuls throughout the Ottoman Empire to act for Cubans and for Cuban interests until such time as the latter country should be able to appoint their own representatives.

Your excellency will observe that since the transmittal of my note to you more than two weeks have elapsed, and as the urgency of the matter was sufficiently evinced to you at the time, I have now the honor to request that an immediate reply may be sent to me, stating whether or not the Imperial Government is willing to accede to the desire of the Cuban Government.

I have, etc.,

JOHN G. A. LEISHMAN.

Mr. Eddy to Mr. Hay.

No. 281.]

LEGATION OF THE UNITED STATES,
Constantinople, September 17, 1902.

SIR: I have the honor to inform you that I have this day had an interview with the minister for foreign affairs. In the course of this interview I brought to his notice the request of the Cuban Government that the American representatives throughout the Ottoman Empire should take charge of Cubans and of Cuban interests until such time as the Cuban Government should be in a position to appoint representatives of their own. * * *

The minister for foreign affairs informed me that the permission to assume protection of Cubans and Cuban interests throughout the Empire was a matter for the personal consideration of the Sultan himself. He could give no other excuse for the unwarranted delay in reply to the legation's many notes on the subject than that His Majesty had not as yet been able to take the matter up. * * *

I have, etc.,

SPENCER EDDY.

**PROTECTION OF AMERICAN INTERESTS BY BRITISH VICE-CONSUL
AT BITLIS.**

Mr. Leishman to Mr. Hay.

No. 237.]

LEGATION OF THE UNITED STATES,
Constantinople, July 24, 1902.

SIR: I have the honor to inclose herewith copy of a dispatch from Consul Bergholz, in which he makes a request, at the instance of the Rev. Dr. Cole, that the British vice-consul at Bitlis be authorized to look after American interests in the Bitlis district.

I have no hesitation in indorsing Mr. Bergholz's recommendation, first having obtained the Department's approval, in which event I am quite satisfied the British Government will cheerfully give its consent, as my English colleague here has frequently suggested the desirability of having our consular agents throughout the Ottoman Empire look after each other's interests in the event of only one of the two powers having an agent in the district.

Awaiting your advices, I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure.]

*Mr. Bergholz to Mr. Leishman.*CONSULATE OF THE UNITED STATES,
Erzerum, Turkey, July 15, 1902.

SIR: Referring to the last paragraph of my dispatch No. 131, dated February 10, regarding the question of intrusting American interests at Bitlis to the British vice-consul and to your reply of February 28, No. 174 M. C., I am now in receipt of a letter from Rev. R. M. Cole, of the American mission, dated July 5, in which he writes me as follows:

"Our vali refuses to recognize any particular interference of the English vice-consul in protection of our American interests till special instructions on the point are given."

Since the Department has not deemed it advisable to take up, at the present time, the question of appointing a consul at Bitlis, and in view of the fact that our missionaries there are wholly dependent upon the British consular representative for the protection of their interests and treaty rights, and for such assistance as they may need, as I am so far away that I am unable to render them with the promptness necessary the aid they may desire, and having, besides, no official recognition either from the Porte or the local authorities outside of the province of Erzerum, I would respectfully recommend that your excellency obtain the consent of the British embassy to having American interests within the Bitlis Province represented by the British vice-consul and have, at the same time, a vizierial letter sent to the governor-general at Bitlis directing him to recognize the British vice-consulate as representing the United States.

I have, etc.,

LEO BERGHOLZ, *Consul.**Mr. Adee to Mr. Leishman.*

No. 216.]

DEPARTMENT OF STATE,
Washington, August 16, 1902.

SIR: The Department is in receipt of a communication, dated the 19th ultimo, from the United States consul at Erzerum, inclosing a copy of correspondence had with your legation in regard to the protection of American interests at Bitlis by the British consul there.

You are instructed to request of the foreign office authorization for the British consul at Bitlis to use his good offices on behalf of American citizens in his jurisdiction.

I am, etc.,

ALVEY A. ADEE,
*Acting Secretary.**Mr. Adee to Mr. Leishman.*

No. 228.]

DEPARTMENT OF STATE,
Washington August 27, 1902.

SIR: In connection with the Department's No. 216 of the 16th instant in regard to the protection of American interests at Bitlis by the British vice-consul there, I have to acknowledge the receipt of your No. 237 of the 24th ultimo.

The Department will be pleased to have you apply to the British ambassador at Constantinople for the necessary authorization for the vice-consul to use his good offices for Americans in his jurisdiction, and to secure vizierial directions sent to the governor-general at Bitlis to recognize such good offices.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Eddy to Mr. Hay.

No. 282.]

LEGATION OF THE UNITED STATES,
Constantinople, September 30, 1902.

SIR: Referring to the correspondence exchanged between the Department and this legation, and particularly to the Department's instruction No. 228 of August 27, ultimo, in relation to the protection of American interests at Bitlis by the British vice-consul there, I have the honor to state that I have received from the ministry of foreign affairs the customary ministerial letter recognizing him in this capacity, and I have this day transmitted same to the British ambassador, Sir Nicholas O'Connor, who has already authorized the official above mentioned to use his good offices for Americans in his jurisdiction.

I have, etc.,

SPENCER EDDY.

FRICION BETWEEN THE UNITED STATES MINISTER AND THE GRAND VIZIER.

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, August 7, 1902.

(Mr. Leishman reports that a number of matters on which the minister for foreign affairs had taken favorable action, and so officially notified him during the past few months, have been countermanded or annulled by the grand vizier, who has repeatedly declined to see Mr. Leishman, a courtesy which is always extended to even the dragomans of the embassies; that no personal feeling could possibly enter into the matter, as the grand vizier has been in office only a few months and Mr. Leishman has seen him but once, when he called to pay his respects and extend congratulations upon the grand vizier's appointment.

In order to exhaust every effort Mr. Leishman again called this date (August 7) upon the grand vizier, but was again refused a reception. He then called upon the minister for foreign affairs and demanded an audience with the Sultan, at the same time requesting the minister to acquaint His Imperial Majesty with the nature of the business.

Mr. Leishman requests that, unless this audience with the Sultan is granted and not only the questions at issue but the principles involved in them are satisfactorily settled, he be given permission to demand his passports; and states that it would be worse than useless and derogatory to the dignity of the United States Government to continue relations with the Sublime Porte if, after weeks and even months of hard and patient work, business which has been fully settled with the minister for foreign affairs is to be rendered unavailing by the grand vizier's conflicting and countermanding orders.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, August 11, 1902.

(Mr. Leishman reports that the Sultan has expressed, through the private secretary, the wish that Mr. Leishman would overlook the dis-

courtesy shown him, on the ground that the grand vizier is an old man and not feeling well, and call on the grand vizier on August 12.

Mr. Leishman has felt compelled to firmly but politely refuse to comply with this wish, on the ground that, although such a course might perhaps result in the settlement of some of the immediate questions at issue, it would, under present conditions, neither be compatible with the dignity of the Government of the United States nor settle the important principles involved; for, unless agreements which have been concluded between Mr. Leishman and the minister for foreign affairs are to be respected, it would be both undignified and useless for the representative of a great power such as the United States to attempt to prosecute its business through such a powerless intermediary.

Mr. Leishman expresses the conviction that good results will ensue from his firm stand.)

Mr. Adee to Mr. Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 14, 1902.

* * * * *

(Mr. Adee suggests that, the Sultan having arranged for Mr. Leishman to meet the grand vizier, it may be best to see him and strongly insist upon adherence to agreements between Mr. Leishman and the minister for foreign affairs.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, August 18, 1902.

* * * * *

(Mr. Leishman states that the emigration of wives and minor children of Ottoman origin is only one of the questions that have been settled with the minister for foreign affairs, but rendered inoperative by action of the grand vizier, who, when Mr. Leishman called to attempt to adjust the difficulties, declined, on four successive occasions, to receive him; that other questions are such as stopping completion of American mission buildings at Harput, for which official permit had been granted; failure to surrender policies of the New York Life Insurance Company seized at Tchouroun, etc., all of which the minister for foreign affairs notified Mr. Leishman had been settled and orders issued putting them into execution. Finding that these orders were ignored, Mr. Leishman, before assuming his present position, went through the farce of again taking up the matter and having fresh orders issued, with same results.

Mr. Leishman states that there are other annoying cases pending, the settlement of a number of which will probably result from action

already taken; but that unless proper satisfaction is insisted on in the present instance the important principle as to whether questions settled with the minister for foreign affairs are to be permitted to be rendered practically null and void by conflicting orders of the grand vizier, and whether the latter's refusal to grant to the Government of the United States treatment equal to that accorded to other great powers is to be tolerated will remain unsettled. * * *)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, August 21, 1902.

(Mr. Leishman reports that, the Sultan having sent his secretary begging Mr. Leishman to overlook the discourtesy of the grand vizier, and at the same time giving assurance that the questions immediately at issue would all be settled, and that His Imperial Majesty had sent the most emphatic instructions to the grand vizier to receive Mr. Leishman at all times in a manner befitting the dignity of the representative of a great power, he has consented to resume ordinary relations.

Having been forced to assume a strong position, Mr. Leishman regrets that the settlement was not based upon broader principles, but states that the action taken will undoubtedly have a good effect; that in view of wishes expressed in the Department's cabled instructions, he deemed it wise to close the affair on an honorable basis and to avoid even the possibility of strained relations.)

Mr. Leishman to Mr. Hay.

No. 252.]

LEGATION OF THE UNITED STATES,
Constantinople, August 21, 1902.

SIR: My several cables will have already explained the nature of the trouble which I have experienced during the past two weeks and the manner in which they have been adjusted.

The maintenance of the dignity of the Government of the United States and its prestige in Turkey made it impossible for me to avoid the issue, for, while the immediate questions involved were of trifling importance, the principles involved were of a character that could not be overlooked, as I found myself completely blocked, the minister for foreign affairs being unable to put into execution the different questions that had been settled, owing to conflicting orders of the grand vizier, who on four successive occasions had declined to see me. Under these conditions it appeared useless to me to attempt to proceed further through the ordinary channels, and I could see no other way but to appeal the matter to His Imperial Majesty and assume the position that until such time as the questions which had been finally settled with the foreign office were put into execution and proper explanation made that I could have no particular relations with the Sublime Porte.

Although His Imperial Majesty avoided an unpleasant personal interview, he has treated the entire matter in the most gracious and considerate manner, appealing to me on personal grounds to overlook the matter and arrange an amicable settlement, and besides giving me the assurance that the difficulty would be promptly adjusted. He intimated his intention to establish a commission, with a view to adjust if possible the troublesome questions of naturalized American citizens of Ottoman origin who returned to their native land, who, according to the Ottoman laws, have never ceased to be Turkish subjects, and also the emigration of the immediate families of naturalized American citizens of Ottoman origin whose husbands and fathers are permanently established in the United States.

Now that the immediate troubles have been arranged, I have little doubt but that the Sultan will send for me to come and see him within the next week or ten days, as my personal relations with His Imperial Majesty are most friendly.

Trusting that my actions will meet with your approval, I have, etc.,

JOHN G. A. LEISHMAN.

Mr. Adee to Mr. Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 22, 1902.

(Mr. Adee states that the settlement reached, as reported in Mr. Leishman's telegram of August 21, is gratifying; that the broader principle thus established should admit of ready adjustment of differences; that it is indispensable that dealings between governments should be conducted through adequately empowered and responsible agencies; and that, if the Turkish minister for foreign affairs is incompetent to assure the faithful execution of his engagements, Mr. Leishman must treat with some one who can give such assurance.)

Mr. Leishman to Mr. Hay.

No. 253.]

LEGATION OF THE UNITED STATES,
Constantinople, August 23, 1902.

SIR: I am just in receipt of your cable of yesterday, and am pleased to note that the settlement reached in regard to the recent difficulty meets with the Department's approval.

The idea conveyed in latter part of your telegram is exactly in accordance with the line of action I pursued, i. e., having concluded a number of small questions with the imperial minister of foreign affairs, who notified me officially of their settlement and also of the fact of orders having been issued to the several departments putting them into execution, I waited a reasonable length of time for these orders to be carried out, but finding that the local authorities had not received the promised instructions, owing to conflicting orders issued by the grand vizier, I called the attention of the minister for foreign affairs to the fact, who seemed very much annoyed and promised to have the trouble

corrected at once, afterwards showing me a copy of renewed orders to minister of the interior, minister of posts, etc., instructing them to immediately put former orders into execution, but the same result followed. I then endeavored on four different occasions to see the grand vizier with a view of having him correct the trouble, but he repeatedly declined to see me on one excuse or another, at the same time referring me to the minister for foreign affairs.

Finding myself thus completely blocked, the minister for foreign affairs, despite his apparently good intention, appearing incompetent to put his orders into execution, owing to superior orders of the grand vizier, who declined to see me, there was no other diplomatic remedy left but to appeal the matter to the Sultan. So, consequently, I notified the minister for foreign affairs that the position I found myself in was incompatible with the dignity of the United States Government, and that until such time as the questions which had been settled were put into execution and proper explanations made that I could not continue my ordinary relations with the Sublime Porte, at the same time demanding an audience with His Imperial Majesty.

The outcome you are already made familiar with by previous communications, and I can only hope that the apparently good results will prove lasting. I am of the opinion that the action taken by His Imperial Majesty will assure more respectful and considerate treatment at the Porte in the future, and that the position assumed will have a good effect generally.

I have, etc.,

JOHN G. A. LEISHMAN.

JEW IN ROUMANIA—DISCRIMINATIONS AGAINST, CONDITION OF HELPLESSNESS TO WHICH THEY ARE REDUCED, AND OBJECTION OF UNITED STATES GOVERNMENT TO IMMIGRATION OF SUCH PERSONS.

Mr. Leishman to Mr. Hay.

No. 256.]

LEGATION OF THE UNITED STATES,
Constantinople, August 26, 1902.

SIR: I have the honor to acknowledge the receipt of your unnumbered instruction of August 12, 1902.

I shall lose no time in acquainting the Sublime Porte with the contents of the circular instruction^a therein inclosed which deals with the situation of the Jews in Roumania.

I have, etc.,

JOHN G. A. LEISHMAN.

CONGRATULATIONS ON ANNIVERSARY OF SULTAN'S ACCESSION TO THRONE.

President Roosevelt to the Sultan of Turkey.

[Telegram.]

WHITE HOUSE,
Washington, September 1, 1902.

I ask Your Majesty to accept my congratulations upon the anniversary of your accession to the Ottoman throne.

THEODORE ROOSEVELT.

The Sultan of Turkey to President Roosevelt.

[Telegram.—Translation.]

YILDIZ, *September 1, 1902.*

I have received with the keenest pleasure your excellency's telegram expressing your sincere felicitations on the occasion of the anniversary of my accession to the throne. I beg you to accept my warmest thanks.

ABDUL HAMID.

TREATY OF 1830—INTERPRETATION OF ARTICLE IV. ^a*Mr. Leishman to Mr. Hay.*

No. 268.]

LEGATION OF THE UNITED STATES,
Constantinople, September 3, 1902.

SIR: I beg to inclose herewith copy of a note received from the Sublime Porte in regard to Article IV of the treaty (of 1830) together with copy of my reply, which I trust will meet with your approval.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 1.]

The Sublime Porte to Mr. Leishman.

Note verbale.]

MINISTRY OF FOREIGN AFFAIRS, *August 21, 1902.*

By its note verbale of January 2, 1901, the ministry of foreign affairs transmitted to the legation of the United States of America a list containing the names of those American citizens who, being charged with various offenses, are protected from judicial prosecution by reason of the difference of views existing between the two Governments relative to the interpretation of Article IV of the treaty of 1830, and once more emphasized the necessity of putting an end to this difference.

The said note has hitherto remained unanswered, and it appears from a recent communication to the Department of Justice that the United States consul still continues to decline to notify the said American citizens of the summonses to appear which have been issued against them by the Ottoman courts, and thus wholly to obstruct the action of justice.

Thus it is that the judicial steps recently taken against Ernest Salomon, an American citizen, residing in Timoni street, who is charged with having beaten and wounded one Yaco, have been entirely fruitless.

As the Imperial ministry has already stated at length in its preceding communications the reasons which render it incumbent upon it to put an end to a situation which is so incompatible with the incontestable right of the Imperial Government, it deems it unnecessary to take up this matter again. Confiding in the sentiments of justice which actuate the United States legation, it feels convinced that said legation will itself recognize the necessity of finally reaching an understanding on this subject, and that it will take the necessary measures in order that this question may, without further delay, be settled in accordance with the principles of law and with the spirit of the treaties that have been concluded by the American Government with the Sublime Porte.

[Inclosure 2.]

Mr. Leishman to the Sublime Porte.

Note verbale.]

LEGATION OF THE UNITED STATES,
Constantinople, September 2, 1902.

In reply to the note verbale of the Sublime Porte dated August 21, 1902, the legation of the United States of America has the honor to advise the Imperial ministry

^aSee Foreign Relations, 1900, page 909.

of foreign affairs that it does not consider itself competent to make any alterations or modifications in the terms and conditions of the solemn agreements entered into between the Imperial Ottoman Government and the Government of the United States of America, as evidenced by the treaty concluded by the two Governments under date of 7th May, 1830, nor can it change or modify the interpretation already given by the Department of State. Consequently the legation is unable to instruct the United States consulate-general and the several consulates to deviate from the construction placed by the United States Government on Article IV of the treaty of the above mentioned date, and from the position which it has always maintained, and which position is well known to the Imperial Ottoman Government.

This legation desires here to point out that the United States consulate-general and consulates in Turkey, in declining to serve on United States citizens warrants or summonses to appear in Ottoman criminal or correctional courts, are not prompted by any spirit of infringing the action of justice. In the same way that the United States consular courts are ready to hear criminal or correctional actions against Americans accused and prosecuted by American citizens or other foreigners, so are they ready to hear such actions if the accused Americans are prosecuted by the Imperial Ottoman Government or by Ottoman subjects appearing as *partie civile*. And the Sublime Porte may be sure that in case such accused American citizens should be found guilty they will be convicted and punished according to the provisions of American law.

As a general principle, the legation can not consider for a moment the waiving of any of the rights and privileges enjoyed by the citizens of the United States. But in order to avoid if possible the friction which constantly arises, it would respectfully suggest the advisability of the imperial Ottoman Government instructing its representative at Washington to take the matter up direct with the Department of State, with a view of arriving at a solution satisfactory to both Governments.

Mr. Adee to Mr. Eddy.

No. 243.]

DEPARTMENT OF STATE,
Washington, September 25, 1902.

SIR: I have to acknowledge the receipt of Mr. Leishman's No. 268, of the 3d instant, transmitting a copy of a note from the sublime porte in regard to the interpretation of Article IV of the treaty between the United States and Turkey of May 7, 1830.

His note verbale of the 3d instant in reply to that of the minister of foreign affairs is approved by the Department.

I am, etc.,

ALVEY A. ADEE, *Acting Secretary.*

ACCIDENT TO PRESIDENT ROOSEVELT.

The Sultan of Turkey to President Roosevelt.

[Telegram.—Translation.]

YILDIZ, September 4, 1902.

I have heard with great sorrow of the accident that has befallen you. Happily the accident has been attended with no serious consequence to Your Excellency. I express to you my delight and congratulations therefor.

ABDUL HAMID.

President Roosevelt to the Sultan of Turkey.

[Telegram.]

WHITE HOUSE,
Washington, September 5, 1902.

Your Majesty's cordial message is most acceptable and I thank you.

THEODORE ROOSEVELT.

URUGUAY AND PARAGUAY.

DEPOSITION OF PRESIDENT ACEVAL AND ELEVATION OF VICE-PRESIDENT CARVALLO TO PRESIDENCY OF PARAGUAY.

Mr. Finch to Mr. Hay.

No. 507.]

LEGATION OF THE UNITED STATES,
Montevideo, Uruguay, January 11, 1902.

SIR: A revolution in Paraguay, resulting in the deposition of President Aceval, was started in Asuncion on the morning of the 19th instant.

It was, as will be seen by the inclosed translation, a bloodless affair; but out of it grew a discussion in the Paraguay Congress which was followed by shooting, one person being killed and several wounded.

I inclose newspaper translations referring to the revolution and the shooting incident, and the alleged cause for the attack on the Government.

I also inclose copy of a letter of an American resident of Asuncion relative to the condition of the country, and giving some reason why the discontented ones dislike the deposed President.

Respectfully,

WILLIAM R. FINCH.

[Inclosure.—Translation.]

[From the Montevideo Tribuna, January 11, 1902.]

The revolution in Paraguay—A complete chronicle.

CONGRESS CONVOKED—VIOLENT SCENES—SHOTS AND STABS—SENATOR INSFRAK KILLED—SENATORS AND DEPUTIES WOUNDED—GENERAL CABALLERO'S WOUND—THE ARTILLERY FIRING AGAINST CONGRESS—FIFTEEN WOUNDED—THE NEW PRESIDENT—HIS CABINET.

We publish below dispatches received about the Paraguayan revolution which fully confirm the information advanced by La Tribuna Popular on the subject:

PRELIMINARIES.

ASUNCION, *January 10.*

Yesterday at daybreak an unusual movement of people, coming and going from the Government house and its surroundings, was noticed in the city. Shortly after it was known that a revolutionary committee, composed of Generals Caballero and Escobar, Colonel Escurra, the minister of war and the minister of finance—Señor Moreno and Senator Fleitas—had been formed.

This committee, in its session of that night, had resolved to take possession of the situation, removing from the Government the inconvenience presented by the President, Dr. Emilio Aceval, and the ex-President, General Egusguiza.

THE IMPRISONMENT OF ACEVAL.

Disposing of the forces of the cavalry regiment, a squad from that body was detached at 4 a. m., with the object of taking possession of President Aceval and demanding his resignation. This mission was fulfilled, but when he was asked to resign President Aceval refused to do so, and he was then informed that he must go to the cavalry barracks, where he would be kept a prisoner until the revolutionary committee decided what they would do with him.

This was carried into effect. In the meantime another squad from the same cavalry regiment, under the orders of officers acting for the minister of war, arrested the chief of police and certain military men whose friendship toward President Aceval and General Egusguiza was well known.

The comings and goings aroused the attention of the people, and General Egusguiza was advised about what was occurring just as a group of soldiers, commanded by an officer, was on the way to his house with the purpose of arresting him.

Elding them, he went to the Argentine legation, where he was received by the minister, Señor Lauro Cabral, whom he informed about the events. General Egusguiza is still sheltering there.

While these events were occurring in the city, the revolutionary committee, in permanent session, addressed invitations to the Senators and Deputies of the same political opinion to call a meeting of Congress in order to deliberate about questions involved.

IN THE CONGRESS.

Overcoming the resistance made by some of the members of Congress and in opposition to others, a quorum was formed at 12.15 p. m. yesterday, the Vice-President of the Republic, Señor Hector Carvallo, who shares the political opinions of Generals Caballero and Escobar, being present as president of the Assembly.

At the opening of the session it was suggested that the rule of President Aceval should be declared at an end and the Vice-President, Señor Carvallo, given charge of the executive power. A numerous bar, totally composed of revolutionary elements, with their chiefs at the head, occupied the place destined for the public.

The proposition presented by Senator Fleitas was received by the public with enthusiastic manifestations of adhesion and loud cheers for the revolution and its chiefs.

After the address relative to the deposition of President Aceval, Senator Bogarin made a speech declaring that the motion was contrary to the text and spirit of the constitution; that Congress lacked the power to sanction that motion and could not in any case legalize the acts which the revolution had effected by violence.

The bar then protested against the orator, and Senator Bogarin, excitedly, and losing his presence of mind, expressed emphatic reproaches against the bar and the people, who abused their strength, using it to interrupt and insult independent legislators.

SCENES OF BLOODSHED.

Suddenly the sound of a shot was heard, and after the first shot numerous others followed, sounding as if a great bundle of rockets had been thrown into the center of the house. The confusion became terrible and insults multiplied and blood flowed, the men having lost their presence of mind in the excitement and fury of the struggle.

The firing of revolvers, the using of daggers, canes, throwing of chairs, and the exchange of blows transformed the house into confusion and chaos.

While this was occurring, General Escobar, going along the corridor, reached the balcony of the house of Congress which faces the plaza, and, taking his handkerchief, signaled to the commander of the troops which were stationed there.

The noise of the shots and the cries of the people caused General Escobar's signal to be wrongly interpreted, and the commander ordered the infantry and artillery to open fire against the house of Congress. The firing by the infantry and the cries of the people, who asked that the firing cease against Congress, caused a panic among the inhabitants of the city, many of whom had come to witness events from the avenues and the plaza.

Meanwhile the wounded were being attended to and the dead taken up in the room of sessions.

Among the former was Senator Insfran, who had received three bullet wounds, Senators Corvalan and Fleitas, General Caballero and Deputy Carreras being gravely wounded.

Senator Bogarin, against whom the firing began, was slightly wounded, as were also some other representatives, shorthand writers, the brothers Perez, and other individuals not very well known.

In the street fifteen persons were wounded, some of whom will not recover.

THE NEW CABINET.

After the house of Congress had been cleared and amid the greatest silence the dismissal of the President of the Republic, Dr. Emilio Aceval, was voted, and the Vice-President, Señor Hector Carvalho, was given charge of the Government. The new President, after going through the usual formalities, appointed the new cabinet, which was designated in the following form:

Minister of war, Col. J. A. Escurra.

Minister of the interior, Senator Eduardo Fleitas.

Minister of foreign affairs, Manuel Dominguez.

Minister of justice, José Trala.

The national departments and commercial houses have remained closed all day and all night, business in the port and custom-house having been suspended also.

During the afternoon and the night numerous patrols went along the principal streets and were stationed in the plazas. Groups were not permitted to form in the public thoroughfares.

IN THE ARGENTINE LEGATION.

The Argentine minister, Dr. Lauro Cabral, the secretary of the legation, Dr. Carlos F. Burgos, and the consul attended the families of President Aceval, General Egusguiza, and of other officials who have sought asylum in the legation. As soon as the scenes of violence occurred the Argentine legation omitted no effort to avoid further bloodshed and, thanks to its good offices, lamentable catastrophies were not more numerous.

The secretary of the same legation, Dr. Burgos, together with the consul-general of France, Mr. A. E. de Livio, and the consul of Uruguay, Señor Silva y Autuna, got the revolutionary committee and the new President to allow President Aceval to be removed from his prison in the cavalry barracks to the house of the Argentine legation. This was done, the three persons above mentioned accompanying him in a carriage, surrounded by a force, friends and people.

Later on in the evening the secretary of the Argentine legation and the consuls accompanied the family of President Aceval to the house of the legation, where they are now united and protected from any emergency. It need not be said that the aspect of the legation house, with the numerous guests it has received since yesterday, is extremely animated. The minister, the secretary, and all the staff of the legation and house do all in their power to attend to the refugees and make their sad situation comfortable.

THE NEW MINISTERS.

Eduardo Fleitas has been appointed minister of the interior. He is one of the most important men of the Republican party. He was senator, deputy, and a candidate of ex-President Aceval for the same ministry he holds now.

Dr. Manuel Dominguez will be in charge of the portfolio of foreign affairs. He is a distinguished lawyer and writer. He was formerly rector of the university.

Fulgencio Moreno was minister of finance of the past situation and will hold the same office with the new situation. He was Deputy to the National Congress and was one of the directors of the revolution yesterday.

Dr. Jose Trala, minister of justice and public instruction, was elected deputy against the candidate attributed to Dr. Aceval. He is young, illustrious, and of firm character.

General Escurra, a very active military man, still holds the portfolio of war, which place he held in the Government of Señor Aceval, and from which he prepared and directed the revolution.

FEARS OF VIOLENCE.

Notwithstanding the formation of the new cabinet, the political situation can not be considered altogether clear. It is feared that fresh occurrences may complicate the situation.

Yesterday, after the short telegram in which I communicated the news of the revolutionary movement, I could not continue sending information because the telegraph was intervened and only began to work again at 9 o'clock p. m. today.

Buenos Aires, *January 11.*

El País publishes a long interview held by one of its reporters with Dr. Cesar Gondra during his stay in this city about the Paraguayan revolutionary movement and its causes.

It says: "Señor Hector Carvallo, who has assumed the Presidency of the Republic, is a man of good principle and is surrounded by elements which are a guaranty for the welfare of his country."

[Inclosure 2.—Translated from the Montevideo Día, dated January 10, 1902.]

The President of Paraguay—Revolutionary movement—Its causes and antecedents.

Yesterday, at 10 o'clock in the morning, a revolutionary movement occurred in Asuncion del Paraguay, without bloodshed, without noise of arms, which immediately resulted in the imprisonment of the President of the Republic, Dr. Emilio Aceval, in the artillery barracks. A strange case—the chief magistrate of Paraguay has fallen, at least for the moment, on account of a revolution, inspired and carried into practice by two of his own ministers, Col. Juan Antonio Escurra and Señor Fulgencio Moreno, who, although belonging to the same Colorado party as the President, differ in opinion at present, the former considering that a radical policy should be adopted against the liberals or civic accordists, Dr. Aceval not sharing this opinion, but being in favor of conciliatory measures, although this did not win for him the help of his traditional adversaries, who looked unfavorably on him, as is usually the way with those belonging to an opposite party.

For some time the radical Colorados have been quietly opposing Dr. Aceval. There were latent causes for great discontentment and bitter differences between the political elements presided over by the Paraguayan President, and lately these differences had increased between the heads of the various political circles which had brought Aceval to the Presidency. These differences existing within the Government circle, were stimulated by the cabinet crisis recently caused by the resignation of the minister of the interior, influenced chiefly by the problem of the future Presidency, and ended in the revolution, or rather the change of Government, since the movement has occurred within the Government and was caused by the men in power.

Necessarily a conflict had to occur between the two Colorado factions—one exclusivist, that of Generals Caballero and Escobar, the other moderate and conciliatory, that of the President and General Eguzquiza. The former, the date of the Presidential election approaching, supported the candidacy of Señor Guillermo de los Rios, ultra radical.

The President opposed it.

Under these circumstances the cabinet crisis occurred, Señor de los Rios, the minister of the interior, resigning, but not without having previously made an alliance with his colleagues of war, Colonel Ezcurra, and of finance, Señor Moreno, who appear as the heads of the plot against President Aceval.

On the same occasion Dr. Badillo, minister of justice, also resigned, but not for political reasons, it seems.

This is the origin of the revolution of yesterday. As will be seen by our telegraphic service, that movement has triumphed, the resignation of Dr. Aceval having been obtained. Congress accepted it, and in his place Señor Carvallo was named.

Unfortunately the movement has not ended without bloodshed, several personages having been wounded in the fight which occurred yesterday afternoon.

[Inclosure 3.]

Mr. Wavrunek to Mr. Finch.

DEPARTMENT OF IMMIGRATION,
GENERAL OFFICES OF BUREAU OF INFORMATION,
Asuncion (Republic of Paraguay), December 5, 1901.

DEAR SIR: There is no doubt that industrially and financially Paraguay is in a bad way, gold having advanced to nearly 1,000, and each day it is becoming harder to live and to do business. To my mind this state of affairs is due to the propensity of the people to live and dress in style without producing the means to buy those things. Ways of communication, agriculture, etc., are neglected, and a lot is wasted on soldiers, uniforms, gold braid, and firecrackers. Yet this is not the fault of any political faction nor of the existing Government, but rather of the whole people—the ruts into which they have gotten. I believe that the present administration is as clean, honest, and anxious to do its best as any that can be selected in Paraguay. President Aceval certainly is a man of ability and possesses the confidence of the

majority of his people and, I am sure, of foreigners very generally, though the latter do not mix up in national politics. The impending crisis is due to causes outside of politics. The present cabinet consists of men than whom there are none better in Paraguay, especially the ministers of foreign affairs and of the interior.

There are six daily papers here—*El País*, the Government organ; the *Cívico*, a decent organ of the opposition; the *Democracia*, an organ of Dr. Baez (present representative in the Pan-American Congress in Mexico, who aspires to the Presidency), opposed to the administration and to foreigners, and the *Paraguay*, whose principal object, evidently from personal motives, is to attack Minister de los Ríos. Then there is the *Patria Paraguaya*, organ of the priests, and, lastly, the *Patria* (called here "*Chica*," because it is small). The last named is conducted by a son of the tyrant Lopez and Madam Lynch, and his attitude is explained by the fact that he has a pending claim of many years' standing against the Government to some 1,000 square leagues of land, as the illegitimate heir of his father. It is lucky for Paraguay that he is impecunious as well as unprincipled, otherwise he might do more damage than he is doing. He owes the Government about \$1,000 for telegraph service and the Government refused to trust him further, hence another motive for his attacks. While he criticises the cut of President Aceval's coat and indulges in other childish and nauseating tirades, he does not propose (nor do any of the other organs) any remedy for Paraguay's ills.

Sincerely, yours,

J. WAVRUNEK.

RECEPTION OF OFFICERS OF U. S. S. IOWA BY THE PRESIDENT OF URUGUAY.

Mr. Finch to Mr. Hay.

No. 520.]

LEGATION OF THE UNITED STATES,
Montevideo, Uruguay, February 18, 1902.

SIR: Yesterday afternoon, at the request of Capt. Thomas Perry, U. S. Navy, commander of the U. S. S. *Iowa*, now lying in this port, I introduced him to President Cuestas. Captain Perry was accompanied by several officers from the *Iowa*, who were also introduced to the President.

The reception accorded Captain Perry and his officers by President Cuestas was cordial. The stay was short, but the President was very frank in his expressions of preference for the United States. He spoke of the pleasure it had given him when he learned of the personal attention shown his son, Minister Juan Cuestas, by Secretary of State Hay and President McKinley, on the minister's arrival in Washington. He regretted, he said, his inability to satisfactorily express his gratitude for their treatment of Uruguay's representative.

He said also he had frequently wept over the assassination of President McKinley, whom he held in the highest esteem.

Respectfully,

WILLIAM R. FINCH.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Finch to Mr. Hay.

No. 545.]

LEGATION OF THE UNITED STATES,
Montevideo, Uruguay, June 20, 1902.

SIR: As instructed in your cable^a dated the 24th of May last I asked and obtained from the Government of Uruguay permission for

^a Printed, page 6.

United States consuls within its jurisdiction to use their good offices in representation of the interests of Cuba and of its citizens until Cuban consuls shall have been appointed, and at once notified the United States consuls at Montevideo, Colonia, and Paysandu. * * *

Respectfully,

WILLIAM R. FINCH.

Mr. Finch to Mr. Hay.

No. 570.]

LEGATION OF THE UNITED STATES,
Montevideo, Uruguay, August 26, 1902.

SIR: I inclose copy and translation of a communication from the foreign office of Paraguay, dated August 12, 1902, inclosing a decree of the acting President recognizing United States consuls in that Republic as representatives of Cuba and Cuban citizens and interests until Cuban consuls shall have been appointed.

I also inclose copy of my response, dated the 26th instant, also copy of my communication to Consul John N. Ruffin, at Asuncion, notifying him that he is authorized to use his "good offices in the interest of Cuba and Cuban citizens until Cuban consuls shall have been appointed or until otherwise instructed."

Respectfully,

WILLIAM R. FINCH.

[Inclosure 1.—Translation.]

Mr. Fleytas to Mr. Finch.

MINISTRY OF FOREIGN AFFAIRS,
Republic of Paraguay, Asuncion, August 12, 1902.

MR. MINISTER: I have had the honor to receive your excellency's note, dated the 26th of May last, expressing that at the request of the President of Cuba the honorable Secretary of State at Washington had instructed your excellency to solicit from my Government the recognition of the consuls of the United States in this country to represent the interests of Cuba until Cuban consuls shall have been appointed.

In response, I have the pleasure to say to you, Mr. Minister, that in accordance with the promise communicated to you in the telegram of June 9 last, by decree of this date, an authentic copy of which is inclosed, the President of the Republic has been pleased to recognize the North American consul in Asuncion as the representative of Cuban interests in Paraguay, as I already had the satisfaction to make known to your excellency in my telegram of to-day.

I avail myself, etc.,

E. FLEYTAS.

[Subinclosure.—Translation.]

ASUNCION, *August 12, 1902.*

In view of the note of the North American legation, dated the 26th of May last, expressing that at the request of the President of Cuba the foreign office of its country solicits that the North American consul in this country may represent the interests of Cuba and of its citizens until consuls of that nation shall have been appointed,

The Vice-President of the Republic, in the exercise of the Executive power, decrees:

ARTICLE 1. The North American consul in Asuncion is recognized as the representative of the interests of the Cuban Republic, in accordance with the expressed request of the North American legation.

ART. 2. Communicate, publish, and give to the Official Register.

CARVALLO.

E. FLEYTAS.

It is a copy of the original;

CLETODO J. SANCHEZ,
Subsecretary.

[Inclosure 2.]

Mr. Finch to Mr. Pleytas.

LEGATION OF THE UNITED STATES,
Montevideo, Uruguay, August 26, 1902.

SIR: I take pleasure in acknowledging the receipt of your excellency's communication dated the 12th instant, in response to mine of the 26th of May last, in which you inclose authenticated copy of a decree of the President of Paraguay recognizing the United States consuls in your Republic as representatives of Cuban interests and citizens until that country shall appoint Cuban consuls.

I will state for the information of your excellency that no telegram was received at this legation on the 12th instant, or at any other date, referring to this action on the part of the President of Paraguay.

Copy and translation of your excellency's communication and the decree which you were pleased to inclose will be sent to the Department of State at Washington.

I have, etc.,

WILLIAM R. FINCH.

[Inclosure 3.]

Mr. Finch to Mr. Ruffin.

LEGATION OF THE UNITED STATES,
Montevideo, Uruguay, August 26, 1902.

DEAR SIR: Paraguay having consented in a decree issued by the President of that Republic dated the 12th instant, you are authorized, in addition to your duties as United States consul, to use your good offices in the interest of Cuba and its citizens until Cuban consuls shall have been appointed, or until otherwise instructed.

Very truly, yours,

WILLIAM R. FINCH.

VENEZUELA.

THREATENED SEIZURE OF THE "VIKING," WHICH SAILED FOR A VENEZUELAN PORT IN POSSESSION OF INSURGENTS UNDER CLEARANCE OF UNITED STATES CONSUL AT PORT OF SPAIN, THE VENEZUELAN CONSUL AT THAT PORT HAVING REFUSED THE VESSEL CLEARANCE.

Mr. Hay to Mr. Bowen.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 7, 1902.

(Mr. Hay directs that inquiries be made into fact and circumstances of alleged firing upon steamer of New York and Bermudez Company in San Juan River.)

Mr. Bowen to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Caracás, April 8, 1902.

(Mr. Bowen reports that the Venezuelan minister for foreign affairs states that his Government knows nothing about a steamer of the New York and Bermudez Company having been fired upon in San Juan River, and that the act was probably committed by revolutionists.

Mr. Bowen states that the steamer in question is at Trinidad, and suggests that it might be advisable to send a United States war vessel there to investigate. * * *)

Mr. Bowen to Mr. Hay.

No. 85.]

LEGATION OF THE UNITED STATES,
Caracás, April 20, 1902.

SIR: I have the honor to forward some memoranda in regard to the firing upon of the steamer *Viking*. These documents were filed with me by the managing director of the New York and Bermudez Company, Mr. Rake.

I am, etc.,

HERBERT W. BOWEN.

[Inclosure 1.]

Memoranda in matter of refusal of Venezuelan consul at Port of Spain to issue clearance papers to the steamship Viking, of the New York and Bermudez Company.

[April 3. Received 4.30 p. m.]

Cable from Major Rafferty advising that the Venezuelan consul had refused clearance papers to steamship *Viking*. After consulting American consul, Port of Spain, and the captain of the U. S. S. *Hartford*, the American consul signed papers. Requested us to notify the American minister at Carácas.

[April 3, 1 p. m.]

Cabled to Major Rafferty advising him that his complaint would be brought to the immediate attention of the American minister.

[April 5. Received 11 a. m.]

Major Rafferty cabled advising us that the steamship *Viking* had been fired upon by unknown parties in San Juan, Frances Rivers, at 2 o'clock in the morning. Revolution increasing and in possession of Caño Colorado; property and lives Guanoco great danger; requesting us to apply for protection to the American minister at Carácas. Reports U. S. S. *Hartford* at Port of Spain.

[April 5. Sent 1.15 p. m.]

Cabled to Major Rafferty that we had advised American minister of Guanoco situation; after consulting with captain of *Hartford* to let us know as soon as possible if another war ship was needed at Port of Spain.

[April 5.]

Received letter of 2d from Port of Spain. Major Rafferty advises us that he is having difficulty with Venezuelan consul, who has refused to clear the steamship *Viking* for Caño Colorado on the ground that the latter place has been in the hands of the revolutionists. U. S. S. *Hartford* at Port of Spain, and as the *Viking* must go to Guanoco, if necessary he will ask protection from the commander of the *Hartford*.

[April 6.]

Letter to Major Rafferty—probably received by him on the morning of the 10th. Acknowledged his cable of 5th instant and advised him that translation of his message had been handed to the American minister. We were uncertain from his message whether the danger at Guanoco was due to revolutionary disturbances or not, although we assumed that to be the case; that the American minister dreaded to send the *Hartford* to Guanoco in view of the fact that she was a training ship and carried such a large proportion of young men, and that a landing party might be compelled to remain there for a long time, until the revolution had subsided; that it had finally been decided that he should consult the captain of the *Hartford* and advise whether another war ship was necessary at Port of Spain, and since he was in touch with the *Hartford* the captain of that vessel would doubtless not hesitate to act in any emergency that might arise. We suggested further, in view of Mr. Bowen's advices to the State Department, assuming that the captain of the *Hartford* would report to his Department, together with our cable report to the New York office, his proper relief ought to be close at hand.

[April 7, 10.40 a. m.]

Received cablegram containing errors in transmission that obscured the sense and were not able to determine contents of message until repetitions were received 6.25 p. m. Major Rafferty cabled acknowledging our cable of the 5th. Informs us of his conference with the captain of the *Hartford* and that the *Hartford* will sail for St. Croix the following morning; will require small war ship. Captain of *Hartford* has instructed American consul, who has notified Washington of *Viking* incident.

[April 7.]

Letter to Major Rafferty, probably received by him on 12th; acknowledging his cable of even date, and advising him that prior to receipt of repetitions enabling us to decipher his message, the American minister had called and stated that he had received

a communication from the State Department covering the *Viking* incident, and as soon as we translated his cable we had laid the contents before the American minister; that in view of the great difficulties surrounding cable communication between Port of Spain and Carácas, and the infrequency of mails, the American minister suggested that in such emergencies it would seem to be desirable that the American consul at Port of Spain should take the question up direct.

[April 12. Received 8.50 a. m.]

Major Rafferty cables acknowledging our letter of 6th and says we correctly understand Guanoco situation to be due to revolutionary disturbances; will leave to-day for Guanoco, protecting ourselves, and return April 14; was detained by Venezuelan consul, who threatens seizure of steamship *Viking*; American war ships have left Port of Spain; American consul slow to act.

[April 12. Sent 1.45 p. m.]

Cable to Major Rafferty acknowledging his cablegram; have seen the American minister, advising him to make demand for all needful papers of the Venezuelan consul, in the presence of his lawyer as witness, making statement of cause assigned if he refuses; in case the American consul refuses to act, to cable New York for war ship.

[April 12.]

Major Rafferty's letter of 10th received. Major Rafferty says that he has discovered that the Venezuelan consul proposed to send a gunboat to seize the steamship *Viking* if he left for Guanoco that day; he points out the necessity of going to Guanoco to provision our men there and to attend to important work under exploitation; he will consult the American consul and be guided by circumstances; calls attention to the gravity of the situation, and points out that the State Department should come to our relief by affording necessary protection, or permit us to properly arm ourselves to insure our own protection.

[April 12, 6.25 p. m.]

Cabled to Major Rafferty, cautioning him to act within the law. Advised him we were accomplishing everything possible in absence of his detailed report.

[April 13.]

Received the following letter from Major Rafferty, dated April 7, from Port of Spain:

DEAR SIR: As reported in my letters by royal mail, Dr. Ponce and myself left here for Guanoco on the 2d of April.

It was on the same day that the consul refused clearance papers on the ground that Caño Colorado was in possession of the revolutionists.

He was particularly careful to spring this on us late in the day, after having kept us delayed on one pretext or another, and there is no doubt in my mind that the Warner & Quinlan people brought him his instructions and that he was trying to delay us all he could. As it was imperative that Dr. Ponce and I should go to Guanoco without delay, I appealed to the American consul at Port of Spain, who hesitated to act until convinced by the captain of the *Hartford*. American consul, Port of Spain, then signed the necessary papers. The Venezuelan consul is evidently of wrath at what he considers our lack of respect, and made a number of covert threats as to what would happen if his orders were disregarded. However, the captain of the *Hartford* told me to go ahead, and that he would take care of any side shows that might be tried on us.

On reaching Caño Colorado we found Gen. Horacio Ducharme in control of custom-house, and he entered and cleared us as chief of the revolution.

Dr. Ponce and myself reached our destination on the evening of the 2d, and made every possible arrangement to meet the Warner & Quinlan people if they came our way, and I left our place at 10 o'clock on the night of April 3, well satisfied that our people could hold down the situation. Everything went well until we reached the junction of the San Juan-Frances rivers, when I was suddenly called by captain of *Viking*, who reported that we were being fired upon, and he at the same time promptly seized a barker and fired back. I do not know who the parties were, but there were three rowboats with quite a number of men. We continued on our way,

and on my return here I immediately reported to the American consul and the captain of the *Hartford*. The latter advised the American consul to notify the American minister at Caracas, which he did by cablegram in plain words, of which I inclose you a translation into code. I also inclose copies of cables sent and received between your office and this.

In compliance with your last cablegram, I immediately consulted the captain of the *Hartford* and forwarded you a cablegram in accordance with his advice. He also instructed the American consul to notify Washington of the fact that the *Viking* was fired upon and that the manager of the company requested the *Hartford's* protection.

Whether my action fits in with your views or not is difficult for me to know, but the fact remains that the country is in such a state that we need either direct protection from our Government or proper authority to defend ourselves, and such authority is not likely to be given from the only place where it could come, viz, Washington.

Yours, truly,

MALCOM A. RAFFERTY.

J. L. RAKE, Esq.,
Private Box W 390, Caracas, Venezuela.

[April 14, 1.15 p. m.]

Cabled Major Rafferty in order to avoid giving pretense for seizure of steamship *Viking* not to go to any Venezuelan ports until further advised.

[Inclosure 2.—Translation of opinion Dr. J. B. Bance in re *Viking* incident.]

Dr. Bance to Mr. Rake.

CARACAS, April 14, 1902.

DEAR SIR: Complying with your wishes, I have given my most special attention to the incident of the *Viking*, although we have not yet the necessary information as to exactly what has happened, which would serve as a sure guide for us to give an opinion in the matter.

The facts such as have been stated and on which I base my conclusions are as follows:

The steamship *Viking* was in absolute necessity of going from Port of Spain to Caño Colorado without any loss of time to carry one of our attorneys whose presence was indispensable there, as well as to carry provisions, as it always does, for the workmen and employees of the company at Guanoco. The Venezuelan consul at Port of Spain refused to give the vessel papers without stating his reasons for his action, and the vessel, compelled as it was for the urgent necessity of accomplishing its duty, and besides being under the American flag, received its papers from the American consul at that place and left Port of Spain. We do not yet know whether the steamer touched at Caño Colorado or at some other port nor if the provisions it carried were unloaded, but according to the information given to me it touched on the Venezuelan coast, and that on returning to Port of Spain was fired at in the Caño Frances, receiving some gunshots from land, from whom as yet unknown.

These are facts which I take as certain, save such change as further information may make.

It is a principle of universal legislation, also adopted by Venezuela, that ignorance of the established laws does not excuse its nonfulfillment, and, in what relates to revenue matters, Law XVI, chapter 13, article 226 of the Code of Hacienda, offers a weak attenuation to that principle. Moreover, article 24, chapter 1, of the same law imposes on the Venezuelan consuls in foreign countries the duty of informing whoever desires information on this point of the contents of revenue regulations and give any explanations he may be asked for on the subject, with the view of saving the interested parties from any damages that might be derived from its nonfulfillment.

The vessel could not have left legally from Port of Spain for Caño Colorado without papers having been given to it by the consular agent of Venezuela, and its having left without such papers can not be excused by the absolute necessity that was alleged, nor is it covered by papers given it by the American consul, which would only serve to prove that the steamer was not on a smuggling expedition, which is a most important fact; but the fact always remains that Law XVI, article 2, was not complied with, and, besides, articles 24, 36, 38, 47, 187, 190, 194, 195, and 223 of the same law are against us; also Law XXI of the above-mentioned code, article 1 (cases 4, 5, 6, 9, and 10).

The consul having refused to give the vessel any papers, he would have been liable to responsibility for any damages (article 39, Law XVI) if the captain of the steamer had confined himself to obtaining some proof of such refusal as well as of the imperative necessity for his sailing. The responsibility of the consular agent might have been used against the Venezuelan Government. However, the fact of the steamer having left and returned in spite of such a refusal constitutes a violence that places us in a disadvantageous position.

It is obvious, on the other side, that the steamer, by leaving port without papers by the Venezuelan consular agent, did not in any way facilitate its trip nor cover the possibility of accomplishing the mission which was alleged to be indispensable, since on its arrival it would legally be liable to be stopped and seized, not only the steamer itself, but its cargo also, and in the case it had touched at some unopened port or a deserted island, in which cases the responsibility incurred would be still more serious. The alleged imperative necessity is entirely destroyed by these arguments.

It is a fact that the steamer touched the Venezuelan coast for the purpose of landing men and provisions (I do not know whether it succeeded), since on its return it was fired at in the Caño Frances. It is therefore unquestionable that, besides the steamer having left without the necessary papers, it illegally landed and returned.

Any damages that either the steamer or the company may have suffered on the former being fired at in the Caño Frances can not be claimed on solid grounds, firstly, because it was illegally navigating Venezuelan waters; secondly, because it is not known whether the attack came from public forces or revolutionary forces, and thirdly, because if it came from revolutionary forces (this is a point that has been discussed and maintained on good grounds by the Department of State of the United States), that a government can not be held responsible for damages caused within its territory to foreigners by a revolutionary party, and this theory would surely be invoked against the company.

The Venezuelan consul at Port of Spain was not in the right in refusing papers to the steamer without expressing the reasons he had for so doing, but, unfortunately, the company did not avail itself of this circumstance, which might have placed it in a good position to claim damages.

These considerations, founded on the lack of information that I have, may be changed by further and more accurate facts.

My impression (or opinion), as one of the company's attorneys, is that the *Viking* should not return to Venezuela. If it did, it would be seized under the revenue regulations or laws.

Looking forth to new developments in this case and awaiting your orders, I remain, etc.,

J. B. BANCE.

[Inclosure 3.—Translation of modified opinion Dr. J. B. Bance in re *Viking* incident.]

Dr. Bance to Mr. Rake.

CARACAS, April 18, 1902.

DEAR SIR: I beg to confirm in all its parts my letter of the 14th instant, since it is still my belief that if the steamship *Viking* touches again the Venezuelan coast it will be seized under the revenue laws; but the further information that I now possess places me in a position to add to and to a certain extent to modify my previous impressions in a manner favorable to our position.

The new facts given to me are as follows: First, that the Venezuelan consul, on refusing to give the steamship *Viking* papers for Caño Colorado (Venezuela), gave as a motive for his refusal the fact that the region in which Caño Colorado and the custom-house are situated was in the hands of the revolutionists, and, second, that the *Viking* arrived at the custom-house and landed there one of the company's attorneys and some provisions for the employees of the company, and that on its return it was cleared by the custom-house, which actually was in the hands of the revolutionists.

In my opinion, the grounds on which the consul based his refusal is not a legitimate one, Caño Colorado being, as it is, an open port to foreign commerce. The port had neither been closed nor blockaded, and foreign vessels are perfectly strange to the political convulsions the country is going through.

These facts once established, and taking into account that the *Viking* might be seized, the company would have a right to claim damages through diplomatic channels, basing its claim on international rules. There are several very important prec-

edents in our favor in the diplomatic records, not only of the United States, but also in those of Venezuela.

It is most important to obtain and keep at hand some evidence proving the grounds on which the Venezuelan consul based his refusal to let the *Viking*, on its trip or trips, sail as well as carry its cargo. It is important to prove the fact that it was given papers by the American consul, as well as its having been entered and cleared by the insurgents that were in possession of the customs-house at Caño Colorado.

I shall have the pleasure in due time to hand you a full report containing precedents of an international order, on which my opinion is based.

J. B. BANCE.

Mr. Hill to Mr. Bowen.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 22, 1902.

(Mr. Hill states that it is represented that the Venezuelan consul at Port of Spain, who refuses to clear the New York and Bermudez Company's vessel for Caño Colorado with food supplies for employees, declares that if the vessel proceeds with papers signed by the United States consul he will send a gunboat to seize her as a pirate.

Mr. Bowen is directed to ascertain and report to the Department whether the Venezuelan Government authorized its consul to make such a statement.)

Mr. Bowen to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Caracas, April 23, 1902.

(Mr. Bowen reports that the minister for foreign affairs says that Venezuelan war ships are compelled by the Venezuelan code to capture as contraband any ship not duly cleared by Venezuelan consuls.)

Mr. Hill to Mr. Bowen.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 25, 1902.

(Mr. Hill states that the Government of the United States regards the course of the Government of Venezuela respecting the steamer *Viking* as contrary to international law, and requests that the Venezuelan consul be directed to issue clearance papers or that those of the United States consul be respected, and that prompt action is required.)

Mr. Bowen to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Caracas, April 30, 1902.

(Mr. Bowen reports that the minister for foreign affairs, by order of the President of Venezuela, has filed with him a strong protest

against the act of the United States consul at Port of Spain in clearing the *Viking* for Caño Colorado, characterizing it as an interference with Venezuelan commerce and an infringement on Venezuelan sovereignty; that the minister states the incident is serious and requests that his protest be forwarded to the Department of State at Washington.)

Mr. Hill to Mr. Bowen.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 30, 1902.

(Mr. Hill directs Mr. Bowen to inform the Venezuelan Government that the United States Government is informed and understands that the port of Caño Colorado is in actual possession and control of insurgents; and that the inability of the United States Government to recognize any closure of the port by the titular Government of Venezuela, unsupported by an effective blockade, is founded on precedents set by the United States Government during the civil war, and repeatedly asserted and constantly maintained ever since that time.)

Mr. Hay to Mr. Bowen.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 1, 1902.

(Mr. Hay directs Mr. Bowen to say to the Venezuelan Government, without waiving rights already claimed, that upon representations made to the Department of State that the men of the New York and Bermudez Company are without food and are dependent upon provisions on board the *Viking*, it is urged that, after search for arms and ammunition, the vessel be cleared with an innocent cargo for Caño Colorado, either by the Venezuelan or the United States consul; that an answer is urgently desired.)

Mr. Bowen to Mr. Hay.

No. 90.]

LEGATION OF THE UNITED STATES,
Caracas, May 2, 1902.

SIR: I have the honor to confirm and acknowledge cables in regard to the *Viking* incident. I also inclose translations of the foreign office correspondence on the subject.

I am, etc.,

HERBERT W. BOWEN.

[Inclosure 1.—Translation.]

Mr. Pachano to Mr. Bowen.

MINISTRY FOR FOREIGN AFFAIRS,
Caracas, April 8, 1902.

MR. MINISTER: A little while before the interview I had the honor of having with your excellency yesterday afternoon, I had received orders from the President to inform your legation that on the 4th of the present month the steamer *Viking* had left Port of Spain for Guanoco without clearance papers from the Venezuelan consul. It is to be supposed that the agent of this Republic called the attention of the ship to the fact that there were no fiscal agents in Guanoco.

In informing your excellency of this fact I must say to you that the Government reserves to itself in this matter any action provided by the fiscal laws.

I renew, etc.,

J. R. PACHANO.

[Inclosure 2.—Translation.]

Mr. Palacio to Mr. Bowen.

APRIL 26, 1902.

MR. MINISTER: In accordance with instructions from the President of the Republic, I have to inform you of and protest against an act committed by the United States consul at Port of Spain, as an interference with Venezuelan commerce and an infringement on the international jurisdiction of this Republic. I refer to the clearance of the *Viking* for Caño Colorado, and which was mentioned in a note to your excellency from my predecessor on the 8th of this month.

The Venezuelan consul in Trinidad, having been obliged to suspend temporarily the clearance of ships for certain ports on the coast where there are at present no fiscal authorities, the United States consul took it upon himself to clear the ship in spite of the protests of the Venezuelan consul and of the exceptional circumstances that had caused clearance to be temporarily suspended.

Law XVI of the Hacienda Code prescribes certain duties to consuls which can not be fulfilled without the concurrent action of the fiscal agents in the Venezuelan ports, so that the temporary suspension of consular clearance, made necessary on account of certain internal conditions, and for certain places like Caño Colorado, which is only open for the importation of its own consumption, did not, on account of the interference of a foreign consul, produce, as it naturally would, a state of affairs favorable for peace, but an exactly opposite effect to that which was sought for in the law for the safeguard of general interests.

In informing your excellency of this grave incident, I beg that you will notify your Government of this protest against the action of the United States consul at Port of Spain.

Accept, etc.,

MANUEL FOMBONA PALACIO.

Mr. Bowen to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Caracas, May 4, 1902.

(Mr. Bowen reports that the plan suggested in the Department's cable had already been suggested by him to the President of Venezuela, by whom it was very gracefully accepted; that the Venezuelan consul will now issue clearance papers to the *Viking* and inspect the ship before and after each trip, so as to see that she carries only provisions.)

Mr. Bowen to Mr. Hay.

No. 93.]

LEGATION OF THE UNITED STATES,
Caracas, Venezuela, May 4, 1902.

SIR: I have the honor to report that on the receipt, day before yesterday, of your delayed cablegram of the 25th of April, I called on the minister for foreign affairs, and told him that my Government protests against the views of the Venezuelan Government in regard to the *Viking* matter, on the ground that they are contrary to international law, and requests that the Venezuelan consul be directed to give clearance papers to the ship, or that those of the American consul be respected.

The minister replied that his Government had protested against the act of the American consul in giving papers to the *Viking*, and that he is awaiting your answer. He seemed to think our consul had acted not only irregularly but illegally. I did not discuss the question with him, as our consul in Trinidad is not under my jurisdiction or supervision, but I expressed the hope and belief that you would give the protest your careful consideration and would answer it promptly.

I then asked him what objection he had to ordering the Venezuelan consul to furnish the *Viking* with clearance papers. He answered that his Government has no custom officers at present at Caño Colorado, and that President Castro fears that if papers are given to the *Viking* the supplies she carries will be seized by the revolutionists, and that the *Viking* will thus serve as an agent of the revolution. I replied—

That view is erroneous. If the revolutionists seize the provisions on the *Viking* they will be committing a hostile and depredatory act that will serve to induce my Government to take into consideration the advisability of using force to compel the revolutionists to respect our flag, and, consequently, your Government, instead of losing anything, would derive a very considerable benefit by complying with our request.

I then suggested that the Venezuelan consul be directed to issue clearance papers to the *Viking*, with the understanding that only provisions be carried on her to the asphalt mines, and that the said consul be instructed to visit the *Viking* at both the beginning and the end of her round trip, in order that he might satisfy himself that the said understanding was being carried out in good faith. I then hinted that if the Venezuelan Government does not comply with our request I could not be expected to try to induce my Government not to take such steps as it may deem necessary to see that the men at the asphalt mine are properly supplied with provisions. The minister said that he would confer with President Castro and let me know his decision early in the morning. Faithful to his promise, he called on me yesterday morning before breakfast and said:

President Castro is willing, out of respect to you and your Government, to accede to your request, and I will send to you to-day a letter (a translation of which is herein inclosed) which you may yourself forward to the Venezuelan consul.

I thanked the minister, and told him that I hoped the arrangement would prove entirely satisfactory to my Government.

This morning I received your two delayed cablegrams, suggesting substantially the same plan as the one I had proposed, as above indicated, and in answer to them I have just sent to you a cablegram stating that the matter has been arranged.

I am, etc.,

HERBERT W. BOWEN.

[Inclosure.—Translation.]

Mr. Mendoza to the Venezuelan consul at Trinidad.

UNITED STATES OF VENEZUELA, MINISTRY OF HACIENDA,
DEPARTMENT OF CUSTOM-HOUSES AND SALT MINES,
Caracas, May 3, 1902.

To the VENEZUELAN CONSUL IN TRINIDAD:

The President of the Republic, as a temporary concession, and until the reestablishment of the normal trade with Caño Colorado, orders you to clear the ship that is used for carrying provisions to a certain number of workmen that the American company has stationed there. The clearance of the ship shall be done under your immediate inspection, and with the understanding that on its return it shall furnish to your office evidence that it has only carried provisions for the company. For this purpose it is agreed that you shall inspect the ship at the beginning and end of each trip.

This is done without any prejudice to the protest presented by the Government through the minister of foreign affairs against the act of the United States consul in unduly clearing the ship. Said protest is still pending. The concession is a special one for the company.

God and the Federation.

R. TELLO MENDOZA.

**RENEWAL OF DIPLOMATIC RELATIONS BETWEEN VENEZUELA
AND FRANCE—TEXT OF PROTOCOL.**

Mr. Bowen to Mr. Hay.

No. 92.]

LEGATION OF THE UNITED STATES,
Caracas, May 2, 1902.

SIR: I have the honor to inform you that diplomatic relations have been renewed between France and Venezuela, in accordance with the terms of a protocol, copy of which I inclose.

I am, etc.,

HERBERT W. BOWEN.

[Inclosure.]

Text of protocol between France and Venezuela.

Whereas on the 19th of February of the present year, 1902, a protocol was arranged between the plenipotentiary of Venezuela and the minister for foreign affairs of the French Republic for the establishment of the former political relations between the two nations, the tenor of which is as follows:

“The subscribers, H. Maubourguet, plenipotentiary of the United States of Venezuela, and Th. Delcassé, deputy minister for foreign affairs of the French Republic, thereto authorized by their respective Governments, have agreed as follows:

“ARTICLE I. On the Governments of Venezuela and France naming their ministers in Paris and Caracas, each shall appoint an arbitrator and shall choose as umpire in case of discord His Excellency Señor E. de León Castillo, Marqués del Muni, ambassador extraordinary and plenipotentiary of His Majesty the King of Spain near the French Republic.

“The said arbitrators shall meet in Caracas immediately after the delivery of his letters of credence by the French minister to the President of the United States of Venezuela, for the purpose of examining, by agreement, the claims for indemnization presented by French citizens for damage suffered in Venezuela arising out of the revolution of 1892. All reclamations which can not be amicably arranged between these two arbitrators shall be submitted by them to the umpire.

“If nothing should be definitely decided either by the two arbitrators or the umpire within the term of one year, to count from the arrival of the French arbitrator

at Caracas, the Venezuelan Government shall deliver to that of France, to be distributed among the rightful claimants, 1,000,000 bolivars, of 3 per cent diplomatic debt, by means of which payment all the claims arising out of the revolution of 1892 shall be definitely settled.

"ART. II. Claims for indemnity other than those mentioned in Article I but based on acts anterior to the 23d of May, 1899, shall be examined by agreement by the minister of foreign affairs of Venezuela and the French minister at Caracas. If within the term of six months, to count from the delivery of his letters of credence by the minister of France in Caracas, no agreement has been reached as to the amount of the claims to be admitted, the claims shall be submitted by them to the umpire designated in the foregoing article.

"The minister for foreign affairs of Venezuela and the French minister at Caracas may delegate, in all that concerns them, the execution of the preceding provisions to the arbitrator named by his Government.

"If various claims for indemnity based on different facts be presented by the same claimant, and one of these could be submitted to the procedure established by the preceding article, the others shall be joined to it for the purpose of making one settlement.

"It is understood that this procedure, like that adopted for the 1892 claims, is only allowed by way of exception, and does not invalidate the agreement of the 26th of November, 1895.

"ART. III. There shall be no appeal from the decision of the umpire.

"All indemnities shall be paid to the French Government in scrip of the 3 per cent diplomatic debt within three months after the agreement or award.

"ART. IV. The Venezuelan Government shall ask Congress to place on the estimates of expenditure the sums necessary for the payment of the overdue monthly installments of the diplomatic debt, and the holders of scrip of that debt shall for the rest participate in all the benefits which may accrue to them from the strict application of the organic laws of Venezuela on the subject.

"The present arrangement shall be ratified and the ratifications exchanged in Paris and Caracas as soon as possible, and at the latest by the 30th of April, 1902.

"In faith whereof the subscribers thereto, authorized by their respective Governments, have executed these presents and affixed their seals thereto.

"Made in duplicate in Paris the 19th day of February, 1902.

"H. MAUBOURGUET,
"DELCASSÉ."

And whereas, on the said 19th day of February of the present year, 1902, the said H. Maubourguet, plenipotentiary of the United States of Venezuela, and Th. Delcassé, minister of foreign affairs of the Republic of France, subscribed an instrument annexed to the preceding protocol, which reads as follows:

"Mr. H. Maubourguet, plenipotentiary of the United States of Venezuela, has communicated to Mr. Th. Delcassé, deputy, minister for foreign affairs of the French Republic, the Government resolution of the 22d of March, 1898, a copy whereof is hereto annexed.

"The Government have noted the dispositions contained in the said resolution.

"In faith whereof they have signed these presents, which shall be added to the ratifications of the protocol signed this day.

"Made in duplicate in Paris this 19th day of February, 1902.

"H. MAUBOURGUET.
"DELCASSÉ."

"UNITED STATES OF VENEZUELA, MINISTRY OF FOREIGN AFFAIRS,

"DEPARTMENT OF PUBLIC EXTERIOR LAW,

"Caracas, March 22, 1898—87 and 40.

"Resolved, The President of the Republic in council of his ministers has ordered, according to the resolution passed yesterday by the department of home affairs, that, in order that the provisions of the codes of civil and criminal procedure should be strictly executed, such reports and data as they require for the purpose of ascertaining the course of the cause in any legal issue should be furnished to the parties interested, as it has been in constant practice when subjects or citizens of other nations interested or concerned in civil or criminal suits presented before the tribunals of the said Republic for their respective legations to ask for and obtain in a semiofficial way, through this department or the consuls or consular agents through the proper local authorities, such reports and data as will enable them to know the course of the suit or their condition as soon as any legal issue has been concluded, a practice which makes patent in every case the regularity of the procedure. The President of the Republic has also, in council of his ministers, ordered that the department of foreign affairs be once for all fully authorized to apply to the judicial authorities,

through the proper channel, save in excepted cases contemplated by the law, for such reports and data as the legations may require with respect to the course of every one of the civil or criminal suits prosecuted in Venezuela against one or more of the citizens or subjects of the respective nations, and it is ordered that through the department of the interior the proper local authorities should be moved to attend to the petitions which, in analogous cases, may be addressed to them by consuls or consular agents accredited in the Republic. This present resolution shall extend to cases in which complaints might arise from military enlistments.

“To be communicated and published.

“For the National Executive:

“J. CALCAÑO MATHIEU.”

And whereas the National Congress in exercise of its powers, and in pursuance of the law of the 15th of April instant, approved the protocol and hereinbefore inserted instrument, the ratifications whereof were exchanged in this city yesterday the 17th instant:

It is therefore ordered that they should be published and carried into execution by Venezuela.

Given, signed, sealed with the zeal of the national executive power and countersigned by the minister for foreign affairs in Caracas, this 18th day of April, 1902, year 91 of the independence and 44 of the federation.

CIPRIANO CASTRO.

Countersigned:

J. R. PACHANO,

The Minister of Foreign Affairs.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. Bowen to Mr. Hay.

No. 99.]

LEGATION OF THE UNITED STATES,

Caracas, June 1, 1902.

SIR: I have the honor to inform you that upon receipt of your cable ^a of May 24, 1902, I addressed a communication to the Venezuelan Government, and it courteously consented to permit the United States consular officers in Venezuela to use their good offices in representation of the interests of Cuba and of its citizens until Cuban consuls are appointed.

I accordingly sent to the consuls the following instructions:

At the request of the President of Cuba, and with the consent of the Government of Venezuela, you are hereby instructed to use, within your jurisdiction, your good offices in the representation of Cuba and of its citizens until Cuban consuls are appointed. You will please instruct your agents accordingly.

I have, etc.,

HERBERT W. BOWEN.

BLOCKADE BY DECREE—THE UNITED STATES GOVERNMENT RECOGNIZES A BLOCKADE ONLY WHEN IT IS EFFECTIVE.

Mr. Hay to Mr. Bowen.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,

Washington, June 13, 1902.

(Mr. Hay states that it is reported that Ciudad Bolivar is in the possession of the revolutionists and the Orinoco River is blockaded by a gunboat. Mr. Bowen is instructed to ascertain the facts and advise the Department.)

Mr. Bowen to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Caracas, June 19, 1902.

(Mr. Bowen reports that he has been advised by the Venezuelan minister for foreign affairs that Ciudad Bolivar is in the hands of revolutionists and that the Orinoco River is not blockaded.)

Mr. Bowen to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Caracas, June 29, 1902.

(Mr. Bowen reports that he has been notified that the Orinoco River, Guiria, Caño Colorado, and Vela de Coro are declared blockaded, but that he doubts the efficiency of the blockade. * * *)

Mr. Bowen to Mr. Hay.

No. 105.]

LEGATION OF THE UNITED STATES,
Caracas, June 29, 1902.

SIR: * * * I inclose a translation of the decree published yesterday declaring the "mouths" of the Orinoco and the port of Vela de Coro blockaded.

* * * * *

I am, etc.,

HERBERT W. BOWEN.

[Inclosure.—Translation.]

The constitutional President of the United States of Venezuela decrees:

ARTICLE 1. In consequence of the occupation of Ciudad Bolivar by insurrectionary forces, navigation in the waters of the Orinoco is prohibited, the extent of the coast line which embraces its mouths is blockaded, and the ports of Guiria and Caño Colorado are closed to trade and navigation.

ART. 2. The port of La Vela de Coro is likewise declared to be blockaded.

ART. 3. The necessary naval forces shall be appointed to enforce the said blockade in a real and efficacious manner.

ART. 4. The commanders of the ships appointed to carry out the blockade of the above-mentioned ports shall duly observe the ordinances relating to corsairs, dated the 30th of March, 1882, now in force, and the following provisions:

1. Ships which have been dispatched for the blockaded ports shall have the following terms, after the present decree has been communicated to their respective Governments, allowed them to enter: Steamships proceeding from Europe, one month; sailing vessels, two months; steamships proceeding from the United States, fifteen days; sailing vessels, one month; ships proceeding from the West Indies and Demarara, whether steamers or sailing vessels, shall have a term of ten days, with the exception of those proceeding from Trinidad and Grenada, which shall have but two days.

2. Merchandise which is destined for any port within the line of blockade may, at the discretion of the owner, be disembarked at any other established customs port on payment of the respective customs duties.

3. On any vessel, proceeding from any of the places above mentioned, reaching the line of blockade the commander of the nearest man-of-war shall communicate to him the order against crossing it, and in case he persist he shall be considered to wish to violate the blockade.

ART. 5. The ministers of the interior, foreign affairs, finance, and war and marine are charged to see to the execution of this decree and to communicate it to all whom it may concern.

Given, signed, sealed with the seal of the national executive and countersigned by the ministers of the interior, foreign affairs, finance, and war and marine at the federal palace at Caracas this 28th day of June, 1902, year 91 of the independence and 44 of the federation.

CIPRIANO CASTRO.

Mr. Bowen to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Caracas, August 15, 1902.

(Mr. Bowen states that the captain of the U. S. S. *Marietta* reports no blockade at Carúpano, Caño Colorado, and Guiria, and that the blockade at Ciudad Bolivar is effective. * * *)

Mr. Bowen to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Caracas, August 19, 1902.

(Mr. Bowen reports that the Venezuelan Government evacuated Cumana on the night of August 18; that he has been informed by the minister for foreign affairs that Germany, France, and Great Britain jointly characterize the blockade as inefficient; that the minister will answer the joint representation, asking for proof and suggesting that a merchant vessel be sent to test the efficiency of the blockade. Mr. Bowen outlined the policy of the United States not to recognize an inefficient blockade, and the minister for foreign affairs acknowledged this policy to be sound and made no objections to it.)

Mr. Bowen to Mr. Hay.

No. 122.]

LEGATION OF THE UNITED STATES,
Caracas, September 7, 1902.

SIR: I have the honor to inform you that I have learned that Germany and Great Britain based their refusal to recognize the blockade decreed by the Venezuela Government as effective on the assertion that the naval force of Venezuela is not sufficiently strong to render it effective. France confined her protest to Carúpano and Cumana, stating that French ships had entered those ports without let or hindrance. I decided that, as we have no special interests in the ports blockaded, and as they seemed to me likely to be occupied and abandoned from time to time by the revolutionists, it would be sufficient for me to simply remark to the minister for foreign affairs that we could not recognize as effective any blockade that we find to be ineffective.

* * * * *

I have, etc.,

HERBERT W. BOWEN.

Mr. Adee to Mr. Bowen.

No. 81.]

DEPARTMENT OF STATE,
Washington, September 19, 1902.

SIR: I have to acknowledge the receipt of your No. 122, confidential, of the 7th instant, reporting concerning the condition of affairs in Venezuela, and stating that, as regards the blockade declared by the Government, it seemed to you to be sufficient to simply remark to the minister for foreign affairs that this Government could not recognize as effective any blockade that it found to be ineffective.

The Department approves your position.

I am, e c.,

ALVEY A. ADEE,
Acting Secretary.

IMPROPER USE OF UNITED STATES FLAG BY VENEZUELAN GUNBOAT "RESTAURADOR."

Mr. Bowen to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Caracas, September 24, 1902.

(Mr. Bowen reports that the Venezuelan war vessel *Restaurador* flew the United States flag at her foremast so as to deceive the revolutionists along the Orinoco and to draw near enough to Ciudad Bolivar to bombard effectively; that she hauled down the United States flag just before beginning to bombard; that the *Restaurador* is now at La Guaira; that her captain, when questioned by the captain of the U. S. S. *Marietta*, acknowledged that he flew the United States flag and hauled it down as stated, and apologized.

Mr. Bowen called upon the minister for foreign affairs and said, "Your captain has dishonored our flag. He should be ordered to raise it and salute it, and your Government should apologize;" and reports that the minister for foreign affairs replied that he had not heard about the incident, and asked for a delay of several days in order to investigate. Mr. Bowen gave him twenty hours, and stated that he should then cable the facts to the Department of State.

The minister for foreign affairs being ill, the assistant secretary of state was sent this morning (September 24) to call on Mr. Bowen at the legation, and expressed regret on behalf of his Government that the United States flag had been displayed by the captain of the *Restaurador*, to whom orders have been issued to raise and salute it.

Mr. Bowen states that the Venezuelan Government acted very promptly and courteously in the matter.)

Mr. Bowen to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Caracas, September 24, 1902.

(Mr. Bowen reports that the United States flag was hoisted and saluted with 21 guns by the Venezuelan war ship *Restaurador*.)

Mr. Bowen to Mr. Hay.

No. 127.]

LEGATION OF THE UNITED STATES,
Caracas, September 24, 1902.

SIR: I have the honor to inform you that on the 22d instant, at 7 p. m., I called on the minister for foreign affairs and told him that I had just received the confirmation of a rumor I had heard several days before, to the effect that the Venezuelan war ship *Restaurador* had steamed up the Orinoco and entered the port of Ciudad Bolivar flying the American flag at her foremast, it having been placed there with the object of deceiving the revolutionists and of approaching Ciudad Bolivar so closely as to permit her to bombard the town effectively. I then said to him:

Your captain dishonored the American flag; he should be ordered to raise it and salute it, and your Government should apologize.

He answered that he had heard nothing about the incident, and that he desired to have several days so as to investigate it. I replied:

The facts that I have presented to you are indisputable, and I can give you only twenty hours, for I feel that at the end of that time I must cable the facts to my Government.

He thereupon agreed to act within the time specified. Before I left him I told him that the captain of the *Restaurador* had called the day before on Captain Diehl, the commander of the U. S. S. *Marietta*, stating that he had displayed it simply as he would have a flag of truce, and that he hauled it down before beginning the bombardment. I characterized the captain's explanation as neither credible nor satisfactory, and the minister's silence proved that he believed I meant what I said.

The following morning the first secretary of state called on me at 11 o'clock, and, after stating that his chief was ill in bed, informed me that he had been sent by his Government to express its regret that the American flag had been used improperly by the *Restaurador*, and that orders would be sent to her captain that afternoon to raise it and salute it with 21 guns. He then spoke of the earnest desire entertained by his Government to maintain friendly relations with the United States, and to remain on the best of terms with this legation. I assured him that the sentiments he had expressed are reciprocated most warmly by both the United States Government and by this legation, and I sent by him my best wishes to the minister for foreign affairs for his speedy recovery.

After he had gone I sent word to Captain Diehl, through Mr. Goldschmidt, our consul at La Guaira, that the *Restaurador* would salute our flag before sunset. Shortly after 5 o'clock Mr. Goldschmidt telephoned me that the full salute of 21 guns had just been fired by the *Restaurador*, and that our flag meanwhile had been displayed at her foremast.

My reason for not cabling to you for instructions, and for not entering into a written discussion with the Venezuelan Government, was because I feared if there was any delay the *Restaurador* might leave the port of La Guaira, and thus avoid doing honor to the flag she had insulted.

During my conversations with the Venezuelan authorities I took the

precaution to have Mr. Russell, the secretary of this legation, present, and I am indebted to him for several remarks he made that helped to render the settlement of the matter satisfactory.

I am, etc.,

HERBERT W. BOWEN.

Mr. Adee to Mr. Bowen.

No. 82.]

DEPARTMENT OF STATE,
Washington, October 3, 1902.

I have to acknowledge the receipt of your two telegrams of the 24th ultimo.

I inclose for your information copy of a letter from the Acting Secretary of the Navy, forwarding the report made by the commanding officer of the *Marietta* on the subject.

I am, etc.,

ALVEY A. ADEE, *Acting Secretary.*

[Inclosure.]

Mr. Taylor to Mr. Hay.

NAVY DEPARTMENT,
Washington, September 30, 1902.

SIR: I have the honor to inclose for your information a copy of a letter from the commanding officer of the *Marietta*, dated at La Guaira, Venezuela, the 22d instant, relating to the use of the American flag by the gunboat *Restaurador*.

Very respectfully,

H. C. TAYLOR, *Acting Secretary.*

[Subinclosure.]

Lieutenant-Commander Diehl to the Secretary of the Navy.

U. S. S. MARIETTA,
La Guaira, September 22, 1902.

SIR: * * * The commanding officer of the Venezuelan gunboat *Restaurador* called upon me to-day and gave the following explanation, viz: That he did fly the American flag at the fore on approaching Ciudad Bolivar; that his reasons for so doing were that he desired to send a message ashore to the consular officials; that he could not use a white flag of truce, because that flag is carried by the revolutionists; that his object was to approach near enough to send a messenger without being fired upon; that he did not know that he was committing any fault or discourtesy toward the United States. He assured me that the American flag was hauled down before a shot was fired either from shore or from the ship.

I cautioned the commanding officer of the *Restaurador* that I could not approve of his using the American flag in any except a purely legitimate way, and requested that it be not repeated. He expressed his regrets and assured me that it would not occur again.

I am inclined to believe that the American flag was hauled down before any firing began, and recommend to the Department that this incident be closed.

Very respectfully,

S. W. B. DIEHL,
Lieutenant-Commander, U. S. Navy, Commanding and Senior Officer Present.

INDEX.

A.

	Page.
Abduction by brigands, ransom, and release of Miss Ellen M. Stone, an American missionary	997
Accession of Sultan of Turkey to throne, congratulations on anniversary of...	1048
Accident to President Roosevelt	48, 97, 356, 373, 384, 390, 419, 442, 550, 584, 682, 683, 731, 737, 830, 889, 890, 903, 904, 948, 960, 1050
Aceval, President of Paraguay, deposition of	1051
Act, additional, concluded at Brussels December 14, 1900, by the plenipotentiaries of the United States and other countries for the protection of industrial property, modifying the industrial-property convention of March 20, 1883..	92
Additional act, concluded at Brussels December 14, 1900, by the plenipotentiaries of the United States and other countries, for the protection of industrial property, modifying the industrial-property convention of March 20, 1883	92
Additional amendatory agreement to the commercial agreement of May 28, 1898, between the United States and France	418
Adjustment of difficulty between Argentine Republic and Chile	18
Admission into Austria-Hungary of proprietary preparations of American manufacture	37
Admission of Chinese into Cuba	263
Adoption of gold standard in Peru	893
Africa:	
East: British protectorates placed under zone of total prohibition of alcoholic liquors, under Article XCI of the Brussels act	520
South, war in: résumé of speech of Count Bülow, German chancellor, relative to	425
Agreement:	
amendatory and additional, to the commercial agreement of May 28, 1898, between the United States and France	418
between Russia and China relative to Manchuria	26, 408, 511
defensive, between Great Britain and Japan: text of	513
defensive, between Great Britain and Japan: declaration of Russia and France concerning	929
Albany, U. S. S.: courtesies in Denmark to	373
Alcoholic liquors: British protectorates in East Africa placed under zone of total prohibition of, under Article XCI of the Brussels act	520
Alexander, Theodor F.: passport application of	67
Alfonso XIII of Spain:	
assumption of power by	959
celebration of majority of	954
Aliens, neutrality of: "certificates of neutrality" not to be issued by legation to United States citizens in Colombia	313
Alves, President of Brazil: inauguration of	114
Amazon, Upper: inadvisability of American emigration to region of	105
Ambassador, special, Reid: interview in London with Prince Chen, Chinese special envoy	543
Amendatory and additional agreement to commercial agreement of May 28, 1898, between the United States and France	418
Amendment to land regulations of foreign settlement at Chemulpo, Korea ...	733
American citizens:	
prisoners of war: held in British colonies	463
railway employees: arrest and imprisonment in Mexico	795
American emigration to the Upper Amazon region: inadvisability of	105

	Page.
American Indian, Francisco Cuero: enforced enlistment in and discharge from Mexican army	789
American interests:	
Bitlis, Turkey: protection of, by British vice-consul	553, 1042
Bulgaria: protection of, by British representatives	521
Habana: protection of, by British consul-general	543
American life insurance companies in Turkey: restrictions on	1026
American vessels in Mexican ports: jurisdiction of United States consuls over disputes and differences between masters, officers, and crews of	816
Amnesty granted American citizens who committed crimes in Cuba during intervention period	351
Anniversary of accession of Sultan of Turkey to throne: congratulations on	1048
Announcement of establishment of Cuban Republic	326
Application: passport of:	
Alexander, Theodor F.	67
Basile, Antonio	685
Becker, Juliaan Johan	834
Duff, Joseph	448
Eichborn, Gustav Frank	449
Freiman, Armin	69
Frommer, Harry	70
Kaufmann, Bernhard	977
Kludjian, Assadur H.	1023
Knopf, Bertha	969
Lilienthal, Moses	65
Pecare, Helena	968
Reif, Schabsel	448
Schwarz, Meta	976
Strahlheim, William	973
Wetherbee, Henry W	943
Arbitration:	
compulsory: treaty between Mexico and Spain	813
of claims of Rosa Gelbtrunk <i>v.</i> Salvador	873
of claims of the Salvador Commercial Company <i>v.</i> Salvador	838
of differences: treaty between Central American States providing for	881
of question of taxation of buildings on perpetually leased ground in Japan: submission to	687
protocol between Peru and Bolivia	891
treaty submitting the question of the boundary between Brazil and British Guiana to	103
Argentine-Chile treaty	126
Argentine Republic:	
adjustment of difficulty between Argentine Republic and Chile	18
extracts from message of President of Argentine Republic	13
protection of Cuban interests by United States consular officials	24
refusal to exempt operators of Central and South American Telegraph Company from military service	23
Arguments against the United States laws for the exclusion of Chinese	209
Army, Mexican: enforced enlistment in and discharge from of Francisco Cuero, an American Indian	789
Arrangement and convention between Russia and China respecting Manchuria	271, 926
Arrests:	
and imprisonment of American citizens, railway employees, in Mexico	795
complaint that local officials at Pensacola, Fla., made arrests aboard a Spanish vessel without notice to Spanish consul	961
Asia, Central: partial removal of restrictions on travel and residence in	936
Assistance rendered by the United States to sufferers from the volcanic eruption at Martinique and St. Vincent	412-523
Assumption of power by Alfonso XIII of Spain	959
"Asylum, right of," in United States legations: question of	679
Attempted blockade of Haitian ports by decree of provisional government of Haiti (under Revolution in Haiti)	587
Attempt on life of King of Belgium	99
Audience of diplomatic corps with Emperor and Empress Dowager of China, and reception by the latter of the ladies of the diplomatic corps	205

	Page.
Austria-Hungary:	
accident to President Roosevelt	48
admission into Austria-Hungary of proprietary preparations of American manufacture	37
agreement between Russia and China relative to Manchuria	26
Jews in Roumania: discriminations against, condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons	42
military service case—	
of Joseph Knopp, Jacob Friedberg, Harry Schmierie, Michael Tenzer, and Frank Howrka	63
of Joseph Kristof	61
passage through United States of remains of late Mexican minister to Austria-Hungaria	25, 794
passport application:	
Alexander, Theodor F.	67
Freiman, Armin	69
Frommer, Harry	70
Lilienthal, Moses	65
political, social, and commercial relations between the United States and Austria-Hungary	34
protection of Cuban interests by United States consular officials	36
raising of United States legation to Austria-Hungary and Austro-Hungarian legation to the United States to embassies	27
right of widow of Austro-Hungarian soldier to pension	33
sending of Hungarian national banner to the United States	45
status of naturalized United States citizens of Austro-Hungarian origin returning to their native country; retention by Hungarian authorities of passport and certificate of naturalization of Josef Janco	49
treaty of commerce and navigation with Mexico	815

B.

Bairam: exchange of compliments between the President of the United States and the Sultan of Turkey on the recurrence of the	1025
Bamberg, Germany: defilement of United States coat of arms at	430
Banner; Hungarian national: sending of, to the United States	45
Baron Thomsen: inheritance tax on estate in Brazil of	107
Barranquilla: reopening of United States missionary schools at, closed by Colombian authorities	293
Basile, Antonio: passport application of	685
Becker, Juliaan Johan: passport application of	834
Beck, Roberto, a Swiss citizen: protection of, by United States officials in Colombia	289, 979
Belgika, Belgian steamship: fine on, in the Philippine Islands	73
Belgium:	
accident to President Roosevelt	97
an additional act, concluded at Brussels December 14, 1900, by the pleni- potentiaries of the United States and other countries, for the protection of industrial property, modifying the industrial property convention of March 20, 1883	92
attempt on life of King of Belgium	99
death of the Queen of Belgium	98
fine on Belgian steamship Belgika in the Philippine Islands	73
protection of Belgian interests in Haiti by United States naval vessel	98
protection of Cuban interests by United States consular officials	86
riots and strikes in Belgium over question of suffrage; brief sketch of electoral system	85
sugar-bounty conference: text of convention	80
treaty between the United States and Belgium for the mutual extradition of fugitives from justice	87
Bitlis, Turkey: protection of American interests at, by British vice-consul ..	553, 1042
Blockade:	
attempted, by decree of provisional government of Haiti (under Revolu- tion in Haiti)	587
by decree: the United States Government recognizes a blockade only when it is effective	1069
Blohm, Henry: expulsion from Germany	458

	Page.
Bocas del Toro: protection of German interests at, by United States naval officials.....	427
Bogotá: reopening of United States missionary schools at, closed by Colombian authorities.....	293
Bolivia:	
arbitration protocol with Peru.....	891
protection by United States officials of British interests in.....	101-528
protection of Cuban interests by United States consular officials.....	101
Bonsall, Nathaniel F., American citizen, railway employee: arrest and imprisonment in Mexico.....	795
Boundary between Brazil and British Guiana: treaty submitting to arbitration the question of the.....	103
Boxer practices: Chinese proclamation denouncing as a heresy.....	266
Brazil:	
inadvisability of American emigration to the Upper Amazon region.....	105
inauguration of President Alves—address of United States minister and President's reply—exchange of courtesies between officers of U. S. S. Iowa and Brazilian officials.....	114
inheritance tax on estate of Baron Thomsen.....	107
protection of Cuban interests by United States consular officials.....	106
treaty submitting to arbitration the question of the boundary between Brazil and British Guiana.....	103
Brigands: abduction of Miss Ellen M. Stone, an American missionary, by....	997
British colonies: American citizens, prisoners of war, held in.....	463
British Guiana: treaty submitting to arbitration the question of the boundary between Brazil and.....	103
British interests:	
at Martinique: protection of, by United States consul.....	537
in Bolivia: protection of, by United States officials.....	101, 528
in Colombia: protection of, by United States officials.....	509
British protectorates in East Africa placed under zone of total prohibition of alcoholic liquors, under Article XCI of the Brussels Act.....	520
Brown, Michael: settlement of claim <i>v.</i> Mexico on account of illegal eviction and imprisonment.....	786
Buck, Alfred E., United States minister to Japan: death of.....	731
Bulgaria:	
assistance rendered in rescue of Miss Stone by British officials in.....	520
protection of American interests in, by British representatives.....	521
Bullion, silver, seized by United States forces at Tientsin: restoration of.....	129
Bülow, German chancellor: résumé of speeches relative to China—visit of Prince Henry of Prussia to the United States—war in South Africa, etc....	425
C.	
Cable, French, in Haiti: protection of by United States officials.....	417
Camphor trade in Fukien: monopoly granted to a Japanese company.....	255
Canadian customs flag not to be displayed in United States territory.....	546
Canal, ship: treaty between the United States and Great Britain to facilitate the construction of a.....	517
Carvalla, Vice-President of Paraguay: elevation to Presidency.....	1051
Catholic Church (Pious Fund): claim <i>v.</i> Mexico.....	738
Celebration of majority of Alfonso XIII of Spain.....	954
Central American States: treaty providing for the arbitration of differences..	881
Central and South American Telegraph Company: refusal of Argentine Republic to exempt operators from military service.....	23
Central Asia: partial removal of restrictions on travel and residence in.....	936
Ceremonies attending hauling down of United States flag at Matanzas, Cuba.	350
Certificate of naturalization:	
defining limits within which recognition is accorded to.....	386
of Josef Janco: retention of by Hungarian officials.....	49
“Certificates of neutrality” not to be issued by legation to United States citizens in Colombia.....	313
Cessation of military occupation of Cuba by the United States.....	6
Chang Yin-huan: rehabilitation of.....	140
Charge of diplomatic mission in the absence of its head: construction of article 19 of “Instructions to diplomatic officers”.....	4
Charges against diplomatic and consular officers.....	5
Chemulpo, Korea: amendment to land regulations of foreign settlement at....	733

	Page.
Chen, Prince, Chinese special envoy: interview of Special Ambassador Reid in London with	543
Chicago, U. S. S.: courtesies in Denmark to	373
Chihli, China: decree disarming natives of	254
Chile:	
adjustment of difficulty between Argentine Republic and	18
Chile-Argentine treaty	126
courtesies to United States battle ships Iowa and Wisconsin	119
protection of Cuban interests by United States consular officials	121
relations between the United States and Chile	116
treaty between the United States and Chile providing for the extradition of criminals	122
China:	
admission of Chinese into Cuba	263
agreement between Russia and China relative to Manchuria	26, 408, 511
arguments against the United States laws for the exclusion of Chinese	209
audience of diplomatic corps with Emperor and Empress Dowager of China, and reception by the latter of the ladies of the diplomatic corps	205
commencement of evacuation of Manchuria by Russia	281
convention and arrangement between Russia and China respecting Manchuria	271, 926
death of Viceroy Liu K'un-yi	267
decree disarming natives of Chihli	254
exclusion of Chinese: refusal of Treasury Department to modify certain regulations	236
monopoly of camphor trade in Fukien granted to a Japanese company	255
mutual embarrassments of United States and Russian officials at Niuchwang: conflict between United States seamen and Russian officials: delays in transmission of telegrams, etc	145
proclamation denouncing Boxer practices as heresy	266
protection—	
denied to H. Krippendorf, who had merely declared intention to become a citizen of the United States	221
of Chinese at Panama by United States officials	262
of Cuban interests by United States consular officials	234
of missionaries by United States naval forces	138
of native Christians by missionaries	131
question of establishment of United States post-offices in China, and collection of additional duty on articles that have already been entered into China	222
reception of Rear-Admiral Frederick Rodgers, U. S. Navy, by the Emperor and Empress Dowager	240
reform edicts—	
aiming at reorganization of institutions of learning, and restoration of friendly intercourse with foreigners	181
removing prohibition of marriage between Manchus and Chinese, and providing for selection of students to be sent abroad	208 ✓
refusal of Chinese Government to issue passports for travel in Thibet	226 ✓
rehabilitation of Chang Yin-huan	140
request of taot'ai of Kiukiang for recall of native missionaries	202
restoration—	
of silver bullion seized by United States forces at Tientsin	129
of Tientsin to Chinese authorities	184
résumé of speech of German chancellor Count Bülow relative to China	425
return of Chinese court to Peking	142
riots, uprisings, massacres, etc	159
student interpreters in China	227
text of commercial treaty between Great Britain and China	553
vicarious punishment of relatives in China of Chinese naturalized citizens of the United States	244
Chinese:	
admission into Cuba	263
arguments against United States laws for the exclusion of	209
at Panama: protection of, by United States officials	262, 318
exclusion from Cuba	352
exclusion from United States: refusal of Treasury Department to modify certain regulations	236
reform edict removing prohibition of marriage between Manchus and	208

	Page.
Chinese court: return of, to Peking	142
Chinese special envoy, Prince Chen: interview in London of special United States Ambassador Reid with	543
Christians, native: protection of, by missionaries in China	131
Circulars:	
cessation of military occupation of Cuba by the United States	6
charge of diplomatic mission in the absence of its head: construction of article 19 of "Instructions to diplomatic officers"	4
charges against diplomatic and consular officers	5
passports—	
for persons residing or sojourning abroad	1
intent to return to the United States	1
to residents of insular possessions of the United States	6
protection of Cuban interests by United States consular officials	6
Citizens, American:	
prisoners of war, held in British colonies	463
railway employees: arrest and imprisonment in Mexico	795
Citizens, naturalized, of the United States:	
effect of continued residence in the country of origin	377
Germans: restrictions on sojourn in their country of origin	440
liability to military service in Denmark	372
of Austro-Hungarian origin returning to their native country, status of	49
Citizens, United States: so long as rights of, are not interfered with the United States can not intervene by reason of its guaranty, under the treaty of 1846, of transit across the Isthmus of Panama	884
Citizenship and passports, explanatory of Department's attitude in regard to, and defining limits within which naturalization certificates are recognized	386
Citizenship, Cuban, law establishing procedure for obtaining	356
Claim:	
of Michael Brown <i>v.</i> Mexico on account of illegal eviction and imprisonment, settlement of	786
of Catholic Church (Pious Fund) <i>v.</i> Mexico	738
of Rosa Gelbtrunk <i>v.</i> Salvador, arbitration of	873
on account of military operations conducted in Samoa in 1899: preliminary decision of the King of Sweden and Norway as arbitrator	444
of Salvador Commercial Company et al. <i>v.</i> Salvador: arbitration of	838
Coat of arms of the United States: defilement of, at Bamberg, Germany	430
Colombia:	
death of President Sanclemente	292
neutrality of aliens: "certificates of neutrality" not to be issued by legation to United States citizens	313
protection by United States officials—	
of British interests	509
of Chinese on the Isthmus of Panama	318
of Cuban interests	318
of Roberto Beck, a Swiss citizen	289, 979
reopening of United States missionary schools at Barranquilla, Bogotá, and Medellin closed by Colombian authorities	293
rights of United States citizens in Colombia as to expropriation of property	301
seizure of vessels of and alleged discriminations against American enterprises in Colombia	284
Colonies, British: American citizens, prisoners of war, held in	463
Columbus, Christopher: visit of Gen. Maximo Gomez to Santo Domingo, during which relics of, were exhibited	381
Commencement of evacuation of Manchuria by Russia	281
Commerce and navigation: treaty between Mexico and Austria-Hungary	815
Commercial agreement of May 28, 1898, between the United States and France: amendatory and additional agreement to	418
Commercial, political, and social relations between the United States and Austria-Hungary	34
Commercial treaty between Great Britain and China: text of	553
Complaints of alleged violation at Pacific coast ports of consular convention of February 23, 1853, between the United States and France	391
Compulsory arbitration: treaty between Mexico and Spain	813
Condolences of the United States on illness of King Edward VII	537
Conference, sugar bounty: text of convention	80
Conflict between United States seamen and Russian officials at Niuchwang	145, 916

	Page.
Congratulations:	
on anniversary of accession of Sultan of Turkey to Throne	1048
to Cuban Republic on its appearance among the nations of the world: resolution of United States Senate extending	324
Consular and diplomatic representatives of the United States in Cuba: mes- sage from the President of the United States commending timely considera- tion of measures for maintaining	320
Consular convention of February 23, 1853, between the United States and France: complaints of alleged violation of, at Pacific coast ports	391
Consular immunities: exemption of consuls, under most-favored-nation clause, from payment of personal taxes	792
Consular officers of the United States:	
charges against	5
jurisdiction of, over disputes and differences between masters, officers, and crews of American vessels in Mexican ports	816
Continued residence of naturalized United States citizens in the country of origin: effect of	377
Convention:	
and arrangement between Russia and China respecting Manchuria	271, 926
between the United States and Guatemala for the reciprocal protection of trade-marks and trade labels	582
between the United States and Guatemala, relating to the tenure and dis- position of real and personal property	584
consular, of February 23, 1853, between the United States and France: complaints of alleged violation of, at Pacific coast ports	391
industrial property, of March 20, 1883: additional act, concluded at Brus- sels December 14, 1900, by the plenipotentiaries of the United States and other countries, for the protection of industrial property, modify- ing the	92
naturalization, proposed, between the United States and Roumania: dis- cussion of—discrimination in Roumania against Jews, condition of help- lessness to which they are reduced, and objection of United States Gov- ernment to immigration of such persons	910
sugar bounty conference: text of	80
Coronation of Edward VII: special embassy of the United States to	498
Costa Rica. (<i>See</i> Nicaragua, Costa Rica, and Salvador.)	
Court, Chinese: return of, to Peking	142
Courts, foreign: testimony of United States diplomatic representatives in	355
Courtesies:	
exchange of, between officers of the U. S. S. Iowa and Brazilian officials. of Cuban Government on occasion of anniversary of independence of the United States	114
to European Squadron of the United States Navy at Piraeus	327
to U. S. battle ships Iowa and Wisconsin in Chile	565
to U. S. S. Chicago and Albany in Denmark	119
to U. S. S. Hartford at Piraeus	373
to U. S. S. Hartford at Piraeus	567
Crête à Pierrot:	
Haitian naval vessel: sinking of, by German war vessel (under Revolution in Haiti)	587
request made by provisional government of Haiti that the Crête à Pierrot, a Haitian naval vessel under command of Admiral Killick, formerly of the Haitian navy, but subsequently in revolt against the provisional government, be treated as a pirate (under Revolution in Haiti)	587
Crews, masters, and officers of American vessels in Mexican ports: jurisdiction of United States consuls over disputes and differences between	816
Crews of vessels: jurisdiction over—complaint that local officials at Pensacola, Fla., made arrests aboard a Spanish vessel without notice to Spanish consul.	961
Crimes in Cuba during intervention period: amnesty granted American citi- zens who committed	351
Criminals, extradition of: treaty between the United States and Chile provid- ing for	122
Crown Prince of Siam: visit to the United States	945
Cuba:	
accident to President Roosevelt	356
admission of Chinese into	263
amnesty granted American citizens who committed crimes in Cuba during intervention period	351
announcement of establishment of Cuban Republic	326

	Page.
Cuba—Continued.	
ceremonies attending hauling down of United States flag at Matanzas	350
cessation of military occupation of, by the United States	6
courtesies of Cuban Government on occasion of anniversary of independence of the United States	327
diplomatic immunities, testimony of United States diplomatic representatives in foreign courts	355
establishment of independent government in Cuba	320
exclusion of Chinese from Cuba	352
law establishing procedure for obtaining Cuban citizenship	356
message from the President of the United States commending timely consideration of measures for maintaining diplomatic and consular representatives in Cuba and for carrying out the provisions of the act making appropriation for the support of the Army for the fiscal year ending June 30, 1902	320
messages of the President of Cuba to Congress	333
protection of Cuban interests by United States consular officials	329
reception of minister of the United States	322
relations between Cuba and the United States	358
resolution of Cuban House of Representatives thanking Government and people of the United States for assistance	325
resolution of United States Senate congratulating Cuban Republic on its appearance among the nations of the world	324
suspension of tonnage dues on Cuban vessels	354
Cuban interests: protection of, by United States consular officials	6, 329
in Argentine Republic	24
Austria-Hungary	36
Belgium	86
Bolivia	101
Brazil	106
Chile	121
China	234
Colombia	318
Denmark	373
Dominican Republic	383
Ecuador	389
France	417
Germany	428
Great Britain	532
Greece	567
Guatemala and Honduras	583
Haiti	678
Italy	683
Japan	730
Korea	736
Mexico	815
Netherlands	835
Nicaragua, Costa Rica, and Salvador	883
Peru	898
Portugal	904
Roumania	909
Russia	933
Siam	945
Spain	960
Sweden and Norway	967
Switzerland	981
Turkey	1041
Uruguay and Paraguay	1055
Venezuela	1069
Cuban minister to Mexico: reception of	832
Cuero, Francisco, an American Indian: enforced enlistment in and discharge from Mexican army	789

D.

Danish interests in Salvador: protection of, by United States officials	365, 836
Death of:	
Albert, King of Saxony	429
Buck, Alfred E., United States minister to Japan	731

	Page.
Death of—Continued.	
Paucefote, Lord, British ambassador to the United States.....	530
Queen of Belgium.....	98
Sanclimente, President of Colombia.....	292
Viceroy Liu K'un-yi.....	267
Debt, foreign, of Guatemala: the United States declines to join with other powers in coercive action, but will reserve for United States citizens all rights secured by such action.....	426, 569
Decision, preliminary, of the King of Sweden and Norway, as arbitrator of claims on account of military operations conducted in Samoa in 1899.....	444
Declaration of intention to return to the United States within a stipulated period: attitude of Department on, in connection with passports.....	407
Declaration of Russia and France concerning defensive agreement between Great Britain and Japan.....	929
Decree:	
attempted blockade of Haitian ports by decree of provisional government (under Revolution in Haiti).....	587
disarming natives of Chihli, China.....	254
Dedication of monument to Marshal de Rochambeau, at Washington.....	409
Defensive agreement between Great Britain and Japan: declaration of Russia and France concerning.....	929
text of.....	513
Defilement of United States court of arms at Bamberg, Germany.....	430
Delays in transmission of telegrams over Russian line in Manchuria.....	145, 916
Denial of protection to Porto Ricans engaged in insurrection against Dominican Government.....	382
Denials of justice to United States citizens in Mexico to be reported to embassy by consular officials.....	828
Denmark:	
accident to President Roosevelt.....	373
courtesies to U. S. S. <i>Chicago</i> and <i>Albany</i>	373
effect of the continued residence of naturalized United States citizens in the country of origin.....	377
liability of naturalized citizens of the United States to military service in Denmark.....	372
military service, case of—	
Hansen, James John.....	378
Miller, Anton.....	378
Nelson, James.....	375
protection of Cuban interests by United States consular officials.....	373
protection of Danish interests in Salvador by United States officials.....	365
treaty between the United States and Denmark for the extradition of fugitives from justice.....	368
Deposition of President Aceval and elevation of Vice-President Carvalla to Presidency of Paraguay.....	1051
de Rochambeau, Marshal: dedication of monument at Washington to.....	409
Dickmann (Dieckmann), George: military service case in Germany.....	461
Dick, Paul, a Swiss citizen: protection of, by United States representative in Egypt.....	979
Difficulty between Argentine Republic and Chile: adjustment of.....	18
Diplomatic and consular representatives of the United States in Cuba: message from the President of the United States commending timely consideration of measures for maintaining.....	320
Diplomatic corps: audience with Emperor and Empress Dowager of China...	205
Diplomatic immunities: testimony of United States diplomatic representatives in foreign courts.....	355
Diplomatic mission: charge of, in the absence of its head; construction of article 19 of "Instructions to diplomatic officers".....	4
Diplomatic officers: charges against.....	5
Diplomatic relations between Venezuela and France: text of protocol renewing.....	1067
Disarming natives of Chihli, China: decree.....	254
Discharge from Mexican army, after enforced enlistment, of Francisco Cuero, an American Indian.....	789
Discourtesy to British flag at Skagway, Alaska (Canadian customs flags not to be displayed in United States territory, nor United States customs flags in Canadian territory).....	546
Discriminations against Jews in Roumania, condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons.....	42, 420, 442, 549, 684, 910, 936, 1048

	Page.
Discriminations, alleged, against American enterprises in Colombia.....	284
Disposition and tenure of real and personal property: convention between the United States and Guatemala relating to	584
Dominican Republic:	
accident to President Roosevelt	384
protection denied Porto Ricans engaged in insurrection against Dominican Government	382
protection of Cuban interests by United States consular officials	383
visit of Gen. Maximo Gomez to Santo Domingo, during which relics of Christopher Columbus were exhibited.....	381
Dues, tonnage, on Cuban vessels: suspension of	354
Duff, Joseph: passport application of	448
Duties, import, in Zanzibar: treaty between the United States and Great Britain concerning the establishment of	551
Duty, additional, on articles that have already been entered into China: question of collection of.....	222
E.	
East Africa: British protectorates in, placed under zone of total prohibition of alcoholic liquors, under Article XCI of the Brussels act	520
Ecuador:	
accident to President Roosevelt.....	390
passports and citizenship: explanatory of Department's attitude in regard to, and defining limits within which naturalization certificates are recognized.....	386
protection of Cuban interests by United States consular officials.....	389
Edicts, reform, aiming at reorganization of institutions of learning, restoration of friendly intercourse with foreigners in China, removing prohibition of marriage between Manchus and Chinese, and providing for selection of students to be sent abroad	181, 206
Edward VII of England:	
condolences of the United States on illness of	537
special embassy of the United States to coronation of	498
title of	507
Effect of the continued residence of naturalized United States citizens in the country of origin.....	377
Egypt: protection of Paul Dick, a Swiss citizen, by United States representative in.....	979
Eichborn, Gustav Frank: passport application of.....	449
Eisemann, Albert and Nathan: expulsion from Germany	451
Electoral system of Belgium: brief sketch of	85
Embarrassments, mutual, of United States and Russian officials at Niuchwang—conflict between United States seamen and Russian officials—delays in transmission of telegrams, etc	145, 916
Embassies: raising of United States legation to Austria-Hungary and Austro-Hungarian legation to the United States to.....	27
Embassy, special, of the United States to the coronation of Edward VII.....	498
Emigration, American, to the Upper Amazon region: inadvisability of.....	105
Emperor of China: audience to diplomatic corps.....	205
Employees, railway, American citizens: arrest and imprisonment in Mexico..	795
Empress Dowager of China: audience to diplomatic corps and reception of ladies of the diplomatic corps.....	205
Enforced enlistment in and discharge from Mexican army of Francisco Cuero, an American Indian.....	789
Eruption, volcanic:	
at Martinique: assistance rendered by the United States to sufferers from ..	412
at St. Vincent, Windward Islands: assistance rendered by the United States to sufferers from	523
Establishment of Cuban Republic	320, 326
Establishment of United States post-offices in China, and collection of additional duty on articles that have already been entered into China: questions of	222
Estate of Baron Thomsen in Brazil: inheritance tax on	107
Evacuation of Manchuria by Russia: commencement of.....	281

	Page.
Exclusion of Chinese:	
arguments against United States laws for.....	209
from Cuba	352
refusal of Treasury Department to modify certain regulations.....	236
Execution in Switzerland of judgment of Massachusetts court denied by Swiss authorities because of refusal of United States to guarantee reciprocal action in similar cases	994
Exemption from military service of operators of Central and South American Telegraph Company: refusal of, by Argentine Republic.....	23
Exemption of consuls, under most-favored-nation clause, from payment of personal taxes.....	792
Expropriation of property: rights of United States citizens in Colombia as to.....	301
Expulsion:	
Blohm, Henry, from Germany	458
Eisemann, Albert and Nathan, from Germany	451
Fysant, Mads Peder L., from Germany	459
Hess, Leo, from Germany	457
Lohmann, Johann Wilhelm, from Germany	457
Markhoff, (Carl) Christian, and family, from Germany	458
Mikolainis, Peter, from Germany.....	450
Samuel, Samuel, from Germany.....	460
Von Oehsen, Charles, from Germany	458
Extracts from message of President:	
of Argentine Republic	13
of Peru	900
Extradition:	
of criminals, treaty between the United States and Chile providing for the	122
of fugitives from justice, treaty between the United States and Belgium for the mutual	87
of fugitives from justice, treaty between the United States and Denmark for	368
of fugitives from justice, treaty between the United States and Servia for.....	938
F.	
Financial conditions in Roumania	905
Fine on Belgian steamship Belgika in the Philippine Islands	73
Flag:	
British, discourtesy to, at Skagway, Alaska	546
Canadian customs, not to be displayed in United States territory.....	546
United States customs, not to be displayed in Canadian territory.....	546
United States, improper use of, by Venezuelan gunboat Restaurador	1072
Foreign courts, testimony of United States diplomatic representatives in.....	355
Foreign debt of Guatemala: the United States declines to join with other powers in coercive action, but will reserve for United States citizens all rights secured by such action.....	426, 569
Foreign policy of Germany: résumé of speeches of Chancellor Count Bülow relative to China, visit of Prince Henry of Prussia to the United States, war in South Africa, etc	425
Foreign settlement at Chemulpo, Korea: amendment to land regulations of....	733
France:	
accident to President Roosevelt	419
agreement between Russia and China relative to Manchuria.....	408
amendatory and additional agreement to the commercial agreement of May 28, 1898, between the United States and France.....	418
assistance rendered by the United States to the sufferers from the volcanic eruption of Martinique.....	412
complaints of alleged violation at Pacific coast ports of consular convention of February 23, 1853, between the United States and France	391
declaration of Russia and France concerning defensive agreement between Great Britain and Japan	929
dedication of monument to Marshal de Rochambeau, at Washington	409
Jews in Roumania: discriminations against, conditions of helplessness to which they are reduced, and objection of United States Government to immigration of such persons	420

	Page.
France—Continued.	
passports—	
attitude of Department on question of declaration of intention to return to the United States within a stipulated period	407
erroneously issued to G. L. Rosenbaum without proof of his father's naturalization; special passports not to be issued by diplomatic representatives abroad	420
protection of Cuban interests by United States consular officials	417
protection of French cable in Haiti by United States officials	417
renewal of diplomatic relations between Venezuela and France: text of protocol	1067
Freiman, Armin: passport application of	69
French cable in Haiti: protection of, by United States officials	417
Friction between the United States minister to Turkey and the Grand Vizier	1044
Friedberg, Jacob: military-service case in Austria-Hungary	63
Frommer, Harry: passport application of	70
Fugitives from justice: treaty between the United States and—	
Belgium for the mutual extradition of	87
Denmark for the extradition of	368
Serbia for the mutual extradition of	938
Fukien: monopoly of camphor trade granted to a Japanese company	255
Fund, Pious:	
claim of Catholic Church <i>v.</i> Mexico on account of	738
passage of message of President of Mexico to Congress relating to	831
Fysant, Mads Peder L.: expulsion from Germany	459

G.

Gelbtrunk, Rosa: arbitration of claim of, <i>v.</i> Salvador	873
German interests at Bocas del Toro: protection of, by United States naval officials	427
Germans naturalized in the United States: restrictions on sojourn in their country of origin	440
Germany:	
accident to President Roosevelt	442
claims on account of military operations conducted in Samoa in 1899: preliminary decision of the King of Sweden and Norway as arbitrator	444
death of King Albert of Saxony	429
defilement of United States coat of arms at Bamberg	430
expulsion of—	
Blohm, Henry	458
Eisemann, Albert and Nathan	451
Fysant, Mads Peder L.	459
Hess, Leo	457
Lohmann, Johann Wilhelm	457
Markhoff, (Carl) Christian, and family	458
Mikolainis, Peter	450
Samuel, Samuel	460
Von Oehsen, Charles	458
foreign debt of Guatemala: the United States declines to join with other powers in coercive action, but will reserve for United States citizens all rights secured by such action	426
foreign policy of Germany: résumé of speeches of Chancellor Count Bülow relative to China, visit of Prince Henry of Prussia to the United States, war in South Africa, etc	425
Jews in Roumania: discriminations against, condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons	442
military-service cases of—	
Dickmann (Dieckmann), George	461
Grenzer, Ferdinand Herman	461
Herr, Eugene	460
Honebein, Henry	461
Huttler, Rene	460
Meincke, Gustav	461
Schwartz, Meyer	460
Soehlke, George	461

	Page.
Germany—Continued.	
passport application of—	
Duff, Joseph	448
Eichborn, Gustav Frank	449
Reif, Schabsel	448
protection of Cuban interests by United States consular officials	428
protection of German interests at Bocas del Toro by United States naval officials	427
relations of Germany with Haiti	442
restrictions on sojourn in their country of origin of Germans naturalized in the United States	440
visit of Prince Henry of Prussia to the United States	422
(Gisbert y Bayot, Antonio: military-service case in Spain	949
(Gold standard: adoption of, in Peru	893
(Gomez, General Maximo: visit of, to Santo Domingo, during which relics of Christopher Columbus were exhibited	381
Government, independent, in Cuba: establishment of	320
Grand Vizier of Turkey: friction between the United States minister and	1044
Great Britain:	
abduction of Miss Stone: assistance in rescue rendered by British officials in Turkey and Bulgaria	520
accident to President Roosevelt	550
agreement between Russia and China relative to Manchuria	511
assistance rendered by United States to sufferers from volcanic eruption at St. Vincent, Windward Islands	523
British protectorates in East Africa placed under zone of total prohibition of alcoholic liquors, under Article XCI of the Brussels act	520
condolences on illness of King Edward VII	537
death of Lord Pauncefote, British ambassador to the United States	530
defensive agreement with Japan: declaration of Russia and France concerning	929
discourtesy to British flag at Skagway, Alaska (Canadian customs flags not to be displayed in United States territory, nor United States customs flags in Canadian territory)	546
interview in London of United States Special Ambassador Reid with Prince Chen, Chinese special envoy	543
Jews in Roumania: discriminations against, condition of helplessness to which they are reduced, and objections of United States Government to immigration of such persons	549
prisoners of war, American citizens, held in British colonies	463
protection—	
by United States consul of British interests at Martinique	537
by United States officials of British interests in Bolivia	528
of American interests in Bulgaria by British representatives	521
of American interests at Habana by British consul-general	543
of American interests by British vice-consul at Bitlis, Turkey	553
of an American citizen by British vice-consul at Van, Turkey	540
of British interests in Colombia by United States officials	509
of Cuban interests by United States consular officials	532
release of British subject from involuntary military service in Venezuela secured by United States naval officials	545
scholarships under the will of Cecil John Rhodes	532
special embassy of the United States to coronation of Edward VII	498
text of commercial treaty between Great Britain and China	553
text of defensive agreement between Great Britain and Japan	513
title of King Edward VII	507
treaty between the United States and Great Britain concerning the establishment of import duties in Zanzibar	551
treaty between the United States and Great Britain to facilitate the construction of a ship canal	517
Greece:	
courtesies at Piræus to European squadron of the United States Navy	565
courtesies to U. S. S. Hartford at Piræus	567
protection of Cuban interests by United States consular officials	567
Grenzer, Ferdinand Herman: military-service case in Germany	461
Guaranty by United States of transit across Isthmus of Panama under treaty of 1846: so long as rights of American vessels and citizens are not interfered with the United States can not intervene	884

	Page.
Guatemala and Honduras:	
accident to President Roosevelt	584
convention between the United States and Guatemala for the reciprocal protection of trade-marks and trade labels	582
convention between the United States and Guatemala relating to the tenure and disposition of real and personal property	584
foreign debt of Guatemala: the United States declines to join with other powers in coercive action, but will reserve for United States citizens all rights secured by such action	569
protection of Cuban interests by United States officials	583
Guatemala, foreign debt of: the United States declines to join with other powers in coercive action, but will reserve for United States citizens all rights secured by such action	426

H.

Habana: protection of American interests at, by British consul-general	543
Haiti:	
accident to President Roosevelt	682
protection by United States officials of—	
Belgian interests	98
Cuban interests	678
French cable	417
question of "right of asylum" in United States legations	679
relations of Germany with	442
request made by provisional government of, that the <i>Crête à Pierrot</i> , a Haitian naval vessel, under command of Admiral Killick, formerly of the Haitian navy, but subsequently in revolt against the provisional government, be treated as a pirate (under Revolution in Haiti)	587
revolution in Haiti	587
Hansen, James John: military-service case in Denmark	378
Hartford, U. S. S.: courtesies at Piræus to	567
Herr, Eugene: military-service case in Germany	460
Hess, Leo: expulsion from Germany	457
Honduras. (See Guatemala and Honduras.)	
Honebein, Henry: military-service case in Germany	461
House of Representatives of Cuba: resolution thanking Government and people of the United States for assistance	325
Howrka, Frank: military-service case of, in Austria-Hungary	63
Hungarian national banner: sending of, to the United States	45
Huttler, Rene: military-service case in Germany	460

I.

Illness of King Edward VII: condolences of the United States	537
Immigration of Roumanian Jews: objections of United States Government to	42, 420, 442, 549, 684, 910, 936, 1048
Immunities, consular: exemption of consuls, under most-favored-nation clause, from payment of personal taxes	792
Immunities, diplomatic: testimony of United States diplomatic representatives in foreign courts	355
Import duties in Zanzibar: treaty between the United States and Great Britain concerning the establishment of	551
Imprisonment of American citizens, railway employees, in Mexico	795
Inproper use of United States flag by Venezuelan gunboat <i>Restaurador</i>	1072
Inadvisability of American emigration to the Upper Amazon region	105
Inauguration of President Alves, of Brazil	114
Independent government in Cuba: establishment of	320
Indian, American, Francisco Cuero: enforced enlistment in and discharge from Mexican army	789
Inheritance tax on estate of Baron Thomsen in Brazil	107
Initiative and referendum in Switzerland	981
Institutions of learning in China: reform edict aiming at reorganization of	181
Instructions to diplomatic officers: construction of article 19 of, in connection with charge of diplomatic mission in the absence of its head	4
Insular possessions of the United States: passports to residents of	6
Insurance companies, American life in Turkey: restrictions on	1026
Intent to return to the United States: passports	1

Interests:

	Page.
American—	
at Bitlis, Turkey: protection of, by British vice-consul.....	553, 1042
at Habana: protection of, by British consul-general.....	543
in Bulgaria: protection of, by British representatives.....	521
Belgian, in Haiti: protection of, by United States naval vessel.....	98
British—	
at Martinique: protection of, by United States consul.....	537
in Bolivia: protection of, by United States officials.....	101, 528
in Colombia: protection of, by United States officials.....	509
Cuban—	
protection of, by United States consular officials.....	6, 329
in Argentine Republic.....	24
Austria-Hungary.....	36
Belgium.....	86
Bolivia.....	101
Brazil.....	106
Chile.....	121
China.....	234
Colombia.....	318
Denmark.....	373
Dominican Republic.....	383
Ecuador.....	389
France.....	417
Germany.....	428
Great Britain.....	532
Greece.....	567
Guatemala and Honduras.....	583
Haiti.....	678
Italy.....	683
Japan.....	730
Korea.....	736
Mexico.....	815
Netherlands.....	835
Nicaragua, Costa Rica, Salvador.....	883
Peru.....	898
Portugal.....	904
Roumania.....	909
Russia.....	933
Siam.....	945
Spain.....	960
Sweden and Norway.....	967
Switzerland.....	981
Turkey.....	1041
Uruguay and Paraguay.....	1055
Venezuela.....	1069
Danish, in Salvador: protection of, by United States officials.....	365, 836
German, at Bocas del Toro: protection of, by United States naval officials.....	427
Interpreters, student, in China.....	227
Interview in London of United States Special Ambassador Reid with Prince Chen, Chinese special envoy.....	543
Involuntary military service in Venezuela: release of British subject from, secured by United States naval officials.....	545
Iowa, U. S. battle ship:	
courtesies to, in Chile.....	119
exchange of courtesies between officers of, and Brazilian officials.....	114
reception of officers of, by the President of Uruguay.....	1055
Isthmus of Panama: guaranty by the United States, under treaty of 1846, of transit across; so long as rights of American vessels and citizens are not interfered with the United States can not intervene.....	884
Italy:	
accident to President Roosevelt.....	683
Jews in Roumania: discriminations against, condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons.....	684
passport application of Antonio Basile.....	685
protection of Cuban interests by United States consular officials.....	683

J.

	Page.
Janco, Josef: retention of passport and certificate of naturalization of, by Hungarian officials.....	49
Japan:	
accident to President Roosevelt	731
death of Alfred E. Buck, United States minister to Japan	731
defensive agreement with Great Britain: declaration of Russia and France concerning.....	929
protection of Cuban interests by United States consular officials	730
submission to arbitration of question of taxation of buildings on perpetually leased ground in Japan	687
text of defensive agreement between Great Britain and	513
Japanese company: monopoly of camphor trade in Fukien granted to.....	255
Jews in Roumania:	
discriminations against, condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons	42, 420, 442, 549, 684, 936, 1048
discussion of proposed naturalization convention between the United States and Roumania: discriminations in the latter country against Jews, condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons.....	910
Judgment of Massachusetts court: execution in Switzerland denied by Swiss authorities because of refusal of United States to guarantee reciprocal action in similar cases.....	994
Jurisdiction of United States consuls over disputes and differences between masters, officers, and crews of American vessels in Mexican ports.....	816
Jurisdiction over vessels and their crews: complaint that local officials at Pensacola, Fla., made arrests aboard a Spanish vessel without notice to Spanish consul.....	961
Justice, denials of, to United States citizens in Mexico, to be reported to embassy by consular officials.....	828

K.

Kaufmann, Bernhard: passport application of.....	977
Killick, Admiral, formerly of the Haitian navy, but subsequently in revolt against the provisional government. Request made by provisional government that the Crête à Pierrot, a Haitian naval vessel under command of, be treated as a pirate (under Revolution in Haiti).....	587
King:	
Albert of Saxony: death of	429
Edward VII—	
condolences of the United States on illness of	537
special embassy of the United States to coronation of	498
title of.....	507
of Belgium: attempt on life of.....	99
of Sweden and Norway: preliminary decision as arbitrator of claims on account of military operations conducted in Samoa in 1899	444
Kludjian, Assadur H.: passport application of.....	1023
Knopf, Bertha: passport application of	969
Knopp, Joseph: military-service case in Austria-Hungary	63
Korea:	
accident to President Roosevelt	737
amendment to land regulations of foreign settlement at Chemulpo	733
protection of Cuban interests by United States consular officials	736
Krippendorf, H., who had merely declared intention to become a citizen of the United States: protection denied to	221
Kristof, Joseph: military-service case in Austria-Hungary.....	61

L.

Ladies of the diplomatic corps: reception of, by Empress Dowager of China ..	205
Land regulations of foreign settlement at Chemulpo, Korea: amendment to...	733
Law establishing procedure for obtaining Cuban citizenship.....	356
Legation:	
Austro-Hungarian, to United States: raising of, to embassy	27
United States, to Austria-Hungary: raising of, to embassy	27

	Page.
Liability of naturalized citizens of the United States to military service in Denmark	372
Life insurance companies, American, in Turkey: restrictions on	1026
Lilienthal, Moses: passport application of	65
Liquors, alcoholic: British protectorates in East Africa placed under zone of total prohibition of, under Article XCI of the Brussels act	520
List of papers, with subjects of correspondence	xxxv
Liu K'un-yi, viceroy: death of	267
Lohmann, Johann Wilhelm: expulsion from Germany	457
M.	
Majority of Alfonso XIII of Spain; celebration of	954
Manchuria:	
agreement between Russia and China relative to	26, 408, 511
commencement of evacuation of, by Russia	281
convention and arrangement between China and Russia respecting	271
convention and arrangement between Russia and China respecting	926
delays in transmission of telegrams by Russian officials in	916
Manchus: reform edict removing prohibition of marriage between Chinese and	208
Markhoff, (Carl) Christian, and family; expulsion from Germany	458
Marriage between Manchus and Chinese; reform edict removing prohibition of	208
Martinique:	
protection of British interests at, by United States consul	537
volcanic eruption at: assistance rendered by the United States to sufferers from	412
Massachusetts court, judgment of: execution in Switzerland denied by Swiss authorities because of refusal of United States to guarantee reciprocal action in similar cases	994
Massacres, riots, uprisings, etc., in China	159
Masters, officers, and crews of American vessels in Mexican ports: jurisdiction of United States consuls over disputes and differences between	816
Matanzas, Cuba: ceremonies attending hauling down of United States flag at	350
Medellin: reopening of United States missionary schools at, closed by Colombian authorities	293
Meincke, Gustav: military-service case in Germany	461
Messages of the President of:	
Argentine Republic: extracts from	13
Cuba	333
Mexico: passages relating to the Pious Fund and the silver question	831
Peru: extracts from	900
United States—	
annual	XI
commending timely consideration of measures for maintaining diplomatic and consular representatives in Cuba, and for carrying out the provisions of the act making appropriation for the support of the army for the fiscal year ending June 30, 1902	320
Mexico:	
accident to President Roosevelt	830
arrest and imprisonment of American citizens, railway employees, in Mexico: detailed reports in case of Nathaniel F. Bonsall	795
claim of the Catholic Church (Pious Fund) <i>v.</i> Mexico	738
consular immunities: exemption of consuls, under most-favored-nation clause, from payment of personal taxes	792
denials of justice to United States citizens to be reported to embassy by consular officials	828
enforced enlistment in and discharge from Mexican army of Francisco Cuero, an American Indian	789
jurisdiction of United States consuls over disputes and differences between masters, officers, and crews of American vessels in Mexican ports	816
message of President of Mexico to Congress: passages relating to the Pious Fund and the silver question	831
passage through United States of remains of late Mexican minister to Austria-Hungary	794
protection of Cuban interests by United States consular officials	815
reception of the Cuban minister to Mexico	832

	Page.
Mexico—Continued.	
settlement of claim of Michael Brown <i>v.</i> Mexico on account of illegal eviction and imprisonment.....	786
treaty of commerce and navigation between Austria-Hungary and Mexico.....	815
treaty of compulsory arbitration between Mexico and Spain.....	813
Mexican army: enforced enlistment in and discharge from of Francisco Cuero, an American Indian.....	789
Mexican minister to Austria-Hungary: passage through United States of remains of late.....	25, 794 450
Mikolainis, Peter: expulsion from Germany.....	450
Military:	
occupation of Cuba by the United States: cessation of.....	6
operations conducted in Samoa in 1899: claims on account of—preliminary decision of the King of Sweden and Norway as arbitrator.....	444
service case of—	
Dickmann (Dieckmann), George, in Germany.....	461
Friedberg, Jacob, in Austria-Hungary.....	63
Gisbert y Bayot, Antonio, in Spain.....	949
Grenzer, Ferdinand Herman, in Germany.....	461
Hansen, James John, in Denmark.....	378
Herr, Eugene, in Germany.....	460
Honebein, Henry, in Germany.....	461
Howrka, Frank, in Austria-Hungary.....	63
Huttler, Rene, in Germany.....	460
Knopp, Joseph, in Austria-Hungary.....	63
Kristof, Joseph, in Austria-Hungary.....	61
Meincke, Gustav, in Germany.....	461
Miller, Anton, in Denmark.....	378
Nelson, James, in Denmark.....	375
Schmierie, Harry, in Austria-Hungary.....	63
Schwartz, Meyer, in Germany.....	460
Soehlke, George, in Germany.....	461
Tenzer, Michael, in Austria-Hungary.....	63
Military service:	
in Denmark: liability of naturalized citizens of the United States to.....	372
involuntary, in Venezuela: release of British subject from secured by United States naval officials.....	545
refusal of Argentine Republic to exempt operators of Central and South American Telegraph Company from.....	23 378
Miller, Anton: military service case in Denmark.....	378
Minors at the time of naturalization of parents, who were not at the time of such naturalization dwelling within the United States: passports not to be issued to (case of Meta Schwarz).....	976
Missionaries:	
in China: protection of by United States naval forces.....	138
native Chinese: request of taot'ai of Kiukiang for recall of.....	202
protection of native Christians in China by.....	131
Missionary:	
Miss Ellen M. Stone: abduction by brigands, ransom, and release of.....	997
schools, United States, at Barranquilla, Bogotá, and Medellin, closed by Colombian authorities: reopening of.....	293
Monopoly:	
of camphor trade in Fukien granted to a Japanese company.....	255
railway construction, in Persia, held by Russia.....	890
Monument to Marshal de Rochambeau, at Washington: dedication of.....	409
Mutual embarrassments of United States and Russian officials at Niuchwang—	
conflict between United States seamen and Russian officials—delays in transmission of telegrams, etc.....	145, 916
N.	
Native Christians: protection of, by missionaries in China.....	131
Native missionaries in China: request of taot'ai of Kiunkiang for recall of.....	202
Naturalization certificate of Josef Janco: retention of, by Hungarian officials..	49
Naturalization certificates: defining limits within which recognition is accorded to.....	386

	Page.
Naturalization convention, proposed, between the United States and Roumania, discussion of: discriminations in Roumania against Jews, condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons.....	910
Naturalized citizens of the United States:	
effect of continued residence in the country of origin	377
liability to military service in Denmark.....	372
of Austro-Hungarian origin returning to their native country	49
restrictions on sojourn in their country of origin.....	440
Navigation and commerce: treaty between Mexico and Austria-Hungary.....	815
Nelson, James: military-service case in Denmark.....	375
Netherlands:	
passport application of Juliaan Johan Becker	834
protection of Cuban interests by United States consular officials	835
Neutrality of aliens: "certificates of neutrality" not to be issued by legation to United States citizens in Colombia	313
Nicaragua, Costa Rica, and Salvador:	
accident to President Roosevelt.....	889
arbitration of claim of Rosa Gelbrunk <i>v.</i> Salvador.....	873
arbitration of claims of the Salvador Commercial Company <i>et al. v.</i> Salvador.....	838
guaranty by United States of transit across the Isthmus of Panama under treaty of 1846; so long as rights of American vessels and citizens are not interfered with the United States can not intervene.....	884
in absence of treaty stipulations, law of Salvador governs, where not inconsistent with international law, etc	880
protection of Cuban interests by United States consular officials.....	883
protection of Danish interests in Salvador by United States officials.....	836
treaty between Central American States providing for the arbitration of differences.....	881
Niuchwang: mutual embarrassments of United States and Russian officials at; conflict between United States seamen and Russian officials; delays in transmission of telegrams, etc	145, 916
Norway. (<i>See</i> Sweden and Norway.)	
O.	
Objection of the United States Government to immigration of Roumanian Jews	42, 420, 442, 549, 684, 936, 1048
Occupation, military, of Cuba by the United States: cessation of	6
Officers, masters, and crews of American vessels in Mexican ports: jurisdiction of United States consuls over disputes and differences between	816
Operators of Central and South American Telegraph Company: refusal of Argentine Republic to exempt from military service.....	23
P.	
Panama:	
Chinese at: protection of, by United States officials.....	262, 318
Isthmus of: guaranty by the United States, under treaty of 1846, of transit across; so long as rights of American vessels and citizens are not interfered with, the United States can not intervene.....	884
Papers, list of, with subjects of correspondence.....	xxxv
Paraguay (<i>see</i> Uruguay and Paraguay):	
deposition of President Aceval and elevation of Vice-President Carvalla to Presidency of	1051
Partial removal of restrictions on travel and residence in central Asia	936
Passage through the United States of remains of late Mexican minister to Austria-Hungary	25, 794
Passport application of:	
Alexander, Theodor F.....	67
Basile, Antonio.....	685
Becker, Juliaan Johan.....	834
Duff, Joseph.....	448
Eichborn, Gustav Frank.....	449
Freiman, Armin.....	69
Frommer, Harry.....	70

	Page
Passport application of—Continued.	
Kaufmann, Bernhard	977
Kludjian, Assadur II	1023
Knopf, Bertha	969
Lilienthal, Moses	65
Pecare, Helena	968
Reif, Schabsel	448
Schwarz, Meta	976
Strahlheim, William	973
Wetherbee, Henry W.: question as to whether a United States official may issue a passport to a United States citizen residing in the district of another United States official	943
Passport and certificate of naturalization of Josef Janco: retention of, by Hun- garian officials	49
Passports and citizenship: explanatory of Department's attitude in regard to, and defining limits within which naturalization certificates are recognized ..	386
Passports: attitude of Department on question of declaration of intention to return to the United States within a stipulated period	407
Passport erroneously issued to G. L. Rosenbaum without proof of his father's naturalization	420
Passports for persons residing or sojourning abroad	1
Passports for travel in Thibet: refusal of Chinese Government to issue	226
Passports: intent to return to the United States	1
Passports not to be issued to persons, minors at the time of naturalization of parents, who were not at the time of such naturalization dwelling within the United States (case of Meta Schwarz)	976
Passports: question as to whether a United States official may issue to a United States citizen residing in the district of another United States official—appli- cation of Henry W. Wetherbee	943
Passports, special: not to be issued by diplomatic representatives abroad	420
Passports to residents of insular possession of the United States	6
Pauncefote, Lord, British ambassador to the United States: death of	530
Pecare, Helena: passport application of	968
Pekin: return of Chinese court to	142
Pension: right of widow of Austro-Hungarian soldier to	33
Perpetually leased ground in Japan: submission to arbitration of question of taxation of buildings on	687
Persia:	
accident to President Roosevelt	890
railway construction monopoly in Persia held by Russia	890
Personal and real property: convention between the United States and Guate- mala relating to the tenure and disposition of	584
Personal taxes: exemption of consuls, under most-favored-nation clause, from payment of	792
Peru:	
accident to President Roosevelt	903
adoption of gold standard in Peru	893
extracts from message of President of Peru to Peruvian Congress	900
protection of Cuban interests by United States consular officials	898
text of arbitration protocol between Peru and Bolivia	891
Pious fund:	
claim of Catholic Church <i>v.</i> Mexico on account of	738
passage of message of President of Mexico to Congress relating to	831
Piraeus:	
courtesies shown U. S. S. Hartford at	567
courtesies shown European squadron of U. S. Navy at	565
Policy, foreign, of Germany: résumé of speeches of Chancellor Count Bülow relative to China; visit of Prince Henry of Prussia to the United States; war in South Africa, etc	425
Political, social, and commercial relations between the United States and Austria-Hungary	34
Porto Ricans engaged in insurrection against Dominican Government: protec- tion denied	382
Portugal:	
accident to President Roosevelt	904
protection of Cuban interests by United States consular officials	904
Post-offices, United States: question of establishment of, in China	222

	Page.
Preliminary decision of the King of Sweden and Norway as arbitrator of claims on account of military operations conducted in Samoa in 1899	444
Preparations, proprietary, of American manufacture: admission of, into Austria-Hungary	37
President Alves of Brazil: inauguration of	114
President of Mexico: message to Congress—passages relating to the Pious fund and the silver question	831
President of Peru: extracts from message of, to Peruvian Congress	900
President Roosevelt, accident to	48, 97, 356, 373, 384, 390, 419, 442, 550, 584, 682, 683, 731, 737, 830, 889, 890, 903, 904, 948, 960, 1050
Prince Henry of Prussia:	
résumé of speech of Count Bülow, German chancellor, relative to	425
visit to the United States	422
Prisoners of war, American citizens, held in British colonies	463
Procedure for obtaining Cuban citizenship: law establishing	356
Proclamation, Chinese, denouncing Boxer practices as heresy	266
Prohibition of alcoholic liquors: British protectorates in East Africa placed under zone of total, under Article XCI of the Brussels Act	520
Property, expropriation of: right of United States citizens in Colombia as to ..	301
Property, industrial: additional act, concluded at Brussels December 14, 1900, by the plenipotentiaries of the United States and other countries, for the protection of, modifying the industrial property convention of March 20, 1883	92
Property, real and personal: convention between the United States and Guatemala relating to the tenure and disposition of	584
Proprietary preparations of American manufacture: admission of, into Austria-Hungary	37
Protection:	
by United States officials of British interests in Bolivia	101, 528
by United States consular officials of British interests at Martinique	537
by United States consular officers of Chinese on the Isthmus of Panama ..	262, 318
denied Porto Ricans engaged in insurrection against Dominican Government	382
denied to H. Krippendorf, who had merely declared intention to become a citizen of the United States	221
of American interests at Habana by British consul-general	543
of American interests by British vice-consul at Bitlis, Turkey	553, 1042
of an American citizen by British vice-consul at Van, Turkey	540
of Belgian interests in Haiti by United States naval vessel	98
of British interests in Colombia by United States officials	509
of Cuban interests by United States consular officials	6, 329
in Argentine Republic	24
Austria-Hungary	36
Belgium	86
Bolivia	101
Brazil	106
Chile	121
China	234
Colombia	318
Denmark	373
Dominican Republic	383
Ecuador	389
France	417
Germany	428
Great Britain	532
Greece	567
Guatemala and Honduras	583
Haiti	678
Italy	683
Japan	730
Korea	736
Mexico	815
Netherlands	835
Nicaragua, Costa Rica, and Salvador	883
Peru	898
Portugal	904
Roumania	909

Protection—Continued.

	Page.
of Cuban interests by United States consular officials—Continued.	
in Russia	933
Siam	945
Spain	960
Sweden and Norway	967
Switzerland	981
Turkey	1041
Uruguay and Paraguay	1055
Venezuela	1069
of Danish interests by United States officials in Salvador	365, 836
of French cable in Haiti by United States officials	417
of German interests at Bocas del Toro by United States naval officials	427
of industrial property: additional act, concluded at Brussels December 14, 1900, by the plenipotentiaries of the United States and other countries, for the, modifying the industrial property convention of March 20, 1883.	92
of missionaries in China by United States naval forces	138
of native Christians by missionaries in China	131
of Paul Dick, a Swiss citizen, by United States representative in Egypt ..	979
of Roberto Beck, a Swiss citizen, by United States officials in Colombia. 289,	979
of trade-marks and trade labels: convention between the United States and Guatemala for the reciprocal protection of	582
Protectorates, British, in East Africa placed under zone of total prohibition of alcoholic liquors, under Article XCI of the Brussels Act	520
Protocol renewing diplomatic relations between Venezuela and France	1067
Punishment, vicarious, of relatives in China of Chinese naturalized citizens of the United States	244

Q.

Queen of Belgium: death of	98
Question of "right of asylum" in United States legations	679

R.

Railway construction monopoly in Persia held by Russia	890
Railway employees, American citizens: arrest and imprisonment in Mexico ..	795
Raising of United States legation to Austria-Hungary and Austro-Hungarian legation to United States to embassies	27
Ransom of Miss Ellen M. Stone, an American missionary, abducted by brigands.	997
Real and personal property: convention between the United States and Guatemala relating to the tenure and disposition of	584
Reception of:	
Cuban minister to Mexico	832
ladies of the diplomatic corps by Empress Dowager of China	205
officers of the U. S. S. Iowa by the President of Uruguay	1055
Rear-Admiral Frederick Rodgers, U. S. Navy, by the Emperor and Empress Dowager of China	240
United States minister to Cuba	322
Referendum and initiative in Switzerland	981
Reform edicts aiming at reorganization of institutions of learning, and restoration of friendly intercourse with foreigners in China	181
Reform edicts removing prohibition of marriage between Manchus and Chinese, and providing for selection of Chinese students to be sent abroad	208
Refusal of Argentine Republic to exempt operators of Central and South American Telegraph Company from military service	23
Refusal of Chinese Government to issue passports for travel in Thibet	226
Regulations, land, of foreign settlement at Chemulpo, Korea: amendment to.	733
Rehabilitation of Chang Yin-huan	140
Reif, Schabsel: passport application of	448
Relations:	
between Cuba and the United States	358
between the United States and Chile	116
diplomatic, between Venezuela and France: text of protocol renewing ...	1067
of Germany with Haiti	442
political, social, and commercial, between the United States and Austria-Hungary	34

	Page.
Release of British subject from involuntary military service in Venezuela secured by United States naval officials	545
Release of Miss Ellen M. Stone, an American missionary, abducted by brigands	997
Relics of Christopher Columbus: visit of General Maximo Gomez to Santo Domingo, during which occurred an exhibition of	381
Remains of late Mexican minister to Austria-Hungary: passage through United States of	25, 794
Removal, partial, of restrictions on travel and residence in Central Asia	936
Renewal of diplomatic relations between Venezuela and France: text of protocol	1067
Reopening of United States missionary schools at Barranquilla, Bogotá, and Medellín, closed by Colombian authorities	293
Reorganization of institutions of learning in China: reform edict aiming at ...	181
Republic of Cuba: announcement of establishment of	326
Request made by provisional government of Haiti that the Crête à Pierrot, a Haitian naval vessel under command of Admiral Killick, formerly of the Haitian navy, but subsequently in revolt against the provisional government, be treated as a pirate (under Revolution in Haiti)	587
Rescue of Taot'ai of Kiunkiang for recall of native (Chinese) missionaries ...	202
Rescue of Miss Stone: assistance rendered by British officials in Turkey and Bulgaria	520
Residence and travel in Central Asia: partial removal of restrictions on	936
Residence, continued, of naturalized United States citizens in the country of origin: effect of	377
Residents of insular possessions of the United States: passports to	6
Resolution of Cuban House of Representatives thanking Government and people of the United States for assistance	325
Resolution of the United States Senate congratulating Cuban Republic on its appearance among the nations of the world	324
Restaurador, Venezuelan gunboat: improper use of United States flag by	1072
Restoration of silver bullion seized by United States forces at Tientsin	129
Restoration of Tientsin to Chinese authorities	184
Restrictions on:	
American life insurance companies in Turkey	1026
sojourn in their country of origin of Germans naturalized in the United States	440
travel and residence in Central Asia: partial removal on	936
Retention by Hungarian officials of passport and certificate of naturalization of Josef Janco	49
Return of Chinese court to Peking	142
Revolution in Haiti	587
Rhodes, Cecil John: scholarships under the will of	532
"Right of asylum" in United States legations: question of	679
Right of widow of Austro-Hungarian soldier to pension	33
Riots and strikes in Belgium over question of suffrage: brief sketch of electoral system	85
Riots, uprisings, massacres, etc., in China	159
Rodgers, Rear-Admiral Frederick, U. S. Navy: reception by the Emperor and Empress Dowager of China	240
Roosevelt, President: accident to	48, 97, 356, 373, 384, 390, 419, 442, 550, 584, 682, 683, 731, 737, 830, 889, 890, 903, 904, 948, 960, 1050
Rosenbaum, G. L.: passport erroneously issued to, without proof of his father's naturalization	420
Roumania:	
financial conditions in Roumania	905
Jews in Roumania: discussion of proposed naturalization convention between the United States and Roumania: discriminations, in the latter country, against Jews, condition of helplessness to which they are reduced, and objection of the United States Government to immigration of such persons	42, 420, 442, 549, 684, 910, 936, 1048
protection of Cuban interests by United States consular officials	909
Russia:	
agreement between China and, relative to Manchuria	26, 408, 511, 926
commencement of evacuation of Manchuria by Russia	281
declaration of Russia and France concerning defensive agreement between Great Britain and Japan	929

	Page.
Russia—Continued.	
Jews in Roumania: discriminations against, condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons.....	936
mutual embarrassments of United States and Russian officials at Niuchwang—conflict between United States seaman and Russian officials—delays in transmission of telegrams, etc.....	916
partial removal of restrictions on travel and residence in Central Asia....	936
protection of Cuban interests by United States consular officials.....	933
railway monopoly in Persia held by.....	890
visit of Russian Grand Duke Boris Wladimirovitch to the United States..	934
Russian Grand Duke Boris Wladimirovitch: visit to the United States.....	934
S.	
St. Vincent, Windward Islands: assistance rendered by United States to sufferers from volcanic eruption at.....	523
Salvador (<i>see</i> Nicaragua, Costa Rica, and Salvador).	
arbitration of claims of Salvador Commercial Company et al. against Salvador.....	838
arbitration of claim of Rosa Gelbrunk <i>v.</i> Salvador.....	873
protection of Danish interests by United States officials.....	365
Salvador Commercial Company et al.: arbitration of claims <i>v.</i> Salvador....	838
Samoa: claims on account of military operations conducted in, in 1899—preliminary decision of the King of Sweden and Norway as arbitrator.....	444
Samuel, Samuel: expulsion from Germany.....	460
Sanclimente, President of Colombia: death of.....	292
Saxony, King Albert of: death of.....	429
Schmierie, Harry: military-service case in Austria-Hungary.....	63
Scholarships under the will of Cecil John Rhodes.....	532
Schools, United States missionary, at Barranquilla, Bogotá, and Medellin, closed by Colombian authorities: reopening of.....	293
Schwartz, Meyer: military-service case in Germany.....	460
Schwarz, Meta: passport application of.....	976
Seizure of vessels of and alleged discrimination against American enterprises in Colombia.....	284
Seizure, threatened, of the Viking, which sailed for a Venezuelan port in possession of insurgents under clearance of United States consul at port of Spain, the Venezuelan consul at that port having refused the vessel clearance....	1058
Selection of Chinese students to be sent abroad: reform edict providing for....	208
Senate: United States, resolution congratulating the Cuban Republic on its appearance among the nations of the world.....	324
Sending of Hungarian national banner to the United States.....	45
Servia: treaty between the United States and Servia for the mutual extradition of fugitives from justice.....	938
Service, involuntary military, in Venezuela: release of British subject from, secured by United States naval officials.....	545
Settlement, foreign, at Chemulpo, Korea: amendment to land regulations of.	733
Settlement of claim of Michael Brown <i>v.</i> Mexico on account of illegal eviction and imprisonment.....	786
Ship canal: treaty between the United States and Great Britain to facilitate the construction of a.....	517
Siam:	
accident to President Roosevelt.....	948
protection of Cuban interests by United States consular officials.....	945
question as to whether a United States official may issue a passport to a United States citizen residing in the district of another United States official—application of Henry W. Wetherbee.....	943
visit of the Crown Prince of Siam to the United States.....	945
Silver bullion seized by United States forces at Tientsin: restoration of.....	129
Silver question: passage of message of President of Mexico to Congress, relating to.....	831
Skagway, Alaska: discourtesy to British flag at.....	546
Social, political, and commercial relations between United States and Austria-Hungary.....	34
Soehlke, George: military-service case in Germany.....	461
Sojourn in their country of origin of Germans naturalized in the United States: restrictions on.....	440

	Page.
South Africa, war in: résumé of speech of Count Bülow, German chancellor, relative to	425
Spain:	
accident to President Roosevelt	960
assumption of power by Alfonso XIII	959
celebration of majority of Alfonso XIII	954
jurisdiction over vessels and their crews—complaint that local officials of Pensacola, Fla., made arrests aboard a Spanish vessel without notice to Spanish consul	961
military-service case of Antonio Gisbert y Bayot	949
protection of Cuban interests by United States consular officials	960
treaty of compulsory arbitration with Mexico	813
Special ambassador Reid: interview in London with Prince Chen, Chinese special envoy	543
Special embassy of the United States to coronation of Edward VII.	498
Special passports not to be issued by diplomatic representatives abroad.	420
Standard, gold: adoption of, in Peru	893
Status of naturalized United States citizens of Austro-Hungarian origin returning to their native country	49
Stone, Miss Ellen M., an American missionary:	
abduction by brigands, ransom, and release of	997
assistance in rescue rendered by British officials of Turkey and Bulgaria ..	520
Strahlheim, William: passport application of	973
Strikes and riots in Belgium over question of suffrage—brief sketch of electoral system	85
Student interpreters in China	227
Students, Chinese, to be sent abroad; reform edict providing for selection of ..	208
Submission to arbitration of question of taxation of buildings on perpetually leased ground in Japan	687
Suffrage: riots and strikes in Belgium over question of—brief sketch of electoral system	85
Sugar-bounty conference: text of convention	80
Sultan of Turkey:	
congratulations on anniversary of accession to throne	1048
exchange of compliments between the President of the United States and, on the recurrence of the Bairam	1025
Suspension of tonnage dues on Cuban vessels	354
Sweden and Norway:	
King of, preliminary decision as arbitrator of claims on account of military operations conducted in Samoa in 1899	444
protection of Cuban interests by United States consular officials	967
Switzerland:	
execution in Switzerland of judgment of Massachusetts court denied by Swiss authorities because of refusal of United States to guarantee reciprocal action in similar cases	994
passport application of—	
Bernhard Kaufmann	977
Bertha Knopf	969
Helena Pecare	968
William Strahlheim	973
passports not to be issued to persons, minors at the time of naturalization of parents, who were not at the time of such naturalization dwelling within the United States (case of Meta Schwarz)	976
protection of Cuban interests by United States consular officials	981
protection of Paul Dick, a Swiss citizen, by United States representative in Egypt	979
protection of Robert Beck, a Swiss citizen, by United States officials in Colombia	979
referendum and initiative	981

T.

Taxation of buildings on perpetually leased ground in Japan: submission to arbitration of question of	687
Taxes, personal: exemption of consuls, under most favored nation clause, from payment of	792
Tax, inheritance, on estate of Baron Thomsen in Brazil	107
Telegrams. delays in transmission of over Russian lines in Manchuria	145, 916

	Page.
Tenure and disposition of real and personal property: convention between the United States and Guatemala relating to the.....	584
Tenzer, Michael: military-service case in Austria-Hungary.....	63
Testimony of United States diplomatic representatives in foreign courts.....	355
Thibet: refusal of Chinese Government to issue passports for travel in.....	226
Thomsen, Baron: inheritance tax on estate in Brazil of.....	107
Threatened seizure of the Viking, which sailed for a Venezuelan port in possession of insurgents under clearance of United States consul at Port of Spain, the Venezuelan consul at that port having refused the vessel clearance.....	1058
Tientsin:	
restoration of silver bullion seized by United States forces at.....	129
restoration of, to Chinese authorities.....	184
Title of King Edward VII.....	507
Tonnage dues on Cuban vessels: suspension of.....	354
Trade, camphor, in Fukien: monopoly granted to a Japanese company.....	255
Trade labels and trade-marks: convention between the United States and Guatemala for the reciprocal protection of.....	582
Trade-marks and trade labels: convention between the United States and Guatemala for the reciprocal protection of.....	582
Transit across the Isthmus of Panama under treaty of 1846: guaranty by the United States of; so long as rights of American vessels and citizens are not interfered with the United States can not intervene.....	884
Travel and residence in Central Asia: partial removal of restrictions on.....	936
Travel in Thibet: Refusal of Chinese Government to issue passports for.....	226
Treaty (<i>see</i> Arrangement; Convention):	
between Central American States providing for the arbitration of differences.....	881
between the United States and Belgium for the mutual extradition of fugitives from justice.....	87
between the United States and Chile providing for the extradition of criminals.....	122
between the United States and Denmark for the extradition of fugitives from justice.....	368
between the United States and Great Britain concerning the establishment of import duties in Zanzibar.....	551
between the United States and Great Britain to facilitate the construction of a ship canal.....	517
between the United States and Servia for the mutual extradition of fugitives from justice.....	938
Chile-Argentine.....	126
commercial, between Great Britain and China, text of.....	553
of commerce and navigation, between Mexico and Austria-Hungary.....	815
of compulsory arbitration between Mexico and Spain.....	813
of 1830 between the United States and Turkey, interpretation of Article IV. submitting to arbitration the question of the boundary between Brazil and British Guiana.....	1049
and British Guiana.....	103
Treaty stipulations: in absence of, law of Salvador to govern, where not inconsistent with international law, etc.....	880
Turkey:	
abduction by brigands, ransom, and release of Miss Ellen M. Stone, an American missionary.....	997
accident to President Roosevelt.....	1050
assistance rendered in rescue of Miss Stone by British officials in.....	520
congratulations on anniversary of Sultan's accession to throne.....	1048
exchange of compliments between the President of the United States and the Sultan of Turkey on the recurrence of the Bairam.....	1025
friction between the United States minister and the grand vizier.....	1044
Jews in Roumania: discrimination against, condition of helplessness to which they are reduced, and objection of United States Government to immigration of such persons.....	1048
passport application of Assadur H. Kludjian.....	1023
protection of an American citizen by British vice-consul at Van.....	540
protection of American interests at Bitlis by British vice-consul.....	553, 1042
protection of Cuban interests by United States consular officials.....	1041
restrictions on American life insurance companies in Turkey.....	1026
treaty of 1830: interpretation of Article IV.....	1049

U.

	Page.
Upper Amazon region, inadvisability of American immigration to	105
Uprisings, riots, massacres, etc., in China	159
Uruguay and Paraguay:	
deposition of President Aceval and elevation of Vice-President Carvalla to Presidency of Paraguay	1051
protection of Cuban interests by United States consular officials	1055
reception of officers of U. S. S. Iowa by the President of Paraguay	1055

V.

Van, Turkey: protection of an American citizen by British vice-consul at	540
Venezuela:	
blockade by decree: the United States Government recognizes a blockade only when it is effective	1069
improper use of United States flag by Venezuelan gunboat Restaurador ..	1072
protection of Cuban interests by United States consular officials	1069
release of British subject from involuntary military service in, secured by United States naval officials	545
renewal of diplomatic relations between Venezuela and France: text of protocol	1067
threatened seizure of the Viking, which sailed for a Venezuelan port in possession of insurgents under clearance of United States consul at Port of Spain, the Venezuelan consul at that port having refused the vessel clearance	1058
Vessels:	
American, in Mexican ports: jurisdiction of United States consuls over disputes and differences between masters, officers, and crews of	816
American: so long as rights of, are not interfered with the United States can not intervene by reason of its guaranty, under the treaty of 1846, of transit across the Isthmus of Panama	884
and their crews: jurisdiction over—complaint that local officials at Pen- sacola, Fla., made arrests aboard a Spanish vessel without notice to Spanish consul	961
Cuban: suspension of tonnage dues on	354
fine on Belgian steamship Belgika in the Philippine Islands	73
improper use of United States flag by Venezuelan gunboat Restaurador ..	1072
request made by provisional government of Haiti that the Crête à Pierrot a Haitian naval vessel, under command of Admiral Killick, formerly of the Haitian navy, but subsequently in revolt against the provisional government, be treated as a pirate (under Revolution in Haiti)	587
seizure of, and alleged discriminations against American enterprises in Colombia	284
sinking of the Crête à Pierrot, a Haitian naval vessel, by a German war vessel (under Revolution in Haiti)	587
threatened seizure of the Viking, which sailed for a Venezuelan port in possession of insurgents under clearance of United States consul at Port of Spain, the Venezuelan consul at that port having refused the vessel clearance	1058
Vicarious punishment of relatives in China of Chinese naturalized citizens of the United States	244
Viceroy Liu K'un-yi: death of	267
Violation, alleged, at Pacific coast ports of consular convention of February 23, 1853, between the United States and France: complaints of	391
Visit of:	
Gen. Maximo Gomez to Santo Domingo, during which relics of Christo- pher Columbus were exhibited	381
Prince Henry of Prussia to the United States	422
Prince Henry of Prussia to the United States: résumé of speeches of Count Bülow, German chancellor, relative to	425
Russian Grand Duke Boris Wladimirovitch to the United States	934
the Crown Prince of Siam to the United States	945
Volcanic eruption at Martinique: assistance rendered by the United States to sufferers from	412
Volcanic eruption at St. Vincent, Windward Islands: assistance rendered by United States to sufferers from	523
Von Oehsen, Charles: expulsion from Germany	458

	Page.
War in South Africa: résumé of speech of Count Bülow, German chancellor, relative to	425
War, prisoners of, American citizens, held in British colonies	463
Wetherbee, Henry W.: passport application of—question as to whether a United States official may issue a passport to a United States citizen resid- ing in the district of another United States official	943
Widow of Austro-Hungarian soldier: right of, to pension	33
Will of Cecil John Rhodes: scholarships under	532
Wisconsin, U. S. battle ship: courtesies to, in Chile	119
Wladimirovitch, Russian Grand Duke Boris: visit to the United States	934

Z.

Zanzibar: treaty between the United States and Great Britain concerning the establishment of import duties in	551
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